

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	692
Land:	Tyrkiet
Kilde:	Amnesty International
Titel:	Türkiye: 2023 Prides took place amid discriminatory restrictions and abuse of the rights of protesters
Udgivet:	24. april 2024
Optaget på baggrundsmaterialet:	18. april 2024

AMNESTY INTERNATIONAL PUBLIC STATEMENT

17 May 2024 AI Index Number: EUR 44/8049/2024

TÜRKİYE: 2023 PRIDES TOOK PLACE AMID DISCRIMINATORY RESTRICTIONS AND ABUSE OF THE RIGHTS OF PROTESTERS

Turkish authorities routinely discriminate and use violence against LGBTI people. Authorities employ blanket bans and other discriminatory restrictions on peaceful protests, including unnecessary and arbitrary use of force by law enforcement officials in some cases constituting torture and other ill-treatment. High-level public officials use discriminatory speech that entrench harmful gender-based stereotypes and institutional homophobia and transphobia.

Amnesty International analysed state responses to peaceful protests during the 2023 Pride season between 7 June and 9 July, when the authorities banned many public events and the law enforcement officials used unlawful force against peaceful protesters in Türkiye, including the provinces of İstanbul, İzmir, Ankara, Eskişehir and Adana. Turkish authorities, politicians and law enforcement officials contributed to fuelling discrimination against LGBTI people and their supporters. The discriminatory rhetoric by high-level officials intensified in the run up to the 2023 legislative and presidential elections immediately preceding the Pride season. The banning decisions and other punitive measures taken by the authorities not only hindered many Pride events from taking place but also had a chilling effect on LGBTI people and activists who intended to peacefully exercise their rights. However, despite this climate of discrimination and violence, LGBTI rights activists continued to take to the streets and claim their rights.

Amnesty International interviewed thirteen people between 10 July and 3 August 2023. Two were lawyers, four journalists and seven were people who had participated in protests.¹ Amnesty International also deployed observers during the 18 June İstanbul Trans Pride, 25 June İstanbul and İzmir Pride Marches.

Human rights defenders, LGBTI people and other peaceful protesters who participated in the Pride marches and events faced widespread violations of the rights to peaceful assembly, liberty and security of person and non-discrimination.

DISCRIMINATION IS THE NORM IN TÜRKİYE

LAWS FAIL TO PROTECT LGBTI PEOPLE

Turkish legislation on discrimination is not compliant with international standards and falls short of the obligations the Turkish state has under international treaties to which it is party as it fails to protect people on all grounds, including sexual orientation, gender identity and/or expression and sex characteristics (SOGIESC).² Article 10 of the Turkish Constitution guarantees the equal treatment of all individuals without discrimination before the law.³ The Law on the Human Rights and Equality Institution in Türkiye (Law 6701) enacted in 2016, states “Everyone shall equally benefit from their rights and freedoms which are determined by law” but limits the scope of the prohibition of discrimination to “sex, race, colour, language, religion, faith, sect, philosophical or political opinion, ethnic origin, wealth, birth, civil status, medical condition, disability or age.”⁴

¹ In compliance with informed consent given by interviewees and as is the norm in Amnesty International’s investigations, we provide the date of when the interview took place but have protected the identity of some of the people with whom we have spoken by using a pseudonym or other means to anonymize the individual, their location, nationality and any other identifying details, in accordance with their wishes.

² Human Rights Committee, Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session, 13 November 2012, CCPR/C/TUR/CO/1.

³ “Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds” See Türkiye, Constitution of the Republic of Turkey, https://www.anayasa.gov.tr/media/7258/anayasa_eng.pdf, Article 10.

⁴ Law on the Human Rights and Equality Institution of Türkiye, Law no: 6701, <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=6701&MevzuatTur=1&MevzuatTertip=5>

However, Article 90 of the Turkish Constitution states “[i]n the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.”⁵ Türkiye is a signatory to multiple international treaties, including the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention on Human Rights that prohibit discrimination on a non-exhaustive list of grounds, which should be interpreted as including SOGIESC. Indeed, human rights treaty bodies and other international and regional human rights bodies have repeatedly emphasized that SOGIESC are protected grounds of discrimination.⁶

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) also explicitly prohibits discrimination based on sexual orientation and gender identity (Article 4, paragraph 3). Regrettably Türkiye withdrew from the Convention in July 2021⁷ and the authorities based the withdrawal decision on the reason that “the Istanbul Convention, which at the start intended to promote the strengthening of women's rights, has been manipulated by some who seek to normalize homosexuality, which is incompatible with Türkiye's social and family values.”⁸ Dozens of women's organizations, bar associations and others applied to Türkiye's highest administrative court, the Council of State, to quash the decision but the Court rejected the applications and the presidential decision to withdraw from the Istanbul Convention was implemented.

At the end of 2022, the Turkish government proposed amendments to the Turkish Constitution on Article 41 titled “protection of the family and the rights of the child.” Article 41 currently states “family is the foundation of the Turkish society and based on the equality between the spouses.”⁹ The proposed amendment would explicitly rule out the application of the provision to same-sex couples as it would add that the “union of marriage can only be established between a woman and a man.” The justification for the proposal states that by this amendment “it is aimed to protect the institution of family and marriage against all kinds of dangers, threats, attacks and the imposition of perverted movements.”¹⁰ The proposed amendment and its justification are discriminatory against LGBTI people as the right to family life should be accessible to everyone, without any discrimination including on grounds of gender identity and sexual orientation. The discussions on these proposed amendments halted due to the 6 February 2023 earthquakes in south-eastern Türkiye and the legislative elections in May 2023, however in June the President stated that they will be presented again to the National Assembly.¹¹

CLIMATE OF DISCRIMINATION

Politicians and high-level government officials, including the President Erdoğan, have used increasingly discriminatory and stigmatizing rhetoric against LGBTI people, which further escalated in the run up to the 2023 legislative elections. Days before the election, the President spoke on a television program saying, “LGBT is a poison injected into the institution of the family. It is not possible for us to accept that poison especially in a country where 99% of its people are Muslims.”¹² Many high-level officials and politicians also openly and routinely attack LGBTI people by using harmful and discriminatory terms such as “LGBTI perversion” and “LGBTI terror,” and by calling for a ban on “LGBTI propaganda” and closure of LGBTI organizations.¹³ Such discriminatory, sustained rhetoric signals an alarming normalization of discrimination that LGBTI people face in Türkiye and threaten their fundamental rights, including their rights to freedom of expression, assembly, and association. Anti-LGBTI groups and platforms organizing protests receive open support from the high-level officials and politicians. Büyük Aile Platformu (the Great Family Platform), a platform composed of different

5 Türkiye, Constitution of the Republic of Turkey, https://www.anayasa.gov.tr/media/7258/anayasa_eng.pdf, Article 90.

6 Yogyakarta Principles, Principle 2, 2006, <http://yogyakartaprinciples.org/principle-2/>

7 Amnesty International, Turkey, turn words into actions: Duty-bound to end violence against women (Index: EUR 44/5109/2021), 22 December 2021.

8 Presidency of the Republic of Türkiye, Directorate of Communications, “Türkiye'nin İstanbul Sözleşmesi'nden Çekilmesine İlişkin Açıklama”

<https://www.iletisim.gov.tr/turkce/haberler/detay/turkiyenin-istanbul-sozlesmesinden-cekilmesine-iliskin-aciklama>, 21 March 2021.

