

## Introduction and Scope

1. University Queer Research and LGBTI+ Solidarity Association (UniKuir)<sup>1</sup>, founded in 2020 in Turkey, is an LGBTI+ NGO run by young LGBTI+ people. UniKuir works to make universities and campuses equal, free and safe places for LGBTI+ people. UniKuir carries out its activities through four different programmes. These are Access to Equality, Media and Communication, Capacity Building and Solidarity, and Political Engagement and Advocacy. In carrying out these activities, we work with LGBTI+ student organisations and volunteers in Turkish universities.
2. In Turkey, the Gezi resistance in 2013, the change in the political power's policy towards honour marches since 2015, and finally the increased security policy due to the coup attempt in 2016 have affected all segments of society and many rights struggles have been severely repressed. The most concrete example of this is the violation of the right to freedom of assembly in Turkey. In particular, marches by opposition groups and human rights defenders are systematically prevented. As a result, many people belonging to vulnerable groups are unlawfully detained, even tortured, prosecuted on unfounded grounds and subjected to many other rights violations. LGBTI+ people are among the main groups affected by these violations.
3. The answers we have given to this call for input have been prepared using the reports entitled "Report on Discrimination and Rights Violations against LGBTI+'s in Universities 2022"<sup>2</sup> and "Report on Pride Marches on Campuses 2022"<sup>3</sup> prepared by our association as sources; in particular, in the context of the various rights violations experienced before, during or after the Pride Marches held in 2022-2023 and the meetings, demonstrations and marches organised by LGBTI+'s.

## Background

4. Pride marches, which for a long time took place without any problems in various cities or university campuses in Turkey, have faced various restrictions since 2015. The spectacular Istanbul Pride march in 2014, attended by tens of thousands of people, was banned in 2015 'due to the month of Ramadan'. This was the first time that Pride marches were met with heavy-handed police intervention.
5. In the years since, Pride marches and Pride week have been banned more and more by local authorities each year. Although these banning decisions were couched in terms of national security, public order, public morality, the prevention of crime and the protection of the rights and freedoms of others, they were never based on concrete information and documentation. For this reason, the banning decisions have been the subject of annulment proceedings before the administrative courts; many administrative courts have annulled the banning decisions for Pride marches and Pride weeks as unlawful. However, as the annulment decisions were issued months after the Pride marches had taken place, they did not guarantee the exercise of the right. On the other hand, the local authorities continued to violate the law in court decisions in the following years. Therefore, in a technical sense, it cannot be said that the judiciary has

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<sup>1</sup> <https://www.unikuir.org/>

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<https://www.unikuir.org/assets/public/projects/dosyalar/pride-marches-on-campuses-report-for-the-year-2022.pdf>

fulfilled its function of ensuring the exercise of the right. The attitude of the local authorities is almost as if "we have banned and prevented it, we will go to court and apply to the court and after two years a decision will be made".

6. At this point, we would like to add the following by giving examples specific to university campuses. In 2019, as in the past nine years, the Middle East Technical University wanted to organise a pride march, but the rectorate decided to ban it. At the request of the rector, the police entered the campus and used violence against the demonstrators. A lawsuit was filed against 19 people, including 1 academic and 18 students, seeking imprisonment for violating Law No. 2911 on Meetings and Demonstrations. The trial ended in acquittal. In fact, most of the cases filed as a result of systematic arrests during Pride marches in Turkey end in acquittal. The main reason for this is that the criminal courts take into account the fact that the demonstrations were peaceful and that the police did not intervene in accordance with the law. However, it cannot be said that this situation does not constitute a violation of rights, as individuals may be acquitted. This is because trials are used as a tool to intimidate and put pressure on rights holders and defenders.
7. Middle East Technical University continued its banning policy in 2022. On 10 June, the Middle East Technical University was raided with rubber bullets, shields, batons and pepper spray and 38 people were arrested. The banning orders issued by the rectorate of METU have been appealed to the judiciary each time. The administrative courts have consistently overturned these banning orders, finding them to be unlawful. It was at Boğaziçi University that the Pride march was banned for the first time. As a result of the rectorate's decision to ban the march and the police's invitation to the campus, 70 people were blocked and arrested by the police. A lawsuit was filed against all the detainees for violating Law No. 2911 on Meetings and Demonstrations, and demanded that they be sentenced to prison. The trial is still ongoing and ÜniKuir is actively following the case.
8. Republic of Turkey is protected by Article 34 of the Constitution and Article 11 of the European Convention on Human Rights (ECHR), to which Turkey is a party. In addition, the jurisprudence of the Constitutional Court and the European Court of Human Rights has repeatedly stated that freedom of assembly is one of the most important rights in a democratic society. Article 34 of the Constitution of the Republic of Turkey states that "Everyone has the right to organise unarmed and uninvaded meetings and demonstrations without prior permission".
9. Despite all these legal provisions and jurisprudence, interventions, arrests, investigations, trials and violence against people exercising their constitutional rights in Turkey are not only unlawful, but also aimed at suppressing and intimidating rights struggles and rights defenders. Pride marches and other events and demonstrations organised by LGBTI+ people in different parts of Turkey continue to be banned with discriminatory motives, abstract and inconsistent justifications and unlawful methods. For this reason, the response to the Special Rapporteur's call for submissions will focus on explaining the violations of the rights of LGBTI+ persons, in particular Pride marches in Turkey, and the unlawful practices of law enforcement officials, rather than providing good examples of effective methods. The final section contains the responses to the key questions in the call for submissions. It sets out our views on the

