



Doc. 13194
24 April 2013

Discriminatory application of “undue provocation” provisions by Turkish courts when sentencing in cases of homophobic hate crime

Written declaration No. 543

This written declaration does not reflect the position of the Assembly; only of those members that have signed it. It will not be considered further by the Assembly.

In August 2010 Tolgahan Gürsoy killed Ahmet Ö., stabbing him nine times. He had met Ahmet Ö. in a gay bar, and had gone back to his house of his own free will.

A local court found Gürsoy guilty of "intentional homicide", but decided to reduce his sentence from life imprisonment to 10 years on the basis of "undue provocation", since he was trying "to protect his honour following a sex offer". This reduced sentence has been upheld by Turkey's Court of Appeal.

Such cases are not uncommon. In a 2011 report on the human rights of LGBT people in Turkey, Amnesty International expressed concern that in cases of suspected homophobic hate crimes perpetrators routinely relied on the defence of "undue provocation", and in many cases were effectively awarded lower sentences on the basis of the identity of the victim.

We call upon the Turkish authorities and courts to take measures to ensure that legal provisions on "undue provocation" are not applied in a discriminatory fashion, particularly in the case of suspected homophobic and transphobic hate crimes.

Signed (see overleaf)



*Signed*¹:

GUNNARSSON Jonas, Sweden, SOC
ACKETOFT Tina, Sweden, ALDE
AL-ASTAL Najat, Palestine
ANDREOLI Paride, San Marino, SOC
BARDINA PAU Josep Anton, Andorra, ALDE
BIEDROŃ Robert, Poland, SOC
BLONDIN Maryvonne, France, SOC
DAVIES David, United Kingdom, EDG
DURRIEU Josette, France, SOC
GERASHCHENKO Iryna, Ukraine, EPP/CD
GIOVAGNOLI Gerardo, San Marino, SOC
GUZOWSKA Iwona, Poland, EPP/CD
HÄGG Carina, Sweden, SOC
HAUGLI Håkon, Norway, SOC
JENSEN Mogens, Denmark, SOC
KALMÁR Ferenc, Hungary, EPP/CD
MAGHRADZE Guguli, Georgia, SOC
MARCENARO Pietro, Italy, SOC
MARJANOVIĆ Vesna, Serbia, SOC
MAURY PASQUIER Liliane, Switzerland, SOC
MICHEL Jean-Pierre, France, SOC
MYLLER Riitta, Finland, SOC
OHLSSON Carina, Sweden, SOC
QUINTANILLA Carmen, Spain, EPP/CD
REISSMANN Mette, Denmark, SOC
ROTNICKA Jadwiga, Poland, EPP/CD
ROUQUET René, France, SOC
SCHEMBRI Deborah, Malta, SOC
SCHENNACH Stefan, Austria, SOC
VORUZ Eric, Switzerland, SOC
ZAPPONE Katherine, Ireland, NR

Total = 30

1. ALDE: Alliance of Liberals and Democrats for Europe
EDG: European Democrat Group
EPP/CD: Group of the European People's Party
SOC: Socialist Group
NR: Representatives not belonging to a Political Group