9 Türkiye, Constitution of the Republic of Turkey, https://www.anayasa.gov.tr/media/7258/anayasa_eng.pdf, Article 41.

10 Anadolu Agency, “Başörtüsüne yönelik Anayasa değişikliği teklifi TBMM'ye sunuldu,” <https://www.aa.com.tr/tr/politika/basortusune-yonelik-anayasa-degisiklik-teklifi-tbmm-ye-sunuldu/2759663#>, 10 December 2022.

11 Medyascope, “Anayasa değişikliği yine, yeniden: Meclis'in yeni yapısıyla değişiklik mümkün mü?,” 8 June 2023, <https://medyascope.tv/2023/06/08/anayasa-degisikligi-yine-yeniden-meclisin-yeni-yapisiyla-degisiklik-mumkun-mu/>

12 Türkiye Cumhuriyeti Cumhurbaşkanlığı, Cumhurbaşkanı Erdoğan “Gençlerle Söyleşi” Programına katıldı, 11 May 2023,

<https://www.tccb.gov.tr/haberler/410/147141/cumhurbaskani-erdogan-genclerle-soylesi-programina-katildi>

13 Kaos GL, “Yeniden Refah Nefreti sürdürüyor: 2028'de LGBT derneklerini kapatacağız” 12 February 2024, <https://kaosgl.org/haber/yeniden-refah-nefreti-surduruyor-2028-de-lgbt-derneklerini-kapatacagiz>

organizations that amplifies discriminatory and harmful rhetoric against LGBTI people, organized gatherings in the country openly calling for a ban on “LGBTI propaganda” and closure of LGBTI organizations for the “protection of the family and children” in September 2022 and 2023. The Platform’s advertisement video promoting anti-LGBTI rights demonstration in Istanbul, which used discriminatory and stigmatizing rhetoric targeting LGBTI people as a “threat” to the society through misinformation,¹⁴ was approved by the state broadcasting body (RTÜK) both in 2022 and 2023.¹⁵ In Izmir on 12 September 2023, law enforcement officials prevented the LGBTI activists’ peaceful protest against the RTÜK decision and arbitrarily detained them before the planned gathering.

As a response to the Great Family Platform’s advertisement video, an LGBTI rights organization shared a video titled “hand in hand against hate” on social media platforms, but then ultimately announced that they removed the video from circulation due to the insults and death threats against the film company and the actors that produced the video.¹⁶ On 25 September 2023, TCDD (the Turkish Railways) also announced on social media platform X that it had made a criminal complaint against the film company that produced the “hand in hand against hate” video, claiming that its production at its Marmaray train lines in Istanbul was not in accordance with the permission granted previously. Furthermore, the complaint argued that TCDD was “mislead in an organized and malicious way by a group that it does not support and does not want to be part of and has been used against its will to disturb a sensitive segment of the society.”¹⁷

In 2023, the authorities have increasingly limited rights to freedom of expression on LGBTI rights by cancelling public events, such as concerts. In June, Bursa and Denizli Municipalities cancelled the concerts of Melike Şahin and Mabel Matiz, immediately after their speeches at Elle Style Awards openly supporting LGBTI people in İstanbul on 14 June.¹⁸ In July, the Mayor of Sandıklı district in Afyonkarahisar province cancelled the concert of Gökçe, planned in August, claiming on his social media X account that her social media posts showed support for LGBTI rights.¹⁹

Simple acts such as displaying rainbow flags or colours, which are protected by the right to freedom of expression, are harshly repressed and used to intimidate and even criminalize LGBTI rights defenders.²⁰ University students who unfurled rainbow flags at their annual graduation procession on 26 July were targeted and the Middle East Technical University (METU) in Ankara opened a disciplinary investigation against at least six students for “marching with LGBTI flag.”²¹ In October at least six students received a reprimand from university administration. Protesters and lawyers confirmed to Amnesty International that law enforcement officials targeted people wearing clothes in multiple colours by arbitrarily detaining them at both the 18 June Istanbul Trans Pride and 25 June Istanbul LGBTI Pride marches. One of the lawyers noted that almost half of the people who were arbitrarily detained on 25 June were people who did not participate in the pride march, and most were targeted for their perceived sexual orientation or gender identity.²²

In September, Hacettepe University administration in Ankara forced the closure of an official LGBTI group on campus in violation of LGBTI people’s right to freedom of association.²³

BANS AND OTHER DISPROPORTIONATE RESTRICTIONS ON THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

The authorities have unlawfully and systematically hindered pride marches in Türkiye since 2015 in violation of the rights to freedom of peaceful assembly and expression, and to non-discrimination. Most prominently, the authorities issued blanket bans on marches and other LGBTI themed events including film screenings and picnics. In 2022, LGBTI rights

14 Aile TV, Bu gidişe dur de / Büyük Aile Buluşması, Aile TV <https://www.youtube.com/watch?v=HP05RLJtFmQ> (accessed on 10 May 2024)

15 Anadolu Agency, LGBT propagandasına karşı “Büyük Aile Buluşması” 17 Eylül’de düzenlenecek, <https://www.aa.com.tr/tr/gundem/lgbt-propagandasina-karsi-buyuk-aile-bulusmasi-17-eyulde-duzenlenecek/2988825>, 11 September 2023.

16 Kaos GL, X post, <https://x.com/KaosGL/status/1706616822215164247?s=20>, 26 September 2023.

17 Marmaray, X post, <https://twitter.com/Marmaraytcdd/status/1706253592514978155/photo/1>, 25 September 2023.

18 Anti-LGBTI social media posts on X were shared about the speeches of Melike Şahin and Mabel Matiz at the Elle Style Awards and some also called for the cancellation of their concerts. On 14 June, Bursa Municipality cancelled Melike Şahin’s concert. See Bursa Büyükşehir Belediyesi, X post, <https://x.com/bursabuyuksehir/status/1669013726635098113?s=20>, 14 June 2023. On 17 June, Denizli Municipality also announced that the concerts of both artists are cancelled. See Denizli Büyükşehir Belediyesi, X post, <https://x.com/denizlibld/status/1669979747227512832?s=20>, 17 June 2023.

19 Dr. Mustafa Çöl, Mayor of Sandıklı District in Afyonkarahisar province, X post, <https://twitter.com/mustafacol/status/1686100513673109504>, 31 July 2023.

20 Amnesty International Türkiye, Boğaziçi Üniversitesi Gökkuşuğu Bayrağı Davası, <https://www.amnesty.org.tr/icerik/bogazicigokkusagi>.

21 Unikuir, ODTÜ mezuniyetindeki gökkuşuğu bayrağında disiplin suçu aranıyor!, 4 September 2023, <https://www.unikuir.org/haberler/odtu-mezuniyetindeki-gokkusagi-bayraginda-disiplin-sucu-araniyor-04-09-2023>

22 Interview by video call with LGBTI rights lawyer, 14 July 2023

23 Kaos-GL, “Queer Deer kapatıldı!” 22 September 2023, <https://kaosgl.org/haber/queer-deer-kapatildi>, 22 September 2023

organizations documented at least 10 Pride events banned across the country and over 530 people were detained during the Pride season.²⁴

During the 2023 Pride season, in at least six provinces (Eskişehir, Aydın, Kocaeli, Antalya, Adana, İzmir) and four districts (Kadıköy, Şişli, Beyoğlu, Datça) the provincial and district Governors announced blanket bans on pride month events lasting from a day to a month.²⁵ Several university administrations imposed arbitrary bans on pride events on campus. At METU, the university rector emailed a statement to all students and staff on 8 June, announcing a blanket ban on all pride events on campus²⁶ and allowed law enforcement officials including the riot police to enter the campus on the day of a planned march, to prevent it from taking place.