causes of the violations and our proposals for guidelines that might help to address them.

10. Law No. 2911 on Meetings and Demonstrations<sup>4</sup>, the following provisions and the de facto situation are used by law enforcement officials and local authorities to justify many violations. The following provisions are often applied in a manner that is inconsistent with the purpose and nature of the restriction of rights.

- "The regional governor, governor or district governor may postpone or prohibit a particular assembly for a period not exceeding one month if there is a clear and imminent danger that an offence will be committed for the purposes of national security, public order, the prevention of crime, the protection of public health and morals or the rights and freedoms of others." (Article 17)
- "...Meetings or demonstration marches... held by carrying emblems and signs of illegal organisations and groups... carrying banners, placards, flags, pictures, signs, plates, tools and equipment that are criminalised by law, or chanting slogans of this kind or broadcasting them with sound devices... shall be deemed to be in violation of the law." (Article 26)
- Article 23 Regulating Illegal Gatherings and Demonstrations
- "In cases where meetings or demonstrations begin in violation of the law, the members of the security forces shall take the necessary measures with the available means, as well as inform the highest local administrative authority of the neighbourhood as soon as possible, and the head of the security forces intervening in the incident shall warn the assembly to disperse, otherwise it shall be dispersed by force, and if the assembly doesn't disperse, it shall be dispersed by force." (Article 24)
- *"Those who organise or lead unlawful meetings or demonstrations, and those who participate in their movements, shall be punished with imprisonment of between one year and six months and three years, unless the act constitutes a separate offence for which a heavier penalty is prescribed." (Article 28)*
- *"Participants in unlawful assemblies or demonstrations who insist on not dispersing despite warnings and the use of force shall be sentenced to imprisonment from six months to three years." (Article 32)*

11. However, Article 16 of the Law on the Duties and Powers of the Police defines the limits of the police's authority to use force. According to this article, *"if the police encounter resistance in the performance of their duties, they are authorised to use force to break this resistance and to the extent necessary to break it. Within the limits of the authority to use force, physical force, material force and, if the legal conditions are met, weapons may be used in a gradually increasing proportion according to the nature and degree of resistance and in such a way as to neutralise those resisting"*. It is not possible to accept actions such as entering the peaceful demonstration area, being present in the area, observing, even shouting slogans and negotiating with the police as "resisting the police".

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<sup>4</sup> <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=2911&MevzuatTur=1&MevzuatTertip=5>

13. When law enforcement officers encounter an unlawful assembly or demonstration, they must first warn the group in a way that can be heard by everyone, more than once, ask the group to disperse, indicate in that warning the direction in which the group should disperse, wait a reasonable time after the warning to allow individuals to understand the situation and make a decision, and intervene proportionately in accordance with the law if they still insist on not dispersing. However, in many of the marches of honour described in detail below, interventions were made without conditions and without following the order laid down in the law.

