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AMNESTY INTERNATIONAL PUBLIC STATEMENT

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TURKEY: DROP CHARGES AGAINST UNIVERSITY PRIDE PARADE PARTICIPANTS

Eighteen students and one academic from Middle East Technical University (METU) in Ankara are facing criminal charges for having joined the 9th lesbian, gay, bisexual, transgender and intersex (LGBTI+) Pride Parade on the university's campus.

The annual pride march was scheduled to take place on 10 May 2019. On 6 May, METU rector, Mustafa Verşan Kök, informed students and academics by email that the parade would not be allowed, referring to an ordinance issued by Ankara governorate on 3 October 2018 that imposes a blanket ban on all LGBTI+ events in Ankara and without giving further justification.

Police officers entered the METU campus on 10 May to disperse students who peacefully gathered to celebrate pride despite the rector's ban. When the students refused to disperse, police officers broke up their gathering with pepper spray, plastic bullets and tear gas. At least 21 people were then detained, among them the nineteen, who are currently facing criminal charges.

The indictment accepted by Ankara Criminal Court of First Instance No. 39 describes the peaceful pride celebration as an "unlawful assembly" and accuses all nineteen of "failing to disperse despite being warned" under Article 32 of the Law on Meetings and Demonstrations (No. 2911). One of the students is also charged with insult under Article 125 of Turkey's Penal Code, for allegedly "making a hand gesture considered rude" against police officers trying to disperse the gathering and detain participants. The trial is set to begin on 12 November 2019.

The Law on Meetings and Demonstrations has frequently been used to hinder the exercise of the right to peaceful assembly in Turkey due to its restrictive nature and its arbitrary application. Amnesty International calls on the authorities to drop charges against METU pride parade participants who were simply exercising their rights to freedom of expression and peaceful assembly. Amnesty International further calls on Turkey's authorities to end the routine use of excessive force by police to disperse peaceful assemblies, including LGBTI+ related events, ensuring everyone can exercise their right to freedom of peaceful assembly.

BACKGROUND

On 18 November 2017, by making use of extraordinary powers afforded to it under the state of emergency at the time in Turkey, Ankara Governorate indefinitely banned all public events in Ankara. The governorate based its decision on vague grounds including the risk that such events may incite "hostility," or "draw a negative reaction from certain parts of the society due to certain social sensitivities." Following the end of the State of Emergency rule in July 2018, a new decision for a similar ban was taken by the Ankara Governorate on 3 October 2018.

Ankara based LGBTI+ organizations Kaos GL Association and Pink Life separately filed a legal challenge, on the grounds that the indefinite blanket ban taken under the State of Emergency rule violates the freedom of expression and freedom of assembly and association, the ban was finally lifted by a regional administrative court decision on 21 February 2019. However, METU management relied on the second ban decision by Ankara Governorate dated 3 October 2018, leading to the police intervention at the METU pride parade on 10 May 2019.

Hypothetical risks cannot establish legitimate grounds for prohibiting a peaceful assembly. The principles of necessity and proportionality require consideration of all relevant circumstances, the impact on the legitimate concern protected and the possibility that the risk will concretize, and whether less restrictive means would suffice. The responsibility to maintain public order and to facilitate the enjoyment of the right to freedom of peaceful assembly lies with the state and its organs, including its law enforcement agencies.

States have a positive obligation to facilitate peaceful assemblies in law and in practice. As is the case in Turkish law, the exercise of the right to freedom of peaceful assembly is not subject to permission of government authorities, this right is also protected under international law and standards in conventions Turkey is a party to. Any decision to disperse an assembly should be taken only as a last resort and carefully in line with the principles of necessity and proportionality, i.e.

only when there are no other means available to protect a legitimate aim which outweighs the right of people to assemble peacefully. In any such situation, police must as far as possible avoid any use of force and in any event must always restrict it to the minimum level necessary.