All banning decisions, except for the ban issued by the Governor of Adana, which generally referred to all actions and activities that disrupt “public order and general morality”, directly mentioned planned LGBTI marches and events, including film screenings, panels, and even a Tea & Talk social gathering at a café in Istanbul. These blanket bans, preventing LGBTI people to participate in any type of assembly, including gatherings in a café, constitute disproportionate restrictions on their rights to freedom of expression and peaceful assembly, and are discriminatory against LGBTI people.²⁷

The UN Human Rights Committee’s General Comment No: 37 states that restrictions on the right to freedom of peaceful assembly “must not be discriminatory, impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect.”²⁸ The right to non-discrimination is protected under the Article 26 of ICCPR and Article 14 of ECHR, including a well-established ECtHR case law stating bans on pride marches are a violation of Article 11, freedom of assembly and association.²⁹

The right to freedom of peaceful assembly is enshrined in major human rights treaties to which Türkiye is a party to, including the ICCPR and the ECHR. The right to freedom of peaceful assembly is protected under Articles 34 of the Turkish Constitution and Article 3 of the Law on Demonstrations and Public Meetings (Law 2911), which does not subject the organization of peaceful assemblies to prior authorization.³⁰ Although the rights to freedom of peaceful assembly, expression and association are not absolute rights, the authorities must always first seek to protect and facilitate the exercise of these human rights. Any restriction must be prescribed by law, aimed at protecting a legitimate public interest, be necessary and proportionate, meaning that the same result cannot be achieved through other less restrictive means. The prohibition of a specific public assembly in advance therefore must always be a measure of last resort, based on a case-by-case assessment taking into account the specific circumstances of each assembly. Blanket bans, such as the ones mentioned in this statement, constitute a disproportionate restriction of the right to freedom of peaceful assembly and, as such, constitute a violation of this right.³¹

Turkish authorities issued bans against the pride marches and events in 2023 based on Article 17 and Article 19 of the Law on Demonstrations and Public Meetings (Law 2911) and Article 32 and Article 11 of Law on Provincial Administration (Law 5442). Article 17 of the Law 2911 states that, “the governor or district governor may postpone a specific meeting for up to a maximum of one month for reasons of national security, public order, prevention of crime, protection of public health, public morality or protecting the rights and freedoms of others or may ban the meeting in case there is a clear and imminent threat of a crime being committed.”³² However, the bans issued by the authorities do not include individualized,

24 Kaos-GL, “Devlet LGBTİ+lara savaş açtı: 37 günde 10 yasak, en az 530 gözaltı!” 27 June 2022, <https://kaosgl.org/haber/devlet-lgbti-lara-savas-acti-37-gunde-10-yasak-en-az-530-gozalti>.

25 Adana Governorship, Press Statement, <http://www.adana.gov.tr/ms-05456>, 7 July 2023; Antalya Governorship, Ban Decision, <http://www.antalya.gov.tr/antalya-valiligi-yasaklama-karari>, 4 July 2023; Beyoğlu Governorship, Press Statement, <http://www.beyoglu.gov.tr/basin-aciklamasi-31-istanbul-onur-haftasi-yasaklama>, 25 June 2023; Datça Governorship, Banning Decision <http://www.datca.gov.tr/yasaklama-karari>, 13 June 2023; Eskişehir Governorship Banning Decision <http://www.eskisehir.gov.tr/yasaklama-karari11>, 14 June 2023; İzmir Governorship, Announcement, <http://www.izmir.gov.tr/duyuru-23062023>, 23 June 2023; Kadıköy Governorship, Press Statement, <http://www.kadikoy.gov.tr/basin-aciklamasi07062023>, 7 June 2023; Kocaeli Governorship, Press Statement, <http://www.kocaeli.gov.tr/lgbti-dernekleri-benzeri-olusumlar-ve-gruplar-tarafindan-onur-haftasi-adi-altinda-yapacagi-etkinliklerle-ilgili-basin-aciklamasi>, 23 June 2023.

26 The email sent by the university rector to all students and staff on 8 June was obtained and reviewed by Amnesty International researcher.

27 UN Human Rights Committee (HRC), General comment 37: on the right of peaceful assembly (Article 21), 17 September 2020, CCPR/C/GC/37, 17 September 2020, para. 38.

28 HRC, General comment No: 37 (previously cited), para. 36

29 European Court of Human Rights (ECtHR), Lashmankin and Others v. Russia, Application 57818/09, Judgement, 29 May 2017; ECtHR, Bayev and Others v. Russia, Applications 67667/09, Judgement, 13 November 2017; ECtHR, Berkman v. Russia, Application 46712/15, Judgement, 1 March 2021.

30 However, the Law 2911 requires the organizers to give notification to the authorities in advance of an assembly. See, Türkiye, Law on Demonstrations and Public Meetings, 1983, Law 2911 Article 10, 11, 12 and 28, (as amended on 30 July 2003).

31 HRC, General comment No: 37 (previously cited), para. 38

32 Türkiye, Law on Demonstrations and Public Meetings, 1983, Law 2911 Article 17, (as amended on 30 July 2003).

factual assessment of the events prohibited and do not establish that banning LGBTI events is a necessary and proportionate measure to protect a public interest.

In the cases of 2019, 2022 and 2023 METU Pride Marches and 2019 Izmir Pride March, the administrative courts in Türkiye lifted the bans on Pride marches ruling that these bans were unlawful.³³ In June 2020, the Ankara Administrative Court No. 7 stated that “although specific assemblies and demonstrations may be banned, the right to peaceful assembly and demonstration should be protected as an inalienable right in a democratic society” and that “the State has an obligation to take necessary measures to ensure this right can be exercised securely.”³⁴ Regarding the 2019 Izmir Pride March ban, in its decision finding the ban unlawful, the Regional Administrative Court stated “The Pride March, which seems to aim at raising awareness and sensitivity in society against hatred, discrimination and violence suffered by a segment of the society differentiated in terms of gender identity and sexual orientation, is the exercise of a fundamental right and freedom that must be protected in a democratic society as it contributes to pluralism and peaceful coexistence.”³⁵

Some of the statements issued by the Governors in 2023 banned the LGBTI pride events due to “social sensitivities,” claiming that “such activities that include attitudes and behaviours against public morality” may “cause reactions in public” and may be “open to all kinds of provocations and actions.”³⁶ The right to freedom of expression protects speech and ideas that might offend or disturb state officials or any sector of the population.³⁷ Moreover, as set out by the General Comment No 37 (2020), restrictions to protect “public morality” must be understood in the light of the universality of human rights, pluralism, and the principle of non-discrimination and may not be imposed due to opposition to expressions of sexual orientation and gender identity.³⁸ Targeting pride events as “activities against public morality” is in and of itself stigmatising and harmful to LGBTI people, stems from and manifests discrimination against LGBTI people and contradicts Türkiye’s obligations to ensure the right to peaceful assembly is respected without discrimination.³⁹ Thus “social sensitivities” and “threats of provocations” are not reasonable justifications to ban the events. As stated by the Siracusa Principles, public morality cannot be invoked by states to restrict the rights to freedom of expression and peaceful assembly in ways that jeopardize the right to non-discrimination.⁴⁰

The Governor of Beyoğlu district in Istanbul issued a ban on the day of the LGBTI pride march (25 June) arguing that it would cause a “threat to public security and safety due to the possibility of provocative attacks between the protesters and other groups and the possibility of “members of terrorist group” joining to “abuse” the assembly.⁴¹ Such unspecified risks or threats, including provocations or hostile reactions from other groups and counter protesters cannot justify the restrictions on the Pride marches or events. The responsibility of the authorities is to ensure that all necessary measures are in place to protect the participants, including from violence and threats by counter-protesters, and facilitate the protest. Authorities must protect participants against possible abuse by other members of the public and particular efforts also must be taken to protect the peaceful assembly of individuals who are members of groups that are or have been subjected to discrimination.⁴²

