

Mandates of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the right to privacy and the Working Group on discrimination against women and girls

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Excellency,

We have the honour to address you in our capacities as Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the right to privacy and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 50/10, 51/21, 55/3 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning a set of legal reforms currently being pursued in Türkiye. These reforms include **proposed amendments to article 40 of the Turkish Civil Code, proposed amendments to article 225 of the Turkish Penal Code, and a bill introduced by HÜDA PAR in April 2025**, which could adversely affect the right to health and gender affirming care, the right to privacy and bodily autonomy, the right to express one's identity without discrimination, freedom of expression and access to information, especially on matters relating to sexual orientation and gender identity, the right to freedom of association and peaceful assembly, and the absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment, which is a jus cogens norm, as well as minority rights.

According to the information received:

On 13 January 2025, Your Excellency's Government declared 2025 as the "Year of the Family" (Aile Yılı). The initiative was framed as a national effort to strengthen the institution of the family as the foundation of Turkish society. As part of this campaign, a series of legislative and policy initiatives was adopted to redefine the legal and social framework surrounding gender, sexuality, and family life in Türkiye.

As part of this broader agenda, a series of legislative initiatives have been proposed. These proposals include amendments to the Turkish Civil Code and Penal Code. The HÜDA PAR parliamentary group also proposed a standalone anti-LGBT bill. Collectively, these draft laws advance a restrictive conception of gender and sexuality that raises serious concerns regarding their impact on the rights of LGBT individuals.

The proposed amendments to article 40 of the Civil Code would raise the minimum age of gender-affirming interventions from 18 to 21. Any person who undergoes gender-affirming surgeries would be required to prove "permanent

deprivation of the ability to reproduce” (i.e. irreversible sterilization) and undergo mandatory psychiatric evaluations as prerequisites for legal gender recognition. The amendments would also require that gender recognition be subject to court approval following an evaluation “by a full-fledged training and research hospital designated by the Ministry of Health.” In addition, article 93/A of the Penal Code would add criminal penalties to individuals who undergo or perform gender-affirming procedures without official authorization.

Separately, in April 2025, the parliamentary group HÜDA PAR submitted a standalone draft bill. The bill seeks to criminalize the “promotion, encouragement, or propagation” of LGBT identities in all forms of media, education, and public discourse, moreover, if applied through “any form of written, visual, auditory, classical, or digital communication and information technologies”, the penalty will be increased by half.

The bill proposes amendments to the Law on the Establishment of Radio and Television Enterprises and Their Media Services, which may lead to a ban on all depictions of same-sex relationships and LGBT identities in television, radio, schools, and digital platforms. The bill further proposes administrative and criminal penalties for civil society organizations, publishers, and individuals that distribute, publish or advocate such material.

The proposed amendments to article 40 of the Civil Code would raise the minimum age for gender-affirming interventions from 18 to 21, impose a requirement of “permanent deprivation of the ability to reproduce” (i.e. irreversible sterilization) and mandatory psychiatric evaluations as prerequisites for legal gender recognition. A sterilization requirement in article 40 § 1 of the Turkish Civil Code had previously been annulled by the Constitutional Court on 29 November 2017. The Court found this requirement to be unconstitutional, citing violations of articles 13, 17, and 20 of the Turkish Constitution, which protect personal rights and freedoms, including bodily integrity and private life. Additionally, the amendments would require that any gender change be verified by a court following an evaluation “by a full-fledged training and research hospital designated by the Ministry of Health.” Article 93/A of the Penal Code would also criminalize medical professionals and transgender people who perform or undergo surgery without prior official authorization.

The draft amendments to article 225 of the Penal Code would insert the term “biological sex” into the law and criminalize “publicly encouraging, praising or promoting attitudes and behaviours contrary to the biological sex at birth and public morality”. Same-sex couples who hold engagement or marriage ceremonies would be subject to prison terms of up to four years.

The bill introduced by HÜDA PAR similarly seeks to penalize any “promotion, encouragement or propagation” of same-sex relationships or identities with imprisonment ranging from three to five years. In addition, the bill increases the penalty by half if “it is committed through any form of written, visual, auditory, classical, or digital communication and information technologies...”. It also proposes amendments to the Law on the Establishment of Radio and Television

Enterprises and Their Media Services by prohibiting any content related to sexual or gender diversity.

