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October 5, 2010

Dear Minister Ergin and Minister Atalay,

On behalf of five international human rights organizations¹, we are writing to express our deep concern over the treatment of five Turkish human rights defenders from the transgender human rights organization Pembe Hayat LGBTT Dayanışma Derneği:² Yesim (legal name Duru) Tatlıoğlu³, Buse (legal name Bülent) Kılıçkaya⁴, Turkan (legal name Deniz) Küçükkoçak⁵, Selay (legal name Derya) Tunç⁶ and Eser (legal name Nehir) Ulus⁷. The five members of Pemba Hyatt were arbitrarily arrested and brutally assaulted by the Ankara police on May 17, 2010, and on June 18, they were indicted for alleged crimes arising from the events of that day.⁸ We believe that the evidence available suggests both that the police use of force was unnecessary and therefore illegal and that no evidence has been produced to warrant criminal charges against the five.⁹ In a year that began with the murder

¹ The organizations that authored this letter include the International Gay and Lesbian Human Rights Commission (IGLHRC), Human Rights Watch (HRW), the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe), Global Advocates for Trans Equality (GATE), and COC Netherlands.

² Pemba Hyatt (*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.

³ Child of NEIM and LAMIA, born in 01/06/1981

⁴ Child of MUSTAFA and BAHTISAH, born in 01/01/1977

⁵ Child of SAMI and SEVİM, born in 01/07/1967

⁶ Child of ALI HAYDAR and NURIYE, born in 28/08/1973

⁷ Child of CEMAL and GULDESTE, born in 01/09/1966

⁸ Inquiry Number: 2010/70697, Docket Number: 2010/25711, Indictment Number: 2010/8807, dated June 18, 2010

⁹ Reference the indictment.

of two other transgender women, this attack is only the latest development in the ongoing persecution of transgender people in Turkey.¹⁰ We urge the government of Turkey to take concrete steps to provide protection for these and other transgender individuals who are regularly subjected to violence and harassment, including by the police.

The five human rights defenders were driving along Bağlar Street on May 17 at 10:30 p.m. when four police officers from the Esat Police Station pulled them over in front of the Seyranbağları Post Office. The police officers accused the activists of intending to commit sex work and informed them that they would be taken to the police station¹¹. The activists immediately phoned other activists as well as their lawyers. At around 11p.m., approximately twenty-five human rights observers from Pembe Hayat and Kaos GL, another national organization working for lesbian, gay, bisexual and transgender (LGBT) rights arrived at the scene to support the five trans activists and act as human rights observers. Police reinforcements also arrived, bringing the total number of officers to approximately sixty. As witnessed by the human rights observers, police officers turned on the assembled human rights observers to beat them with batons and spray them with tear gas. According to an independent eyewitness interviewed by the International Gay and Lesbian Human Rights Commission (IGLHRC), police made statements such as “Faggots, next time we will kill you!”

Police sprayed tear gas inside the activists’ car and dragged the women out through the car windows, pulling them by their hair, throwing them to the ground, and kicking their bodies. According to the eyewitness interviewed, the head of police ordered the other police officers to specifically attack Bülent Kılıçkaya, co-founder of Pembe Hayat and a well-known activist. She was subsequently attacked by ten police officers, sprayed with tear gas again and handcuffed. The other activists were handcuffed and forced to kneel on the ground while police officers beat their heads and legs. One of the observers interviewed by IGLHRC overheard the lead officer on the scene refer directly to the women’s activism. The observer says he overheard the officer say to the activists, “Your activism is not going to do you any good,” and “You continuously take to the streets for protests; do it now if you can.”¹² All five women, visibly bruised, were then taken into a police van and transported to the police station. The activists were held in police custody until the next morning.

¹⁰ See 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>.

¹¹ ILGA-Europe’s detailed account of the May 17, 2010 police violence against transgender women in Ankara, available online at [http://www.ilga-europe.org/home/guide/country_by_country/turkey/detailed_account_of_the_recent_case_of_police_violence_a](http://www.ilga-europe.org/home/guide/country_by_country/turkey/detailed_account_of_the_recent_case_of_police_violence_against_transgender_women_in_ankara)

¹² “Sokaklara çıkıp gösteri yapmayı biliyorsunuz, hadi şimdi yapın da görelim.”

On June 18, 2010, the five human rights activists were formally charged with *Resisting Public Officials and Preventing Them from Performing Their Duty*.¹³ If convicted, they would face up to three years in prison.¹⁴

Though the activists filed a formal complaint with a public prosecutor in Ankara regarding their treatment by police, they have received no response other than to be told that their complaint is still under review. We believe that the initial arrest 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.