The Governor of Beyoğlu District listed further justifications to why meetings and assemblies cannot be held in the district, such as the “heavy vehicle and pedestrian traffic,” “the absence of squares and streets available for demonstrations,” cultural significance of the area, the presence of embassies and commercial businesses as well as the bomb attack that occurred on İstiklal Avenue in 2022. Beyoğlu has been a symbolic location for protests for decades where protests were

33 Unikuir, “Mahkeme, ODTÜ Rektörlüğü’nün Onur Yürüyüşü yasağını hukuksuz buldu,” 27 February 2023, <https://www.unikuir.org/haberler/mahkeme-odtu-rektorlugu-nun-onur-yuruyusu-yasagini-hukuksuz-buldu-27-02-2023>. Unikuir, “Kayyum Rektörün Onur Yürüyüşü yasağına, mahkeme hukuksuz dedi” , 29 January 2024, <https://www.unikuir.org/haberler/kayyum-rektorun-onur-yuruyusu-yasagina-mahkeme-hukuksuz-dedi-29-01-2024>

34 Amnesty International, “Turkey: Joint statement: METU Pride human rights defenders must be acquitted at upcoming trial” (Index EUR 44/4847/2021), 7 October 2021, <https://www.amnesty.org/en/documents/eur44/4847/2021/en/>.

35 Kaos GL, “7. İzmir LGBTİ+ Onur Yürüyüşü yasağı iptal edildi” 20 January 2022) <https://kaosgl.org/haber/7-izmir-lgbti-onur-yuruyusu-yasagi-iptal-edildi>

36 Adana Governorship : <http://www.adana.gov.tr/ms-05456>, Antalya Governorship <http://www.antalya.gov.tr/antalya-valiligi-yasaklama-karari>, Beyoğlu Governorship <http://www.beyoglu.gov.tr/basin-aciklamasi-31-istanbul-onur-haftasi-yasaklama>, Datça Governorship <http://www.datca.gov.tr/yasaklama-karari>, Eskişehir Governorship <http://www.eskisehir.gov.tr/yasaklama-karari11>, İzmir Governorship <http://www.izmir.gov.tr/duyuru-23062023>, Kadıköy Governorship <http://www.kadikoy.gov.tr/basin-aciklamasi07062023>, Kocaeli Governorship <http://www.kocaeli.gov.tr/lgbti-dernekleri-benzeri-olusumlar-ve-gruplar-tarafindan-onur-haftasi-adi-altinda-yapacagi-etkinliklerle-ilgili-basin-aciklamasi>

37 HRC, General comment No:37 (previously cited), para.11

38 HRC, General comment No: 37 (previously cited), para. 46

39 HRC, General comment No: 37 (previously cited), para. 46

40 Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, Paras, 27 and 28, Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf (icj.org)

41 Beyoğlu Governorship, <http://www.beyoglu.gov.tr/basin-aciklamasi-31-istanbul-onur-haftasi-yasaklama>, 25 June 2023

42 HRC, General comment No: 37 (previously cited), para. 25.

regularly held and thus the argument that there is no proper space is not a tangible reason for banning protests, indicating instead a desire to prevent dissenting opinions being visible in the public space in the district. Under international human rights law, the state has an obligation to facilitate peaceful protests and participants in a protest must be enabled as far as possible to gather within sight and sound of the target audience.⁴³ Any restrictions on time, place, and manner of assemblies must be made on a case-by-case basis and allow participants to assemble that would be important to their aim.⁴⁴ The right to freedom of peaceful assembly protects conduct that temporarily hinders, impedes, or obstructs the activities of third parties.⁴⁵ A certain degree of disruption of ordinary life must be accommodated and tolerated for protesters to become visible and be heard.⁴⁶

PRE-EMPTIVE MEASURES AND DE-FACTO BANS AGAINST PRIDE MARCHES

In addition to the official bans issued by the governors, the authorities increasingly de-facto banned peaceful protests by instructing law enforcement officials to prevent LGBTI people from gathering or imposing other punitive measures on protesters who exercised their rights. On 18 June, during the Istanbul Trans Pride, there was no banning order issued by the authorities, yet the law enforcement officials actively searched for protesters after the assembly was dispersed, and unlawfully detained people, accusing them of violating Law No. 2911. The law enforcement officials insisted that a ban was in place but failed to present an official document to the activists or their lawyers.

The pre-emptive measures taken by the authorities in Türkiye to prohibit the Pride marches include tactics to intimidate the protesters and to dissuade them from taking part in the protests and, thus, create a chilling effect on the right to freedom of peaceful assembly. Deniz, a METU student, told Amnesty International that on the day of the banned Pride march at the METU campus in Ankara, “from the early hours of the day, there were too many police and riot vehicles to count. All the police in Ankara were at METU.” Amnesty International observers also documented other measures such as closing off streets with barriers, water cannons, detention vehicles and presence of different police officers from different units surrounding the announced locations from early hours of the day of the planned Pride marches in Izmir and Istanbul. Three activists from Izmir and Adana also told Amnesty International that the law enforcement officials stopped people to check IDs and threatened them with detention on the street long before the announced starting time of the Pride events. One LGBTI activist in Izmir was concerned about being detained due to threats they received on the street almost four hours before the gathering and told Amnesty International, “We went to a café to talk. Then about 20 policemen came to the café and sat there with us. They would not let us go. Then I went to the café next door. They followed me there.”⁴⁷ The activist also observed that many protesters who wanted to gather for the Pride were unable to as the streets were blocked with barriers and there were overwhelming numbers of law enforcement officials that intimidated the protesters.⁴⁸

HUMAN RIGHTS VIOLATIONS BY LAW ENFORCEMENT OFFICIALS

Despite the bans and the fear of violence, LGBTI rights activists in most cities decided to go ahead with the Pride events and marches to make their voices heard in the 2023 Pride season. However, the law enforcement officials used unnecessary force against peaceful protesters, subjected them to punitive and unnecessary containment and arbitrarily detained them. At least 224 people were arbitrarily detained across the country between 7 June and 9 July, including not only peaceful protesters but also lawyers, journalists, foreign nationals, and people who did not participate in the protests.⁴⁹ These indiscriminate and mass detentions had the purpose of preventing individuals from exercising their right to freedom of peaceful assembly and were thus arbitrary; nearly all these individuals were released on the same day, except for five foreign nationals after the Istanbul LGBTI Pride on 25 June. In all cities, people were arbitrarily detained for violating the Law 2911 and other provisions of the Turkish Penal Code, to intimidate and penalize protesters. During Trans Pride on 18 June, at least two activists were also accused of “insulting the president” referring to a slogan people chanted during the protest.

⁴³ HRC, General comment No: 37 (previously cited), para. 22.

⁴⁴ HRC, General comment No: 37 (previously cited), para. 53.

⁴⁵ OSCE Office for Democratic Institutions and Human Rights (ODIHR), Guidelines on Freedom of Peaceful Assembly (Second Edition),

<https://www.osce.org/files/f/documents/4/0/73405.pdf>, 2010, p. 33 para. 26.

⁴⁶ HRC, General comment No: 37 (previously cited), para. 31 and para. 47.