These proposed reforms pose serious risks to the effective exercise of fundamental human rights enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD), and the Convention against Torture (CAT), to which Türkiye is a party. The proposed legal reforms are far-reaching in scope and cross-cutting in their potential impact. If adopted, these measures may result in serious infringement on the rights of lesbian, gay, bisexual, transgender (LGBT) persons, including the rights to equality and non-discrimination, freedoms of association, peaceful assembly, opinion and expression, the right to the highest attainable standard of physical and mental health, and the absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment.

While we recognize Your Excellency's Government's stated intention to strengthen national values and public policy goals, the proposed amendments to the Turkish Civil Code and Penal Code, as well as the anti-LGBT bill introduced by the HÜDA PAR, raise serious concerns regarding Türkiye's compliance with the principles of non-discrimination and equality. These proposals, individually and collectively, appear to pose grave risks to a broad intersection of rights for LGBT people.

In particular, we are concerned about the right to health and gender affirming care, the right to privacy and bodily autonomy, the right to express one's identity without discrimination, freedom of expression and access to information, especially on matters relating to sexual orientation and gender identity, the right to freedom of association and peaceful assembly, and the absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment.

Any restrictions or limitations to human rights must comply with legality, necessity and proportionality under international human rights law. The draft bills under consideration not only appear to explicitly discriminate by targeting specific forms of identity, expression, and community, but also fail to meet these thresholds for legitimate limitations on rights. Where the stated goals of protecting public order or morality are used to justify such sweeping restrictions, we recall that the Human Rights Committee has consistently held that such concepts must not be invoked to justify discrimination and must be interpreted in a manner consistent with the universality of human rights.¹

1. Regarding the principles of non-discrimination and legal recognition

Articles 1 and 2 of the UDHR set out foundational principles of equality and non-discrimination. These principles are reaffirmed in the core international human

¹ **Human Rights Committee.** *Concluding observations on the initial report of Turkey.* CCPR/C/TUR/CO/1. 13 November 2012.

rights treaties to which Türkiye is a party, including article 2(1) and article 26 of the ICCPR, ratified by Türkiye on 23 September 2003; article 2(2) of the ICESCR, ratified on the same date; articles 1–3 and 5 of the CEDAW, acceded on 20 December 1985; article 3 of the CRPD, ratified on 28 September 2009 and article 2(1) of the CRC, ratified on 4 April 1995.

The Human Rights Council in its resolution 32/2 emphasized that everyone is entitled to enjoy all the rights and freedoms set forth in the UDHR, without distinction of any kind. The Council expressed deep concern at acts of discrimination committed against individuals based on their sexual orientation and gender identity.

Non-discrimination is a foundational principle of international human rights law. The proposed legal reforms under consideration, including the draft amendments to the Turkish Civil and Penal Codes and the bill introduced by the HÜDA PAR, appear to codify distinctions and exclusions based explicitly on gender identity and sexual orientation. These reforms would remove or restrict the legal recognition of transgender persons, criminalize public expression of non-conforming gender identity and sexual orientation, and curtail access to services and opportunities based on gender identity and sexual orientation.

The legal reforms raise serious concerns regarding the right to equal protection under the law, as enshrined in article 26 of the ICCPR, which guarantees that “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.” In its landmark decision *Toonen v. Australia* (CCPR/C/50/D/488/1992), the Human Rights Committee has affirmed that the term “sex” in articles 2 and 26 of the Covenant to include sexual orientation. In its general comment No. 18, the Committee defined “discrimination” as any distinction, exclusion, restriction, or preference based on grounds such as sex or “other status,” which has the purpose or effect of impairing the equal enjoyment of rights. The Committee has affirmed that States must protect all persons from discrimination based on sexual orientation and gender identity, including through legislative and administrative measures.