## **Rights Violations in 2022 Pride Marches<sup>5</sup>**

- **9th Boğaziçi Pride March**

14. A few minutes before the march was due to start, a group of private security guards and plainclothes police asked to meet with the march committee. During the meeting they were told that the march would never be allowed and that there would be 'problems' if they insisted. When the time came for the march, the group walked from South Square to North Campus. At this point, a large number of private security guards blocked the group, stating that they would not allow the march, that a press statement could be made here if they wished, and that if the group insisted on marching, they and the police, who would be invited onto the campus, would intervene. Meanwhile, people who appeared to be plainclothes police stood behind the private security guards and were continuously videotaped by the police. This is contrary to Article 11/2 of Law 2911. According to the aforementioned provision of the law, the sound and images of the participants and speakers in meetings and demonstrations can be recorded by the law enforcement officers in such a way that it is obvious that they were made. However, the persons who made the recordings were dressed in civilian clothes and did not inform the group and the group's representatives that they were police officers by methods such as showing their identity cards.
15. The group changed its route several times due to various interventions and decided to disperse after reading the press statement at a designated place. However, as the press statement was about to be read, riot police arrived in the area and directly attacked the group with shields and truncheons without any warning or announcement and without giving them time to disperse. In a short time, the marchers were surrounded by the police.
16. No non-peaceful behaviour was observed by the LGBTI+ people gathered for the Pride march. Despite this, the head of the security department stated that anyone who remained inside the circle would be arrested. The students' and lawyers' request to 'open an evacuation corridor' for those wishing to disperse was refused. Those who attempted to take video footage of the violations were pushed away from the area by police and private security guards. As a result, 70 people, including 1 academic, were arrested.
17. As a matter of routine, detainees were taken to various hospitals for medical examinations before being taken to the police station. The medical examinations took

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<sup>5</sup> For detailed information on the cases described in this section, the Pride Marches on Campuses report prepared by ÜniKuir Association can be accessed from the following link: <https://www.unikuir.org/assets/public/projects/dosyalar/pride-marches-on-campus-report-for-the-year-2022.pdf>

longer than expected, during which time there were difficulties in obtaining water and toilet facilities, and handcuffs were not loosened or unlocked. The medical examinations were not conducted in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). In this sense, the detainees were not examined "from head to toe" and not all physical and psychological findings were reflected in the forensic report.

18. Nevertheless, 18 detainees were found to have multiple bruises, ecchymosis or abrasions on their arms, back, legs, chin and/or elbows, 22 detainees were found to have visible handcuff marks on both hands, 1 detainee was found to have purple ecchymosis on his forehead, under his right eye, scalp and chest, multiple bruises on his neck and arms and abrasions on both knee joints and elbow, 1 person reported multiple abrasions and ecchymosis on the neck, 1 person reported lacerations on the nose and hyperemia and abrasions on the forehead and eyebrows, 1 person reported multiple ecchymosis on the arms, armpits and back, 1 person reported pain in the arms and neck, 12 people reported psychological violence and 1 person reported anxiety.
19. A lawsuit was filed against all detainees at the Istanbul 58th Criminal Court of First Instance on charges of opposing Law No. 2911. The hearings of the case are ongoing and the judgement has not yet been reached.

- **10th METU Pride March**

20. On the day of the 10th METU Pride March, unlike usual, graduates were not allowed to enter the campus from the morning hours by decision of the rectorate. In addition, members of METU, including lecturers, were not allowed to receive visitors, and hours before the march it was observed that there were many riot police buses at the gates of the campus and many civil police and private security guards inside.
21. As the march ended and the press statement was about to be read, a large number of riot police and police officers quickly entered the area. The crowd was attacked with riot shields, pepper spray and rubber bullets. No warning was given and no time was allowed for the crowd to disperse. Violence was used to split the crowd in two and prevent them from coming together. While some people were arrested, most of the group dispersed in different directions.
22. After this intervention, pepper spray continued to be used on the campus for a long time. Students who took shelter in the buildings of different departments and faculties were forcibly taken out, the police waited for a long time at the gates of these buildings and randomly detained some students who they thought were participating in the march. During the operations, students were often prevented from taking video footage. However, the media reported that many people were severely beaten during the arrests. Although no non-peaceful behaviour of LGBTI+ people gathered for the Pride march was observed, a total of 38 students were detained. During the detention process, many students were unlawfully handcuffed behind their backs and beaten.
23. According to the forensic (medical) reports of the detainees who were taken to the hospital before being taken to the police station, 22 of the detainees had multiple bruises, ecchymosis or abrasions on their arms, back, legs, face, neck, chest and/or

elbows; one of the detainees had head trauma and had bruises and abrasions on many parts of his body. The Ankara Chief Public Prosecutor's Office is still investigating the detainees.