⁴⁷ Interview by video call with Cadi, LGBTI rights activist, 20 July 2023

⁴⁸ Interview by video call with Cadi, LGBTI rights activist, 20 July 2023

⁴⁹ Law enforcement officials arbitrarily detained eight people at a film screening event in Kadıköy Istanbul (7 June), 15 students on the day of the METU Pride March (9 June), two students prior to Izmir Democracy University picnic (13 June), five Dokuz Eylül University students prior to a picnic event on campus (14 June), ten people after the dispersal of Istanbul Trans Pride (18 June), at least 96 people after the Istanbul LGBTI Pride March (25 June), 52 people in Izmir Pride March when people gathered for the event (25 June), and 18 people in Adana and 18 people in Eskişehir as people gathered for the Pride event (9 July).

On 18 October the Investigation Office of the Chief Prosecutor in Adana decided that there was no ground for prosecution under the Law 2911 for “participation in unlawful assemblies” and Turkish Penal Code Article 265 for “resisting an official in pursuance of his duties” against 18 protesters who had been detained on 9 July.⁵⁰ In October and November, the Office of the Chief Prosecutor in Istanbul also decided that there was no ground for prosecution under Law 2911 for “participation in unlawful assemblies and marches” and “refusal to disperse despite warning” for nine people detained at 18 June Istanbul Trans Pride as well as for 96 people detained on 25 June Istanbul LGBTI Pride.⁵¹ However, Office of the Chief Prosecutor in Istanbul issued an indictment for the film screening event that was banned by the Kadıköy governor on 7 June, accusing eight people for “participation in unlawful assemblies.”⁵² The Office of the Chief Prosecutor in Eskişehir also issued an indictment against the 18 protesters detained on 9 July for violating the Law 2911 for “participation in unlawful assemblies and marches.” On 1 March 2024, all of the participants were acquitted on the second hearing of the trial at 4th Criminal Court of First Instance in Eskişehir.⁵³

Some of the criminal proceedings against people detained during the Pride marches and events between 2015 and 2022 also continue. Weaponizing these provisions against Pride organizers and participants violates their rights to freedom of peaceful assembly, liberty and security of person and has a chilling effect dissuading LGBTI people from participating in other peaceful protests.

ARBITRARY DETENTION PRIOR TO COMMENCEMENT OF PROTESTS

In İzmir, Adana and Eskişehir, peaceful protesters were arbitrarily detained shortly after gathering. The law enforcement officials used unnecessary force against peaceful protesters by grabbing them to detain and in some cases beating and kicking them in violation of their rights to peaceful assembly and to be free from torture and other ill-treatment.

On 25 June, 52 people, including four lawyers and a child, were arbitrarily detained in Izmir. Accounts by Amnesty International’s observers⁵⁴ and video footages shared by the activists show that the law enforcement officials contained the protesters and used unnecessary force to detain them as soon as they gathered for the Pride March. Two different videos of the same incident on 25 June in Izmir shared by the activists show one protester on the ground face down, circled by riot police and two other police officers pressing them on the ground with their knees to handcuff them. Selman, a LGBTI activist in Izmir who was also arrested and put inside the detention bus to be taken to the police station, said “the bus was really hot, so we did not let them close the door of the bus. At that moment, the police pulled me and my friend out of the bus from the back door. They pushed me down from my neck and passed me from one to another police officer, beating and kicking me. They never let my neck go. Then they put me back on the bus from the front door with reverse handcuffs.”⁵⁵

Abdullah was in Eskişehir on 9 July to monitor the pride as a lawyer. They told Amnesty International, “It might be the most absurd detention that I witnessed. Despite the lack of an open call for the gathering, somehow the police learned about it and there were dozens of police vehicles and journalists. A group of around 20-30 people gathered in front of some cultural centre. The activist in front of the group took their phone out. The police announced the ban and told them to disperse. Nothing was read and there were no slogans or banners. The protester told the police to give them time to disperse. The police did not give time to disperse and immediately started arresting people by grabbing them from their arms.”⁵⁶ 18 people, including Abdullah who was observing the protest, were arbitrarily detained for several hours at the police station.

In Adana also on 9 July, the law enforcement officials used containment to carry out arbitrary detention of peaceful protesters, who gathered at Atatürk Park in the city centre despite the ban and the presence of different law enforcement

50 Adana Investigation Office of the Chief Prosecutor, Decision of no ground for prosecution, Decision no: 2023/38923, 18 October 2023.

51 Istanbul Chief Prosecutor, Decision of no ground for prosecution, Decision no: 2023/126420, 12 October 2023. Sibel Yüklér, “İstanbul Onur Yürüyüşü’nde gözaltına alınanlara takipsizlik: Polisin, yürüyüşçülerin dağılmasını ne kadar beklediği belirsiz; dağılmamakta ısrar edildiğine dair de delil yok”, <https://t24.com.tr/haber/istanbul-onur-yuruyusu-nde-gozaltina-alinanlara-takipsizlik-polisin-yuruyusculerin-dagilmasini-bekledigi-belirsiz-dagilmamakta-ısrar-edildigine-dair-de-delil-yok,1141221>

52 The prosecution continued at 45th Criminal Court of First Instance, Istanbul Anatolian Courthouse at the time of publication. Yıldız Tar, “Tak Diye Yasak Şak Diye Dava: Çay da içmeyin, film de izlemeyin,” 29 January 2024, <https://www.mlsaturkey.com/tr/tak-diye-yasak-sak-diye-dava-cay-da-icmeyin-film-de-izlemeyin>. Kaos GL, “Derhal beraatten uzak ve erteleme yönünde hareket ediliyor: Bu adil yargılanma hakkının ihlalidir” 22 April 2024, <https://kaosgl.org/haber/derhal-beraatten-uzak-ve-erteleme-yonunde-hareket-ediliyor-bu-adil-yargılanma-hakkinin-ihlalidir>

53 MLSA, ‘Eskişehir Onur Yürüyüşü Davası’nda yargılanan tüm sanıklar beraat etti, 1 March 2024, <https://www.mlsaturkey.com/tr/eskisehir-onur-yuerueyuesue-davasinda-yargılanan-tuem-sanıklar-beraat-etti>

54 Two staff members of Amnesty International Türkiye observed the İzmir Pride March on 25 June.

55 Interview by video call with Selman, LGBTI rights activist, 19 July 2023

56 Interview by video call with Abdullah, lawyer, 25 July 2023

units, including riot police. As video footage shows, the riot police immediately contained the peacefully standing protesters in a circle and eventually arbitrarily arrested a total of 18 people, including three lawyers. A police officer made announcements from speakers calling the protesters to disperse saying, “I call on the group at the Atatürk Park. All kinds of activities and protests are banned by the Governorship. Please disperse without causing difficulty.” However at the same time, the video also shows that people were prevented from dispersing, as two concentric circles of riot police contained them during the announcement. LGBTI activist Mehmet said, “I heard the police say, ‘take Mehmet with the red shirt.’ The police officer hit me in the stomach with his knee, and I realized my foot was bleeding when I was on the bus. Then the riot police arrived. The rest of the group was still contained, and they were bringing everybody [on to the bus] one by one.”⁵⁷ According to the video shared by a journalist, protesters were dragged out and some were pushed down on their neck as they were put on the detention bus to be transferred to the police station.⁵⁸ Perihan Koca, a member of parliament, was also in the group to show solidarity and tried to negotiate with the police officers so that the public statement could be read in the park. The police forcefully grabbed Koca’s arm to apparently detain her, but then let her go.

As UN Special Rapporteur on Peaceful Assembly and of Association stated, the containment may not be used for the purpose of preventing people from peacefully participating in an assembly, even if the assembly is considered unlawful.⁵⁹ Containment of protesters should only be used to address actual violence to enable the peaceful assembly to continue,⁶⁰ and should never be used as a preventive measure.⁶¹ The use of containment indiscriminately and punitively, as in the cases documented in this statement, violate the rights to freedom of peaceful assembly and freedom of movement and raise concerns as they may violate the right to liberty and security of person.