In this regard, we also wish to draw Your Excellency’s Government’s attention to the Human Rights Committee’s Concluding Observation of 13 November 2012, in which it urged Türkiye to “state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transsexuality, or harassment of or discrimination or violence against persons because of their sexual orientation or gender identity,” and take all necessary measures to prevent and combat such discrimination. The Committee acknowledged the diversity of morality and cultures internationally, but all cultures are subject to the principles of universality of human rights and non-discrimination (para. 10).

The CEDAW Convention includes obligations to take all appropriate measures to achieve the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women (article 5) and to take all appropriate measures to eliminate discrimination against women in the political and public life of the country (article 7). In addition, article 10(h) of the CEDAW Convention guarantees the right of women and girls to access specific educational information to help ensure the health

and well-being of families, including family planning information and counselling. The CEDAW Committee in its general recommendation 28 on the core obligations of States parties under article 2 of the Convention (equality and non-discrimination), highlighted that discrimination against women was inextricably linked to other factors that affected their lives (para. 9) and explicitly recognised in its general recommendation No. 35 on gender-based violence against women, that such factors include being lesbian, bisexual, transgender or intersex, noting that appropriate legal and policy responses are needed to counter such discrimination (para. 12).

The Committee on Economic, Social and Cultural Rights has also emphasized that non-discrimination “encompasses the right of all persons, including lesbian, gay, bisexual, transgender and intersex persons, to be fully respected for their sexual orientation, gender identity and intersex status,” and that States have an obligation to combat homophobia and transphobia (see general comment No. 22, para. 23).

The Committee also emphasized that laws and policies that indirectly perpetuate coercive medical practices, including incentive- or quota-based contraceptive policies and hormonal therapy, as well as surgery or sterilization requirements for legal recognition of one’s gender identity, constitute additional violations of the obligation to respect the right sexual and reproductive health (see general comment No. 22, para. 58).

The Committee on the Rights of the Child has interpreted article 2 of the CRC to prohibit discrimination based on sexual orientation, as reflected in general comment No. 20 (para. 34). It has noted that adolescents who are subject to discrimination are more vulnerable to abuse, and their health and development are put at greater risk. The Committee has urged States to adopt protective measures through education, awareness-raising, and legal reform.

We wish to express our concerns about the legislative proposals that would deprive trans and gender diverse people of their right to legal recognition and their right to self-determination, which contravene international human rights standards as set out above. International human rights law acknowledges that everyone has the right to recognition as a person before the law, including transgender persons. The legislative proposals impose stricter requirements for transgender people to undergo gender-affirming surgeries and state that any “person who publicly encourages, praises, or promotes attitudes and behaviours that are contrary to one’s innate biological sex and public morality shall be punished with imprisonment from one year to three years.”

We are also concerned that the proposed bills, if enacted, would have significant institutional and systemic effects. They threaten to undermine long-standing legal, educational, and medical frameworks that serve to uphold human rights and dignity and promote anti-discrimination. Public institutions such as media outlets, health care providers, and civil society organizations would face legal uncertainty, censorship, and potential criminal liability. The proposed legislation thus risks not only infringing upon individual rights but also weakening the institutions necessary for the protection and realization of human rights in Türkiye.

In light of the above concerns, we respectfully urge Your Excellency’s Government to ensure that any legal reform upholds Türkiye’s obligations under international human rights law, including the principles of non-discrimination, equality

before the law, recognition of legal identity and bodily autonomy. These are not aspirational values, but binding standards that require States to refrain from enacting laws that create or reinforce exclusion based on sexual orientation or gender identity.

2. Regarding the right to health and gender-affirming care

The proposed amendments to article 40 of the Turkish Civil Code may limit access to or deter usage of gender-affirming medical care and promote stigmatization for those seeking medical care. The draft legislation mandates individuals seeking legal gender recognition to undergo irreversible sterilization, repeated psychiatric evaluations, and confirmation by a court following examination at a state-designated hospital. These requirements, if adopted, risk pathologizing transgender identities and imposing medically unnecessary, invasive, and potentially harmful procedures as conditions for accessing legal recognition and health-related services.

In addition, the proposed criminal penalties for individuals who undergo or perform gender-affirming medical procedures without prior state authorization would likely deter both access to and the provision of gender-affirming care. The imposition of criminal sanctions on both healthcare providers and patients may result in discrimination and institutional neglect, and could drive transgender individuals to seek unsafe, unregulated forms of medical intervention or avoid care altogether. These provisions present significant barriers to healthcare and further entrench the pathologization, stigmatization, and criminalization of trans and gender-diverse persons.

