

Briefing Note

On the Recent Imprisonment of Men in Turkmenistan for Being Gay

The Case

In the second half of March, 2020, a famous Turkmen actor, showman, and entertainer, along with a dozen other men, was arrested on sodomy charges in the city of Ashgabat, Turkmenistan. For ethical reasons, the names of the men were not disclosed in the media¹. All of the men are successful professionals of the Turkmen show business and modelling. According to the independent media, most of the men were able to bribe the police and buy themselves out from under the investigation². On May 7, 2020, the entertainer and several other men were sentenced to two years' imprisonment for sodomy, stipulated by article 135 of the Turkmen Criminal Code³.

Background information

Turkmenistan is one of the two Central Asian countries, which has legislation criminalising private, consensual same-sex conduct. Article 135 of the Turkmen Criminal Code considers consensual sex between men to be a crime, the liability for which is imprisonment for up to two years and for 5 to 10 years if repeatedly found guilty⁴.

As a consequence of criminalisation and deep stigmatisation of same sex relations, it is very hard to find the lawyer to represent the convicted men since "sodomy" cases are considered hopeless and male lawyers are reluctant to lead them being afraid for their professional reputation and personal safety⁵. In addition, LGBT people are at risk of being routinely subjected to arbitrary arrests, ill-treatment, persecution and surveillance by police⁶. It has been proven that police often use dating apps and web sites to bait gay men. In most cases, they do not arrest them but instead blackmail them and extort money⁷. It has also been reported that gay/bisexual men often disappear never to resurface⁸.

It has been reported that it is often enough for one's phone number to be present in the contacts list of a person under the investigation for being gay/bisexual for the police to summon

¹ "Well-Known Turkmen Actor 'Under Arrest,'" <https://www.rferl.org/a/well-known-turkmen-actor-under-arrest-gay/30561124.html>

² Ibid.

³ "Two Years in Prison for Gay Sex," https://www.hrw.org/news/2020/05/26/two-years-prison-gay-sex-turkmenistan?fbclid=IwAR1aSmCeQoNHvmaBCy_1duBhsOGiQvx-Q7GdcqC2_ePhH_fvCjhW7SIyA4

⁴ *Criminal Code of Turkmenistan*, <https://www.wipo.int/edocs/lexdocs/laws/ru/tm/tm015ru.pdf>

⁵ "In Turkmenistan, Famous Entertainer and His Boyfriend Arrested for "Sodomy," <https://fergana.ru/news/117158/>

⁶ M., F. I. (2020). *Zhizn' Lgbt lyudei v Turkmenistane (Life of Lgbt in Turkmenistan)*. Bishkek: Public Organisation "Kyrgyz Indigo". <https://indigo.kg/?download=1&kccpid=2241&kcccount=http://indigo.kg/wp-content/uploads/2020/03/%D0%96%D0%B8%D0%B7%D0%BD%D1%8C-%D0%9B%D0%93%D0%91%D0%A2-%D0%BB%D1%8E%D0%B4%D0%B5%D0%B9-%D0%B2-%D0%A2%D1%83%D1%80%D0%BA%D0%BC%D0%B5%D0%BD%D0%B8%D1%81%D1%82%D0%B0%D0%BD%D0%B52.pdf>

⁷ Legislative analysis related to LGBT rights and HIV in Turkmenistan/ECOM https://ecom.ngo/library/turkmenistan_legislative_analysis_2019/

⁸ "In Turkmenistan, Famous Entertainer and His Boyfriend Arrested for "Sodomy," <https://fergana.ru/news/117158/>

one for interrogation⁹. Research also discloses that men, who are charged with sodomy, are forcefully subjected to anal examinations¹⁰ with the purported objective of finding “proof” of homosexual conduct. Anal examination has no medical justifications¹¹ and may amount to degrading treatment or punishment.

Turkmenistan and the UN

Imprisoning people for consensual homosexual sex has been denounced by the UN and multiple other international human rights treaty bodies. The Human Rights Committee has emphasized that Turkmenistan should repeal the law as it violates the international obligations that the State Party has under the International Covenant on Civil and Political Rights. Turkmenistan, being a part of the framework of the Convention Against Torture, also violates its obligations under the Convention by subjecting men to forced anal examinations, in addition to abusing the law to harass and imprison them.

While Turkmenistan prides itself on its good standing in the United Nations,¹² the country’s representative, during the periodic hearing at the HRCtee, that the country will never decriminalize consensual homosexual sex since it goes against Turkmen “traditional and family values”

ECOM and ILGA-Europe calls upon the UN Special Procedures, namely Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Working Group on Arbitrary Detention and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to communicate with Turkmen authorities to ensure release of Release persons convicted under article 135 of the current Criminal Code of Turkmenistan from the penitentiary system and other detention institutions, and provide them with adequate compensation. Turkmenistan should be urged to repeal criminalisation of sexual orientation with a view to ensuring conformity with the International Covenant on Civil and Political Rights.

This is a briefing note prepared by ECOM and ILGA-Europe. For more information, you can contact Akram Kubanychbekov, akram@ilga-europe.org and Yuri Yoursky at yuri@ecom.ngo.

⁹ “In Ashgabat, Famous Showman Arrested. Suspected of Homosexuality,” <https://turkmen.news/human-rights/gay-turkmenistan/>

¹⁰ “In Ashgabat, Famous Showman Arrested. Suspected of Homosexuality,” <https://turkmen.news/human-rights/gay-turkmenistan/>

¹¹ Alempijevic, Djordje & Beriashvili, Rusudan & Beynon, Jonathan & Deutsch, Ana & Duque, Maximo & Duterte, Pierre & Es, Adriaan & Fernando, Ravindra & Fincanci, Sebnem & Hansen, Steen & Hárđi, Lilla & Hougen, Hans & Iacopino, Vincent & Louahlia, Said & Modvig, Jens & Mendez, MariaDolores & Özkalıpci, Önder & PayneJames, Jason & Quiroga, Jose & Vieira, Duarte. (2016). Statement on Anal Examinations in Cases of Alleged Homosexuality.. Torture. 26. 85-91. 10.7146/torture.v26i2.108205. Available at: https://s3.amazonaws.com/PHR_other/statement-on-anal-examinations-in-cases-of-alleged-homosexuality.pdf

¹² “Two Years in Prison for Gay Sex,” https://www.hrw.org/news/2020/05/26/two-years-prison-gay-sex-turkmenistan?fbclid=IwAR1aSmCeQoNHvmaBCy_1duBhsOGiQvx-Q7GdcqC2_ePhH_fvCjhW7SIyA4