ARBITRARY DETENTION OF PROTESTERS AFTER DISPERSAL BY POLICE

During METU Pride on 9 June, Istanbul Trans Pride on 18 June and Istanbul LGBTI Pride on 25 June, protesters managed to find alternative locations to read the press statements without the presence of the law enforcement officials, marched peacefully and announced their own dispersal, upon which arriving law enforcement officials arbitrarily detained some protesters after dispersal.

On 9 June, the day METU Pride was planned for, the university campus was filled with different law enforcement units before the official start of the Pride march. This made it impossible for the students to gather on campus even in small groups without risking being detained. Deniz, a student at METU, said that they eventually found a location on campus to meet safely, read the press statement, marched until law enforcement officials arrived and they decided to end the protest to avoid detention. Some of the students wanted to take a taxi to leave the campus but were detained as they were leaving. Deniz said, “This was a ridiculous detention. The riot police used physical violence, such as pushing people on the ground and kicking, and used pepper spray directly on the students from a close distance. One student went to sit at a nearby café to escape from police, but they were still picked up and detained.”⁶² At the end of the day, 15 students were detained on METU campus, including some students who had gathered in the university library earlier in the day for the pride events.

On 25 June Istanbul LGBTI Pride, the activists were expecting a ban in Beyoğlu district, where they had always protested in the past. In order for the assembly to take place unhindered, shortly before the allocated time for the Pride, the organizers announced the gathering point to be a small park area in a neighbouring district where no ban had been imposed. With a huge rainbow flag hanging down from the car parking structure behind them, at least 100 people came together, read the press statement, and managed to march on the streets. At around 15:05, they announced through loudspeakers, that the march was over, calling on the participants to “drop the flags and banners and disperse.” The law enforcement officials arrived in the area after their dispersal and actively looked for protesters on the streets.⁶³ On that day, at least 96 people were arbitrarily detained from multiple districts in the city, such as Beyoğlu, Şişli and Beşiktaş, long after dispersal and including people who did not participate in the protest.⁶⁴

⁵⁷ Interview by video call with Mehmet, LGBTI rights activist, 17 July 2023

⁵⁸ Video footage obtained from a journalist present on site on 9 July 2023.

⁵⁹ Amnesty International, Combating Torture and other ill-treatment: A manual for action (Index: POL 30/4036/2016), 11 November 2016,

<https://www.amnesty.org/en/documents/pol30/4036/2016/en/p.148>

⁶⁰ Organization for Security and Co-operation in Europe, Guide on Law Enforcement Equipment Most Commonly Used in the Policing of Assemblies, 2 July 2021,

https://www.osce.org/files/f/documents/4/7/491551_0.pdf, pp.32 – 36

⁶¹ Amnesty International, Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, August 2015,

https://www.amnesty.nl/content/uploads/2017/07/guidelines_use_of_force_eng.pdf?x48457, p. 37.

⁶² Interview by video call with Deniz, LGBTI rights activist, 22 July 2023

⁶³ Two staff members of Amnesty International Türkiye observed the Istanbul LGBTI Pride March on 25 June.

⁶⁴ Interview by video calls with a LGBTI rights lawyer, 14 July 2023

Can, an LGBTI rights activist, was subjected to ill-treatment by law enforcement officials and arbitrary detention long after the dispersal. After the protest, they went around to other close by neighborhoods, sat at a café and charged their phone. As Can told Amnesty International, “I heard about the detention of a friend in Maçka, which was close [to where I was]. When I arrived, there were a lot of law enforcement officials, and a friend was being dragged on the floor. One police [officer] pointed at me, grabbed me from my neck and hit my head on his body armour. Then I fell on the floor. My cheek burned from the ground. When the officer turned me around and saw my face covered in blood, he was in shock and terrified... Then they put me on the detention bus where I heard the police say, ‘we are taking anyone with clothing with more than three colours.’”⁶⁵

One LGBTI activist told Amnesty International that she could not join the protest on 25 June because she was detained after the Istanbul Trans Pride and said, “I could not handle it again,” but she was nevertheless stopped by law enforcement officials on the street in a completely different area from where the protest took place and detained. She said, “There were other people coming towards us and they took the people with tattoos and coloured hair, such as blue. The riot police came, and we were arrested. Some of the bystanders started crying. They took everyone completely based on appearances.”⁶⁶ Many others, such as people going out for groceries, were detained from different neighbourhoods based on their perceived sexual orientation or gender identity.⁶⁷

On 25 June, five foreign nationals who did not participate in the pride events, including two refugees, were also detained and sent to Removal Centers in Istanbul, Erzurum and Şanlıurfa where deportation decisions were issued for all. ⁶⁸ Three of the foreign nationals, who were living in Istanbul or just visiting, were forced to sign a “voluntary return form” and returned to their home countries after 18 days. The other two were LGBTI refugees from Iran and Libya, and they were held in detention for 33 and 57 days respectively.⁶⁹ The Iranian national held international protection status to remain in Türkiye and the Libyan national applied for asylum after being detained. Both faced well-founded risks of human rights violations based on sexual orientation and gender identity if returned to their home countries. The Iranian national resettled to a third country in November though later his appeal to stop the deportation decision was denied by the Şanlıurfa 1st Administrative Court in December 2023.⁷⁰ The appeal against the deportation decision for the Libyan national was lifted in November 2023.⁷¹

On 18 June Trans Pride and 25 June LGBTI Pride in Istanbul, people waited long hours in detention, differing from a few hours up to 12 hours,⁷² before their statements were taken at the police station. According to three people who were detained in Istanbul during these prides, the protesters were held in buses with their hands cuffed in their back with cable ties, almost all had no access to water and food, and limited access to toilets.⁷³ People detained after the Trans Pride described the negative psychological impact of their treatment by the police, as one person detained that day described to Amnesty International, “we were held on the detention bus for hours even after we arrived at the police station, not knowing what was happening outside. We were not allowed to see our lawyers. One person among us had to use the toilet regularly for medical reasons but they did not allow it. We asked for water. One police officer showed us his half-filled water bottle and said, ‘drink this if you want.’ Another officer told us that he looked like a porn star and said things alluding to rape.”⁷⁴ Another activist who had received several blows to the head while being detained told Amnesty International that they received no medical care until after giving their statement at the police station, at least five to six hours after their detention, despite feeling ill and demanding proper medical attention.⁷⁵

65 Interview by video call with Can, LGBTI rights activist, 10 July 2023

66 Interview by video call with a LGBTI rights activist, 25 July 2023

67 Interview by video call with a LGBTI rights lawyer, 14 July 2023

68 Five foreign nationals were from Australia, Russia, Portugal/South Africa, Iran and Libya.

69 Telephone communications with two lawyers representing the five foreign nationals between 26 June and December 2023.

70 Telephone communication with the lawyer, 21 November 2023. Şanlıurfa 1st Administrative Court judgement 2023/2271, 29 December 2023.

71 Telephone communication with the lawyer, 12 April 2024. Istanbul 16th Administrative Court, judgement no 2023/6956, 30 November 2023.