The proposed measures threaten to undermine the four interrelated and essential elements of the right to health as set out in general comment No. 14 of the Committee on Economic, Social and Cultural Rights: availability, accessibility, acceptability, and quality. Healthcare services must be accessible to all without discrimination. Further, in its general comment No. 22 on the right to sexual and reproductive health, the Committee emphasized that “health facilities, goods, information and services related to sexual and reproductive health care should be accessible to all individuals and groups without discrimination and free from barriers,” and that States must “repeal or reform laws and policies that nullify or impair the exercise of sexual and reproductive health rights.” Türkiye’s proposed legislation goes against the guided principles as set out in the general comments by setting up additional barriers that prevent transgender people from accessing medical care.

We also draw Your Excellency’s Government’s attention to the 2012 Concluding Observations of the Human Rights Committee on Türkiye, in which the Committee expressed concern over reports that LGBT persons experience discrimination and alleged acts of violence in access to healthcare. The Committee emphasized that Türkiye should take measures to ensure that healthcare services are provided in a non-discriminatory manner. The proposed reforms risk exacerbating these violations by embedding exclusion and denial of care into law.

The Committee on the Rights of the Child has likewise affirmed that States must ensure that children’s and adolescents’ right to health is not undermined because of discrimination based on sexual orientation and gender identity. In its general comment No. 15, the Committee emphasized that States must ensure that health services are

accessible to all children. Legislations that restrict gender-affirming care or introduce discriminatory prerequisites may deter transgender youth from seeking necessary medical or psychological support.

The legislative reforms currently under consideration in Türkiye would likely deter the provision of and access to gender-affirming care, reinforce harmful stereotypes in the healthcare system, and expose both patients and medical professionals to criminal liability. These provisions appear to violate Türkiye's obligations to guarantee the right to the highest attainable standard of physical and mental health under international law.

3. Regarding the freedom of opinion, expression, assembly and access to information, particularly on matters related to sexual orientation and gender identity

The proposed amendments to article 225 of the Turkish Penal Code and the anti-LGBT bill introduced by HÜDA PAR raise serious concerns under international law relating to the right to freedom of opinion, expression, assembly and access to information. These legislative initiatives would criminalize the “promotion, encouragement, or propagation” of same-sex relationships or identities. The proposed bills also introduce prohibitions on content relating to LGBT persons in media, education, and public discourse. The proposed reforms would allow regulatory authorities to impose sanctions on individuals who disseminate such information.

Access to information is a fundamental pillar of democracy, peace, and development. Article 19 of the ICCPR protects “the right to seek, receive and impart information and ideas of all kinds, regardless of frontiers.” Article 21 guarantees the right to freedom of peaceful assembly. In its general comment No. 34, the Committee emphasized that this right includes “expression and receipt of communications of every form of idea and opinion capable of transmission to others,” including “commentary on...public affairs...discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (para. 11).

The Human Rights Committee further stressed that article 19(2) of the ICCPR includes a right of access to information held by public bodies, and that “State parties should make every effort to ensure easy, prompt, effective and practical access to such information,” particularly where it is “in the public interest” (para. 19). Access to accurate information about sexual orientation and gender identity is essential not only for LGBT individuals, but also for broader public awareness and education.

Any restriction on the freedom of expression concerning LGBT related issues must comply with the strict requirements of international human rights law. Article 19(3) of the ICCPR allows restrictions only when they are provided by law, pursue a legitimate aim (such as the protection of national security or public order), and are necessary and proportionate to achieve that aim. Blanket prohibitions on LGBT expression fail to meet these conditions. In addition, and as noted above, the invocation of “public morality” to justify censorship has been expressly rejected by the Committee where such morality reflects discriminatory or exclusionary social norms.

The proposed legal reforms may also result in the removal or prohibition of educational materials, public messages, and policies that mention or affirm the existence of LGBT persons, or materials that advocate for the protection of their rights. Such actions risk erasing information and perspectives essential to the inclusion of LGBT communities, and may have chilling effects on institutions and individuals that provide support to these communities. These measures also risk legitimizing discrimination across public and private sectors.