- **30th Istanbul LGBTI+ Pride Week<sup>6</sup>**

According to the programme of events announced on 16 June for the 30th Istanbul LGBTI+ Pride Week, to be held between 20 and 26 June, around 25 events were planned to take place in the districts of Beyoğlu and Kadıköy. Following the publication of the programme of events, the Beyoğlu and Kadıköy district administrations separately banned all Istanbul LGBTI+ Pride Week events on the following grounds

*"...it is considered that the events to be held may provoke outrage in society due to some social sensitivities, this situation may threaten social peace, verbal and physical provocative incidents may occur between the groups/individuals who will carry out the events and our citizens, the maintenance of public order, the prevention of crime and the protection of the rights and freedoms of others may be endangered..."*

24. Despite the ban, the Pride Week Committee announced that the Pride march would take place on 26 June at 17:00. On the day of the march, two stations of the Istanbul metro near the march area were closed by decision of the governorate. However, lawyers, journalists and human rights defenders who were in the area before the scheduled time were detained without justification. During the ongoing protests, a total of 373 people were detained in many parts of Beyoğlu and Şişli districts and subjected to torture and ill-treatment. As usual, the procedures laid down in Law No. 2911 and in court rulings were not followed during the arrests. These are to warn the assembled group in a way that can be heard by everyone, to wait for a reasonable period of time, to open an evacuation corridor for those who want to disperse and to use proportionate force against those who do not disperse. This sequence is not followed in any way.

- **10th Izmir Pride March<sup>7</sup>**

25. The Izmir Governorate's decision to ban the 10th Izmir Pride March, which was due to take place on 26 June 2022, was published on the governorate's website at the end of working hours on the Friday before the event. This was done in order to prevent the rights holders from applying to the court and obtaining a stay of execution. Despite this, an application was made to the court, but a year later the ban was overturned by the Izmir Regional Administrative Court on the grounds that it was illegal. On 26 June, when the march was still hours away, riot police and detention vehicles were brought to the area where the march was to start. An hour before the march, when members of the march committee went to the area to meet with the police, the police threatened that "anyone who comes to the area will be arrested without warning".

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<https://spod.org.tr/wp-content/uploads/2022/12/2015ten-Gunumuze-Yasaklarla-Istanbul-LGBTI-Onur-Yuruyusu.pdf>

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<https://kaosgl.org/haber/izmir-10-lgbti-onur-yuruyusu-aktivistler-avukatlar-milletvekilleri-ablukaya-alindi-darp-e-dildi>

Despite this, the rights-holders arrived in the area some time before the march. During the meeting with the police, it was explained that even a press statement was not allowed. In violation of the principle of proportionality, the riot squads attacked the demonstrators not with the intention of breaking the resistance, but with the intention of violence. As a result, 8 demonstrators were handcuffed behind their backs by police officers. Meanwhile, activists, lawyers, MPs and journalists were blockaded and prevented from carrying out their duties.

- **2th Ankara Pride March<sup>8</sup>**

26. The pride march, which was planned to be held in Kuğulu Park on 05.07.2022 within the scope of Pride Week in Ankara, was targeted by the head of the Youth Branch of the far-right party Yeniden Refah Party days before the march, and he stated that he was personally called by the Ankara Governorate and informed that the march would not be allowed:

*"I would like to thank the Ankara Governor's Office for calling me personally and informing me that they will definitely not allow the LGBT march planned for today. No passage for LGBT. We will not march!"*

27. The planned gathering place was blockaded by law enforcement officers hours before the march, people were prevented from entering the park and those who were in the park were asked to leave. During the day, many people were dragged on the ground and handcuffed behind their backs and a total of 46 people were detained. The police used pepper gas against the demonstrators. While the police continued to attack the participants of the pride march, a group gathered near Kuğulu Park to prevent and protest the pride march. The group shouted hateful slogans such as "Down with faggotry!", "Don't be silent, it will be your turn!", "We don't want an illegal march!", "Ankara, don't sleep, protect your honour!" and chanted takbir. The police did not intervene in this group spreading and encouraging hatred.