This incident is part of a larger pattern of violence and discrimination against transgender people in Turkey. On September 19, 2010, a 28-year-old transgender woman known as Irem Okan (legal name Mesut Şaban) was stabbed twelve times in her apartment in Bursa, resulting in her death. On February 16, 2010 in the Fatih area of Istanbul, a transgender woman known as Aycan (legal name Fevzi) Yener was stabbed seventeen times and had her throat cut, resulting in her death. On February 8, 2010, an unknown person stabbed 35-year old Derya Y. in her home in the Altındağ district of Antalya, resulting in her death. Over the past twenty months, at least nine transgender people have been murdered. 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.

Furthermore, police regularly apply a range of laws to justify harassment and acts of violence against transgender people in Turkey. The *Law of Misdemeanors (No. 5326)* says “Any person who disobeys the lawful orders which are given by the authorized agencies with a purpose of judicial procedures or in order to protect public security, public order or common wealth is fined 100 TRY.¹⁵” being regularly fined and physically brutalized and physically brutalized. Research by non-governmental organizations has shown that the law’s broad and ambiguous language has been used to justify unfair harassment of anyone deemed undesirable, particularly transgender people.¹⁶

The recent attacks on transgender human rights defenders violate Turkey’s own laws. Such a discriminatory application of the law is a gross violation of 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. The ill-treatment by members of the police of the five activists also violates Article 94,

¹³ Turkish Penal Code Article 265/1, 265/3, and 53. “Görevi Yaptırmamak İçin Direnme” in Turkish.

¹⁴ Turkish Penal Code Article 265/1, 265/3

¹⁵ Article 32

¹⁶ Shadow NGO Thematic Report on Turkey to the Committee on the Elimination of Discrimination Against Women on Basis of Sexual Orientation and Gender Identity, Prepared by LGBT Rights Platform, For the Submission to the CEDAW 46th Session, June 2010.

Section 1, of the 2004 Turkish Penal Code, which states that “[a]ny civil servant who carries out actions against a person that lead to bodily or mental pain incompatible with human dignity, that influences their ability to perceive or their will or is degrading, will be punished by imprisonment of between three and twelve years.”

This type of violence against transgender people in Turkey also contradicts international human rights law. Various international and regional bodies have called on Turkey to take positive steps towards protecting transgender people from attacks.

The Council of Europe’s Commissioner for Human Rights, Thomas Hammarberg, recommended that member states, “[E]nact hate crime legislation which affords specific protection for transgender persons against transphobic crimes and incidents.”¹⁷ In its 2009 *Progress Report*, the European Commission reiterated Turkey’s obligation to provide genuine protections to all minorities, including LGBT people.¹⁸ The European Parliament reaffirmed this obligation during its plenary session on February 10, 2010, reminding the government of Turkey that the protection of LGBT minorities is a non-negotiable condition to join the European Union. In its most recent concluding remarks on Turkey in July 2010, the United Nation’s Committee on the Elimination of Discrimination against Women (CEDAW) clearly expressed its concerns over the vulnerable “situation of various disadvantaged groups of women”, which includes transgender women, and asked the Turkish government “to take effective measures to eliminate discrimination” against this segment of the population.¹⁹ Most recently, Turkey accepted a recommendation by the United Nations Human Rights Council to ensure non-discrimination on grounds of sexual orientation and gender identity.²⁰

We request that:

1. Police officers responsible for the events of May 17, 2010 be held accountable to the fullest extent of the law.
2. An independent investigation be launched into the discriminatory treatment of transgender people by the police under the pretext of implementing the law.
3. Discriminatory laws, such as the *Law on Misdemeanors*, be amended or revoked.
4. 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

¹⁷ Gender Identity and Human Rights Issue Paper (2009) p. 44, available at <https://wcd.coe.int/ViewDoc.jsp?id=1476365>

¹⁸ 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>.

¹⁹ 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>

²⁰ “Report of the Working Group on the Universal Periodic Review”. United Nations Human Rights Council. Fifteenth session, agenda item 6. 17 June 2010. Available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/144/95/PDF/G1014495.pdf?OpenElement>.

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.

We would appreciate the opportunity to enter into an ongoing dialogue with the government about implementing the above recommendations and other action to stop police harassment and brutality against transgender people, including more general protection of LGBT people from violence and discrimination.

Sincerely,

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International Gay and Lesbian Human
Rights Commission



Evelyne Paradis
Executive Director,
European Region of the International
Lesbian, Gay, Bisexual, Trans and
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CC:

Mr. Zafer Üskül, Turkish Parliamentary Human Rights Investigative Commission
Mr. Mehmet Yılmaz Küçük, Human Rights Commissioner, The Office of the Prime
Minister of the Republic of Turkey