In view of the above, we have serious concerns that the proposed legislative reforms in Türkiye may unduly restrict the right to freedom of opinion and expression, right to assembly and access to information on issues related to sexual orientation and gender identity. These restrictions would likely undermine the dignity, inclusion and equality of LGBT persons in public life.

4. Regarding mandatory sterilization as a form of cruel, inhuman and degrading treatment

The proposed amendments to article 40 of the Civil Code would require individuals seeking legal gender recognition to undergo “permanent deprivation of the ability to reproduce,” a requirement understood to constitute irreversible sterilization. This condition, in conjunction with the requirement for psychiatric evaluations and a court-supervised medical process for gender recognition, raises serious concerns under international human rights law, specifically in relation to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

The CAT, ratified by Türkiye on 2 August 1988, prohibits any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted for purposes such as punishment, intimidation, coercion, or discrimination. Forced sterilization, especially when imposed as a legal prerequisite for access to identity documents and civil status, violates bodily integrity and autonomy, and may constitute cruel, inhuman and degrading treatment, especially when the practice is motivated by discrimination against transgender persons. The Committee Against Torture has found in past cases that forced sterilization violates articles 7 and 17 of the ICCPR, which protect individuals from torture or cruel, inhuman or degrading treatment and from arbitrary interference with privacy, respectively. (See *M.T. v. Uzbekistan*, CCPR/C/83/D/915/2000 (2005)). Similarly, the CEDAW Committee in its General Recommendation No. 35 on gender-based violence against women as well as in its jurisprudence, has concluded that violations of women’s sexual and reproductive health and rights, such as forced sterilization, and particularly policies of forced sterilisation, are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment (para. 18; and *María Elena Carbajal Cepeda and Others v. Peru*, CEDAW/C/89/D/170/2021). The imposition of forced sterilization as a gateway to identity rights not only violates bodily autonomy and dignity, but also entrenches discriminatory medical practices that pathologize transgender identities.

We respectfully reemphasize that the prohibition of torture and ill-treatment is a *jus cogens* norm, an absolute and non-derogable obligation under international law. Under no circumstances, including considerations of national security or public morality, may torture or ill-treatment be justified. Requiring individuals to undergo

sterilization as a precondition for the legal recognition of their gender identity is inconsistent with obligations that Türkiye is required to comply with under CAT.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the proposed legislations addressed in this communication, including Your Excellency's Government's views on the above analysis.
2. Please provide details of the process of elaboration, consultation, deliberation, and approval of the legislative package, including human rights impact assessments conducted to ensure that the provisions contained in the proposed legislations comply with Türkiye's obligations under international human rights law, and the process of consultations carried out with civil society organizations, human rights defenders, independent experts, and international bodies, if any.
3. Please provide details of how the domestic legal framework safeguards the rights of all persons so they are not discriminated against based on their sexual orientation or gender identity and to guarantee their legitimate right to privacy.
4. Please explain how the proposed amendment to article 40 of the Civil Code is compatible with the fundamental principles of equality and non-discrimination, and the protection of all persons of the right to the highest attainable standard of physical and mental health.
5. Please explain how the proposed amendment to article 225 of the Penal Code is compatible with the fundamental principles of equality and non-discrimination, and the freedom of opinion, expression, assembly and access to information.
6. Please explain how the anti-LGBT bill proposed by HÜDA PAR is compatible with the fundamental principles of equality and non-discrimination, equality before the law, recognition of legal identity, bodily autonomy, humane and dignified treatment, and the freedom of opinion, expression, assembly and access to information. In particular, taking into account the principle of proportionality, please explain the objective justification for a blanket ban of all representations of same-sex relationships and LGBT identities in television, radio, schools, and digital platforms.
7. In relation to the criminal sanctions imposed under the legislative reforms, please provide an explanation of the objective justification for the introduction and increase in criminal sanctions related to LGBT matters. In particular, please explain the objective criteria used to determine the scale of sanctions, and safeguards envisaged to avoid their disproportionate application.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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