28. The detainees were charged with "violating Law No. 2911 on Meetings and Demonstrations" and were released after their statements were taken at the Ankara Security Directorate<sup>9</sup>. Later, a case was filed against 42 people at the Ankara 52nd First Instance Criminal Court. In the indictment, the prosecution described the slogans of the reactionary groups as "civil reaction".<sup>10</sup> On the days when the case was to be heard, the police blocked the courthouse in order to prevent the press from reporting.<sup>11</sup>

## **In 2022, Other Violations of LGBTI+'s Freedom of Expression and Freedom of Assembly and Demonstration**

29. Looking at 2022, it can be seen that the university administrations, in particular, have unlawfully interfered with LGBTI+ people's freedom of expression, assembly and

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<sup>8</sup> <https://kaosgl.org/haber/lgbti-dusmanlarini-kanatlarinin-altina-alan-polis-onur-yuruyusu-ne-saldiridi>

<sup>9</sup> <https://www.evrensel.net/haber/465235/ankarada-2nci-onur-yuruyusune-yapilan-mudahalede-gozaltina-alinan-46-kisi-serbest-birakildi>

<sup>10</sup> <https://kaosgl.org/haber/ankara-onur-yuruyusu-davasi-ibda-c-yanlisi-sloganlar-iddianameye-vatandas-tepkisi-olurak-girdi>

<sup>11</sup> <https://www.unikuir.org/haberler/ankara-onur-yuruyusu-davasi-22-haziran-a-ertelendi-11-05-2023>

marching, have not taken the necessary measures against activities targeting LGBTI+ people or have ignored them. For more comprehensive information on LGBTI+ in universities, see ÜniKuir's publication "Discrimination and Violations against LGBTI+ in Universities - 2022 Report".<sup>12</sup>

- **Dokuz Eylül University 2021 Graduation Ceremony**

30. During the graduation ceremony of Dokuz Eylül University Faculty of Letters in 2021, two students wearing masks with the slogan "Istanbul Convention Keeps Us Alive!" and unfurling a bisexual+ flag were attacked by private security guards. Following the incidents, disciplinary proceedings were initiated against the students instead of the private security guards who attacked them, and the students were given reprimands.<sup>13</sup>

- **Censorship of the poster of Koç University Queer Club**

31. The Dean's Office of Koç University has rejected the festival poster of the Queer Club as "pornographic". However, it is known that the Sevgi Gönül Cultural Centre (SGKM), which is affiliated to the Dean's Office, had previously used a similar image. This case is a good example of the unequal treatment of LGBTI+ student organisations by university administrations. LGBTI+ student organisations are subject to stricter scrutiny and 'sensitive' surveillance than other parts of the university. Furthermore, students claim that they were not informed of this decision in writing, but only found out about it when they asked.<sup>14</sup>

- **Boğaziçi University National Anthem Trial**

32. The Istanbul Chief Public Prosecutor's Office prepared an indictment for 'publicly insulting the national anthem', based on an e-mail sent to members of the Boğaziçi LGBTI+ Studies Club in 2019. In the email, the Turkish national anthem was written in Lubunca, which is used as a kind of language in the LGBTI+ subculture. In the indictment, the prosecutor claimed that Lubunca is an insult. The accused student is known to have received death threats. As a result of the case, the student who sent the email was acquitted, while the student who shared it on social media was convicted.

- **Protests for Enes Kara**

33. The protests that were to take place on the campus of Aydın Adnan Menderes University following the death of student Enes Kara, who could not stand the pressure he was subjected to in a sectarian dormitory, were cancelled due to the deployment of riot police on the campus. As a result, students were detained by private security guards while expressing their reaction to this prevention in classrooms, and 3 people, including LGBTI+ rights defenders, were arrested.<sup>15</sup>

- **Closure of Boğaziçi University LGBTI+ Studies Club (BÜLGBTİA+)**

34. The LGBTI+ Studies Club of Boğaziçi University was targeted for a long time, especially on social media, during the protests that followed the appointment of a

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<https://www.unikuir.org/assets/public/projects/dosyalar/2023-03-discrimination-and-violations-of-rights-against-lgbti-s-in-universities-eng.pdf>

<sup>13</sup><https://www.unikuir.org/haberler/istanbul-sozlesmesi-maskesi-takan-ve-bi-bayragi-acan-ogrenciye-universitede-n-ceza-21-01-2022>

<sup>14</sup>

<https://www.unikuir.org/haberler/universite-yonetimi-penise-benziyor-diye-koc-kuir-in-etkinlik-afisini-reddetti-19-05-2022>

<sup>15</sup><https://kaosgl.org/haber/sessiz-kalma-hikmet-hazer>



trustee rector at Boğaziçi University. Among those who spoke out against the club were Suleyman Soylu, the then Minister of the Interior, the Istanbul Governor and the spokesperson of the main opposition party at the time.<sup>16</sup>

35. As a result, the club was closed on 1 February 2021 by a decision of the rector of the board of trustees. The director of presidential communications announced the decision on his Twitter account. The statement, referring to BÜLGBTİA+, claimed that "the university administration took a legitimate action against those who tried to trample on sacred values". Although the club appealed to the judiciary, the first instance court ruled against them. Legal proceedings continue.