72 Interview by video calls with a LGBTI rights lawyer, 14 July 2023 and with Zilan, journalist, 25 July 2023

73 Interview by video call with Can, LGBTI rights activist, 10 July 2023, Interview by video call with Zilan, journalist, 25 July 2023, and Interview by video call with Veronika, LGBTI rights activist, 13 July 2023

74 Interview by video call with Zilan, journalist, 25 July 2023

75 Interview by video call with Veronika, LGBTI rights activist, 13 July 2023

TORTURE AND OTHER ILL-TREATMENT AGAINST LGBTI ACTIVISTS AFTER ISTANBUL TRANS PRIDE

Amnesty International has documented the unnecessary use of force and discriminatory practices by law enforcement officials against LGBTI activists that in some cases, such as the Istanbul Trans Pride on 18 June, could amount to torture and other ill-treatment under international law.

On 18 June, on the day of the Istanbul Trans Pride, there was no ban issued by the authorities against the pride march. However, the activists still had well founded concerns about law enforcement officials' use of unnecessary force and arbitrary detention to prevent the protest, as it happened in the context of banned Pride marches since 2015. The protesters gathered at a location different from past years and announced it to the public moments before they met. The photos and videos shared by the journalists on social media show around 40 people reading the press statement and briefly marching about 250 meters before the protesters announce the end of the march and call on everyone to disperse. Amnesty International observers arrived shortly after the dispersal of the protesters and saw law enforcement officials from different units who had also just arrived, chasing protesters who were already leaving down the streets. Ten people including a child, who was released after being detained briefly, were detained on 18 June.

Amnesty International interviewed four journalists and one protester who were present at the detention of five people after the Trans Pride on the 18 June, and researchers also subsequently reviewed video footage available of the situation as it unfolded, to examine what happened that day. After assessing the information, Amnesty International is concerned that law enforcement officials used unlawful force against the people in the context of their detention that could amount to torture and other ill treatment, including being handcuffed in their back with cable ties, beating, kicking, grabbing from the neck, dragging on concrete, sitting on protesters, pressing on their ankles, pulling their hair, yelling homophobic and transphobic curses at the LGBTI protesters, while an overwhelming number of law enforcement officials including riot police contained them in an attempt to prevent anyone including journalists from witnessing and recording these violations.

According to the testimony provided to Amnesty International by two journalists who observed the Trans Pride and a protester, after dispersal, three police officers started following four protesters who were leaving the area.⁷⁶ One of the journalists shared with Amnesty International how they approached the police officers and said, "They are going home and getting anxious because you are following [them]" to which one police officer replied, "if you know them, tell them to get away otherwise there will be detention." The journalist ran ahead to tell the protesters to hurry up, while the same police officer also joined them as they were waiting for a taxi to go home. Another officer then suddenly started running towards where they were waiting. The protesters feared being detained, so they also started running away.

One video of the incident on 18 June which was reviewed by Amnesty International researchers shows one protester stopping running shortly after and not resisting being stopped by the police officer.⁷⁷ Another video of the same incident reviewed by Amnesty International appears to show an officer pushing the protester onto a plain silver dark grey car while handcuffing them in a small side street. The protester says to the officer "I was taking a taxi. We read the press statement. You also know this" and turns their head looking for their friend, one of the journalists who had not yet been detained, shouts in despair "Please do not leave me! They will take me!"⁷⁸ Shortly after this incident, three other protesters were also detained and brought to the same side street where dozens of law enforcement officials including riot police had already arrived. Videos reviewed by Amnesty International show at least 100 law enforcement officials including riot police closing the side street and gradually pushing all media workers and a member of the parliament out of the street. This situation and the large numbers of police officers present was also confirmed in interviews with witnesses.

The video shot by one of the journalists Amnesty International spoke with, shows two protesters kissing in an act of resistance after they were detained, brought to the side street, and then contained by the law enforcement officials including the riot police.⁷⁹ Suddenly a police officer grabs and throws one of them on the floor, and at least four police officers start kicking them on the floor as it is clear from their bodily movements. The journalist recording this attack was removed immediately and there were no eyewitnesses left to observe what the people endured after. The containment through multiple layers of law enforcement officials on the street was used to intimidate the protesters and to push journalists and observers out to ensure the use of force was invisible.

⁷⁶ Interview by voice call with a journalist, 3 August 2023 and Interview by video calls with Zilan, journalist, 25 July 2023 and Veronika, LGBTI rights activist, 13 July 2023

⁷⁷ Video footage obtained from a journalist present on site on 18 June 2023.

⁷⁸ Gazete Politika, X post, <https://x.com/PatikaGazete/status/1670447720182546435>, 18 June 2023.

⁷⁹ Edanur Tanış (journalist), X post, "9. trans onur yürüyüşü'nde polis ablukaya aldığı trans aktivistleri öpüşükleri darp etti"

https://twitter.com/edaanurtanis/status/1670445034951327744?s=46&t=ukazxbaoqqga_nybgat14w, 18 June 2023.

Two people who were detained that day provided detailed information to Amnesty International regarding the torture and other ill-treatment that law enforcement officials subjected them to. Veronika, a LGBTI rights activist, said:

“It was one of the moments in my life where I felt the most helpless. I was kicked all around my body. They hit my head too many times. I thought they will cripple us, or they were trying to kill us. [A high-level police officer] pulled my hair, dragged me by forcing my head up and down, while he screamed ‘aren’t you a faggot (*ibne*), what kind of a faggot *are* you? You cannot hold your head up in front of the state. You must kneel down’ as I was in handcuffs. When they first pressed my head on the floor, I felt like George Floyd in the US and thought I was going to die. I told them I cannot breathe, and the police told me ‘What happened you were licking each other a moment ago.’ The more we said we are not resisting, the more they hit.”⁸⁰

Zilan, who is a journalist and a friend of the protesters, said:

“[A high-level police officer] grabbed me from my hair and dragged me back into the containment zone as he cursed “fuck the journalist, bitch...” The worst is as you lay on the ground, you can only see the friend next to you or hear the screams of others. This is a position made to ensure we do not feel like human... They were tightening my handcuff from behind, while I have my photo equipment on my back. Asking me if the tightness is ok and when I say yes, “oh then let’s tighten it more.” Clearly enjoying the torture. No one was seeing what was happening to us... I heard a big vehicle coming towards me. I wanted to move but I could not because police were sitting on me. Then the two policewomen dragged me on the concrete, and I was wearing shorts. I was praying to get into the detention vehicle.”⁸¹

Both Veronika and Zilan also expressed that they had post-traumatic stress symptoms and constant fear due to the severe physical and mental harm used against them that day by the law enforcement officials.

Amnesty International is concerned that the deeply entrenched and institutional homophobia and transphobia against LGBTI people facilitates and fuels the law enforcement officials’ violations of their human rights, including subjecting them to torture and other ill-treatment in the context of LGBTI Pride march. All torture and other ill-treatment involve dehumanization, and as documented by Amnesty International, is exacerbated if people are from a disadvantaged group such as LGBTI people. Discrimination paves the way for torture by deliberately portraying certain people as less human or even as an object who can, therefore, be treated inhumanely.⁸²

Torture and other ill-treatment are prohibited under international human rights law without exceptions. This prohibition is reflected in international and regional human rights treaties, including ICCPR, ECHR, CAT and CPT, which Türkiye is a party to. Turkish authorities must promptly, independently, and impartially investigate all the allegations of torture and other ill-treatment by law enforcement officials and, when evidence warrants so, bring suspects to justice in trials that comply with international standards on fair trial.

WITHSTANDING THE “CHILLING EFFECT”: RESISTANCE AND RESILIENCE AT PRIDE EVENTS

The 2014 Istanbul LGBTI+ Pride March, where tens of thousands of people joined to celebrate LGBTI rights, might seem to be a distant past, but LGBTI rights activists and their allies have not given up. Despite the multiple ways in which the authorities have targeted them and violated their rights, LGBTI people and their allies continue to claim their human rights, seek alternative tactics for visibility and take pride in their achievements. They are determined to keep fighting by rethinking their activism tactics despite the chilling effect of the discriminatory and hostile environment that deters some people from participating in protests. All the LGBTI activists that Amnesty International interviewed about the Pride events in 2023 expressed emotions of both fear and pride.