- **Targeting of Aydın Adnan Menderes University Student Community**

36. The Queer ADÜ Student Community, an organisation of students at Aydın Adnan Menderes University, was targeted on a local news website with the headline "Unbecoming of ADÜ! Following the news, the rectorate filed a criminal complaint with the prosecutor's office, claiming that the university's name and logo were being used by a group that had not been officially established. As a result, a student identified by law enforcement officials was taken into custody on charges of trademark infringement. The investigation is still ongoing.

- **Targeting of Istanbul University Equality Community Vegan Picnic**

37. The vegan picnic announced by the Istanbul University Equality Community to be held on the Beyazıt campus was targeted by social media accounts, including the Istanbul University AKP Organisation<sup>17</sup> and the Istanbul University Young Thought Club, which stated that the picnic would "not be allowed" to take place. The community announced on their social media account that they would organise the picnic and called for solidarity. However, when the time came for the picnic, an anti-LGBTI+ group gathered outside the Faculty of Communication, chanting hate slogans and making threats. As the group's threats continued, with no police intervention, the Equality Community announced the cancellation of the event for safety reasons and asked those planning to attend the event to leave the area and not to gather in groups.<sup>18</sup>

38. A group of LGBTI+ people who wanted to stay on campus to exercise their right to peaceful assembly were first blocked by the police and then detained under the pretext of "we will take you to a safe place". The 26 people detained were released after giving their statements to the Istanbul Security Directorate and after health checks. There was no police action against the anti-LGBTI+ group.<sup>19</sup>

- **Targeting of Marmara University LGBTIQAA+ Solidarity Network**

39. Marmara University LGBTIQAA+ Solidarity Network (KuirMar) was targeted and threatened with hate speech in a press statement by the fascist group "Marmara University Ülkücüleri" for the Pride Week picnic on 24 June. KuirMar had to organise the picnic without announcing the venue and due to security concerns<sup>20</sup>.

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<sup>16</sup> <https://bianet.org/haber/bogazici-nin-lgbti-calismalari-aday-kulubu-kapatildi-238534>

<sup>17</sup> <https://twitter.com/akistanbuluni/status/1536801244785827841>

<sup>18</sup> [https://www.instagram.com/p/Ce0v2\\_CIZQU/](https://www.instagram.com/p/Ce0v2_CIZQU/)

<sup>19</sup> <https://kaosgl.org/haber/sozde-onur-piknigi-diyen-polis-26-lgbti-aktivistini-kandirarak-gozaltina-aldi>

<sup>20</sup> <https://twitter.com/teskilatmarmara/status/1540357011493232640?s=20&t=EzOVfHZXOtR--3ujdIYY7w>

- **Ban on Istanbul University Equality Community's Documentary Screening**

40. A documentary screening to be held at a venue by the Equality Community, a student organisation at Istanbul University, was banned by the District Governorate on the grounds of "terrorist organisation propaganda".<sup>21</sup>

## **Rights Violations in 2023 Pride Marches**

- **10th METU Pride March**

41. METU Pride March was banned again by Rector Verşan K k despite the court decisions in previous years.<sup>22</sup> Despite the ban, 15 students who wanted to exercise their constitutional rights were beaten and detained with reverse handcuffs. Although 2 people who were injured in the police attack were ordered to be transferred to the city hospital during the medical check-up due to the detention process, an ambulance was waiting for more than two hours.<sup>23</sup>

- **Unjust Disciplinary Investigations**

42. The METU administration started disciplinary proceedings against the students who were unlawfully detained for participating in the Ankara Pride march outside the university campus. The Security Directorate reported the students to the university administration.<sup>24</sup>

- **Eskişehir Pride March**

43. The Governorship of Eskişehir banned all kinds of LGBTI+ activities (gatherings and attempted gatherings, press statements, marches, sit-ins, setting up stands/tents, distributing leaflets, hanging banners/posters, protests, festivals, festivals, etc.) for one month.<sup>25</sup> During the Eskişehir Pride March in July, 18 people were detained.<sup>26</sup>

- **İstanbul Trans Pride March and İstanbul Pride March**

44. 9th Trans Pride March was banned by Istanbul Governorship. 10 people were detained during the trans pride march.<sup>27</sup> During the Istanbul Pride March, 93 people were detained.<sup>28</sup> The Governorship closed almost all streets in Beyoğlu district on the day of the pride marches. Taksim and Şişhane metro stations were suspended. A deportation decision was taken for 5 foreign nationals, including those detained in the Istanbul Pride March, and it was decided to keep them in a removal centre. One of these people faced the risk of being deported back to Iran, thus facing the risk of execution.<sup>29</sup> Istanbul Pride Committee regularly announces the developments and violations of rights on its social media account. According to the latest update,<sup>30</sup> A Libyan refugee

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<https://www.unikuir.org/haberler/kaymakamlık-universiteli-lgbti-toplulukunun-film-gosterimini-yasakladı-16-11-2022>

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<https://www.unikuir.org/haberler/odtu-rektorlugu-kampusumuzde-planlanan-yuruyuse-karsi-her-turlu-onlem-alinacaktir-08-06-2023>

23 <https://www.unikuir.org/haberler/polis-saldirisina-ragmen-odtu-de-onur-yuruyusu-gelenegi-surdu-09-06-2023>

24 <https://twitter.com/tunahangozlugol/status/1637908283024461826?t=aXOP6e6ijgMX8OuOzKTwqg&s=08>

25 <http://www.eskisehir.gov.tr/yasaklama-karari11>

26 <https://www.unikuir.org/haberler/polis-siddeti-bu-sefer-eskisehir-39-e-sicradi-18-gozalti-09-07-2023>

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<https://www.unikuir.org/haberler/taksim-kapatildi-lubunyalari-trans-onur-yuruyusu-icin-sisli-bizim-dedi-18-06-2023>

28 <https://www.unikuir.org/haberler/21-istanbul-onur-yuruyusu-yasandi-25-06-2023>

29 <https://kaosgl.org/haber/istanbul-lgbti-onur-yuruyusu-nde-gozaltina-alinan-bes-kisi-sinirdisi-tehdidi-altinda>

30 [https://www.instagram.com/p/Cv9fV\\_SqXq/?utm\\_source=ig\\_web\\_copy\\_link&igshid=MzRIODBiNWFIZA==](https://www.instagram.com/p/Cv9fV_SqXq/?utm_source=ig_web_copy_link&igshid=MzRIODBiNWFIZA==)

is currently being held in the removal centre. Three of the refugees were sent back to their countries by agreeing to "voluntary repatriation". The Iranian refugee was released with the condition of "giving signature".

- **Pride Week Activities in Other Cities**

45. Pride Week events in Aydın and Kocaeli were banned by governorships.<sup>31</sup> Antalya Governorship<sup>32</sup> and Adana Governorship also banned the Pride Week events. In Adana, 18 people were beaten and detained during the press statement against the ban. An MP was beaten while trying to intervene in the police attack.<sup>33</sup>

- **İzmir Pride March<sup>34</sup>**

46. As in the previous year, the 2023 Pride march was banned by the İzmir Governorate late on the last working day before the march on the grounds of “violation of public morality, protection of public order, possibility of provocation by opposing groups, protection of national security”. The Governorate did not take into account that the previous year's decision with the same content was overturned by the Administrative Court, and issued the same decision again. The Pride Week committee continued to call for the march due to the illegality of the decision.

47. Hours before the march, police set up roadblocks and tried to remove people they suspected of being LGBTI+ from the cafes along the street where the press conference was to take place. Police also stopped people they suspected of being LGBTI+ on the streets and at public transport exits, advising them not to attend the march and checking their IDs.

48. During the meeting between the İzmir Bar Association and the police, it was said that the demonstrators would never be allowed to gather and that people would be arrested if necessary. When the time came for the march, the police set up barricades and blocked the rights holders without even allowing the people in the area to gather. During the arrest, disproportionate force was used, resulting in physical violence against the rights-holders. A total of 52 adults, 1 child and 4 lawyers were arrested. 4 lawyers, one of whom was a member of the executive committee of the Bar Association, were present as observers. The lawyers were released without explanation after a medical examination. During the operation, the police also shielded the President of the İzmir Bar Association, Av. Sefa Yılmaz. Observers and media workers were also prevented from carrying out their duties.