Veronika said, “They are aware of our existence and strength. This is why they attack us with all they’ve got.”⁸³ Another LGBTI activist, who was detained after both Prides in İstanbul also said, “the biggest fear is to be detained without being

80 Interview by video call with Veronika, LGBTI rights activist, 13 July 2023

81 Interview by video call with Zilan, journalist, 25 July 2023

82 Amnesty International Combating Torture and other ill-treatment: A manual for action (Index: POL 30/4036/2016), 11 November 2016, <https://www.amnesty.org/en/documents/pol30/4036/2016/en/p.46-47>

83 Interview by video call with Veronika, LGBTI rights activist, 13 July 2023

able to realize the protest. Even though the Trans Pride march was in the back streets, there was the excitement of having read the press statement.”⁸⁴

LGBTI activists interviewed by Amnesty International feel scared, and they continue to suffer physically and mentally long after the violence they experience in ways affecting their everyday lives, as one shared “I am not well... We are still troubled with bodily pains, and [the experience] still occupies our dreams at night.”⁸⁵ All of the LGBTI rights activists interviewed by Amnesty International spoke of their concerns of being followed or recognized on the streets because their photos have circulated on social media after protests.

During the 2023 Pride season across the country, organizers took extraordinary measures to ensure the safety of all participants and the public during the marches and events including indoor activities. Their discussions included planning for possible use of force by law enforcement officials, detention, attacks by counter-protesters and criminal charges. Prioritization of safety and security in most cities meant making compromises that would affect the visibility of LGBTI rights and pride marches such as, limiting participation, finding alternative routes and methods of protest. The decision to go ahead with the peaceful marches was always taken by the activists after detailed analyses with care and solidarity in mind.

Safety concerns force activists to find new creative ways to be visible and express who they are freely. Cadı, an LGBTI activist from Izmir said, “Honestly, I am scared. I have participated in the prides since 2016, but the politics of hate is changing. I am no longer able to go to street demonstrations. Well, I am going, but every step is with fear. The police call me by my name. I do not know how far such unlawfulness will go on. I keep telling myself that I am defending our rights. They achieved their goal. Though the fear is not stopping me. I am questioning how I can rethink my struggle under these oppressive conditions. I am thinking how I can face less violence. They are pushing me to be more creative! I do not want to face violence anymore. I am not able to overcome these traumas.”⁸⁶

LGBTI activists in Ankara and Istanbul, resisting the restrictions on the prides, tried to hang LGBTI flags across the city, such as on bridges and Galata Tower in Istanbul. Alternative events, such as “pride picnics” were organized to come together in safer ways, although some picnic gatherings also faced restrictions and detention.⁸⁷ After the ban on the Tea & Talk event in Istanbul, LGBTI people and allies also used social media to post photos with a cup of tea to resist against the absurdity of the ban with the hashtag translated as “LGBTI+ drink tea too.”

RECOMMENDATIONS TO TURKISH AUTHORITIES

LGBTI people must be able to enjoy the rights to freedom of expression and peaceful assembly, free from violence and discrimination. People have a right to be protected and supported to stand up against injustice and discrimination instead of being harmed and punished for peacefully exercising their rights. Turkish authorities have an obligation to respect, protect and fulfil the human rights of LGBTI people without discrimination. They must urgently put an end to the human rights violations LGBTI people are subjected to by the police and other officials, and instead take positive action to combat institutional homophobia and transphobia, including in the law enforcement officials, and entrenched gender-based stereotypes.

TURKISH AUTHORITIES MUST:

- Stop using stigmatizing rhetoric and discriminatory speech against LGBTI people. They also must publicly counter gender-based stereotypes and raise the general public’s awareness of the rights of LGBTI people;
- Extend Constitutional protections of the right to non-discrimination to include sexual orientation, gender identity and/or expression and sex characteristics;
- Amend Article 10 of the Constitution to prohibit discrimination on grounds of sexual orientation, gender identity and/or expression and sex characteristics and undertake positive action to ensure equality;
- Extend non-discrimination provisions in domestic law to include the grounds of sexual orientation, gender identity and/or expression and sex characteristics;

⁸⁴ Interview by video call with a LGBTI rights activist, 25 July 2023

⁸⁵ Interview by video call with a LGBTI rights activist, 25 July 2023

⁸⁶ Interview by video call with Cadı, LGBTI rights activist, 20 July 2023

⁸⁷ On 13 June, two students from Izmir Democracy University were detained prior to LGBTI picnic event and On 14 June, five students from Dokuz Eylül University were detained prior to LGBTI picnic event on campus in Izmir.

- Amend The Law on the Human Rights and Equality Institution in Türkiye (No 6701) with protection on grounds of sexual orientation, gender identity and/or expression and sex characteristics;
- Urgently end the violations of the rights of LGBTI people to freedom of peaceful assembly, liberty and security of person and non-discrimination, and ensure that everyone, including LGBTI people, can enjoy their right to peaceful assembly without discrimination, including by adequate protection to organize and participate in peaceful assemblies;
- Repeal all domestic provisions that are at odds with international human rights law and standards on peaceful assembly, including provisions criminalizing participation in peaceful assemblies that have not been notified to the authorities or are otherwise considered “unlawful” by the authorities.

THE MINISTRY OF INTERIOR MUST:

- Refrain from imposing blanket bans on peaceful protests, as they are a disproportionate restriction on the right to peaceful assembly and may have a discriminatory impact on LGBTI people and adopt an enabling approach to the exercise of the right to peaceful assembly rather than preventing and restricting it. Any restriction on the right to peaceful assembly should be based on an individualized assessment of the conduct of participants and the assembly concerned;
- Ensure the use of force by law enforcement officials comply with the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination;
- Ensure that peaceful assemblies are not dispersed, including if the assemblies are considered unlawful under domestic law. Law enforcement officials may disperse a public assembly only when it is no longer peaceful, i.e. only when violence is manifestly widespread within the assembly, or when there is clear evidence of an imminent threat of serious violence that cannot be reasonably addressed by more proportionate measures, such as targeted detentions. In these instances, the use of force by law enforcement officials must be strictly necessary and proportionate to address the widespread violence or risk of imminent threat of serious violence;
- Ensure that law enforcement officials avoid practices of arbitrary arrest and detention prior to, during or following an assembly. Ensure that detentions are carried out only when there is reasonable suspicion of the commission or the threat of a criminal offence. Arrest and detention of LGBTI peaceful protesters based solely on the exercise of their human rights and/or their SOGIESC amount to arbitrary arrest and detention. These protesters should be released immediately and unconditionally;
- Ensure that law enforcement officials may resort to containment only where it is necessary and proportionate to address actual violence or an imminent threat from specific protesters. Indiscriminate and punitive containment violates the rights to freedom of peaceful assembly and freedom of movement may violate the right to liberty and security of person.

THE JUDICIAL AUTHORITIES MUST:

- Drop charges immediately and unconditionally against all those protesters, including LGBTI protesters, who have been charged with criminal offences solely for exercising their right to peaceful assembly;
- End criminal investigations and prosecutions of LGBTI people for exercising their right to peaceful assembly to claim their rights;
- Ensure any allegations of unlawful use of force and other human rights violations by law enforcement officials, including gender-based violence and torture and other ill-treatment inflicted on protesters, should be subject to an effective, impartial and timely investigation.