## **In 2023, Other Violations of LGBTI+'s Freedom of Association and Freedom of Assembly and Demonstration March**

- **Ban on Press Statement in Front of Courthouse**

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<sup>31</sup>

<https://www.evrensel.net/haber/493181/izmir-ve-kocaeli-valiliginden-onur-haftasi-etkinliklerine-pes-pese-yasak-karari> ve <https://kaosgl.org/haber/aydin-valiligi-onur-haftasi-ni-yasakladi>

<sup>32</sup> <http://www.antalya.gov.tr/antalya-valiligi-yasaklama-karari>

<sup>33</sup>

<https://artigercek.com/lgbti/adanada-onur-haftasi-aciklamasi-yesil-sol-parti-milletvekili-koca-darp-edildi-18-257016>

<sup>34</sup>

<https://genclgbti.files.wordpress.com/2023/07/2023-onur-ayinda-izmirde-lgbtilarin-ifade-ve-orgutlenme-ozgur-lu-gu-raporu-2.pdf>

49. Kağıthane District Governorate banned the press statement for the trial of sociologist and feminist Pinar Selek, who has been on trial for many years and repeatedly on the same charges. The reason given for the ban was that LGBTI+ organisations also called for the press statement.<sup>35</sup>

- **Threats against Ege University Pride Picnic and Intervention to the Press Statement in Front of Izmir Bar Association**

50. LGBTI+ students of Ege University called for the organisation of the 2nd Aegean Pride Picnic in front of the Dean's Office of the Faculty of Letters on 2 June. However, the Pride Picnic was targeted by reactionary and fascist groups with hate speeches and threatening postings.<sup>36</sup> These groups made a press statement at the entrance of Ege University on 1 June, calling on the rectorate to prevent the picnic and threatening that they would be there on the day of the picnic. The police did not intervene in this targeted and hateful press statement. Following these incidents, the Izmir Bar Association held meetings with the Rectorate of Ege University and the Izmir Police Department and asked them to ensure the security of the picnic. However, when the rectorate of Ege University said that security could not be guaranteed, the Bar Association issued a statement and announced that it had set up a crisis centre.

51. On 2 June, the students of Ege University announced that they would postpone the picnic and hold a press statement at Özgür Kürsü in front of the Izmir Bar Association due to the attacks by hate groups and the lack of security measures taken by the rectorate. As the announced time approached, the area was surrounded by the police and they were told that the press statement would not be allowed. The police illegally entered the area, which belongs to the Izmir Bar Association and is used as a car park, without a court order. The police attacked LGBTI+ people, lawyers and press workers with pepper spray and physical violence. The Bar Association has filed a criminal complaint and investigations are ongoing.<sup>37</sup>

- **Attack Attempt on Izmir Bar Association Pride Month Breakfast**

52. The Pride Month Breakfast, which was held as part of the annual Pride Month programme of the Izmir Bar Association, was targeted by reactionary and fascist groups on social media. On 17 June, these groups arrived in front of the Bar Association's clubhouse where the breakfast was to be held. They made a press statement there. After the press statement, they did not leave the area for a long time and made insulting and threatening remarks against the lawyers attending the breakfast. The group frequently shouted hateful slogans and recited the takbir. Despite the fact that the lawyers present in the area repeatedly asked the law enforcement officers to disperse the group, and despite the fact that the group's actions were no longer peaceful and were publicly using criminal language, the police did not intervene against the group.<sup>38</sup>

- **Pride Picnic at Dokuz Eylül University and Izmir Democracy University**

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<sup>35</sup> <http://www.kagithane.gov.tr/31032023-tarihli-yasaklama-karari>

<sup>36</sup> <https://kaosgl.org/haber/tgb-tugva-ve-yeniden-refah-ege-onur-piknigi-ni-tehdit-ediyor>

<sup>37</sup> <https://kaosgl.org/haber/izmir-polisi-lgbti-lari-ve-izmir-barosu-avukatlarini-darp-etti>

<sup>38</sup> <https://www.cumhuriyet.com.tr/turkiye/izmir-barosunun-onur-ayi-kahvaltisi-tekbirlerle-basildi-2091545>

53. Pride picnics organised by LGBTI+ rights activists at Dokuz Eylül University and Izmir Democracy University were prevented by the police. Police arrested a total of 7 students at both picnics.<sup>39</sup>

- **Ban Order on Film Screening and Tea&Talk Event**

54. Şişli District Governorship banned the LGBTI+ themed screening "Diren Ayol" organised by the University Feminist Collective, claiming that it would provoke outrage in the society, touch national conscience and humanitarian values, and threaten social peace.<sup>40</sup>

55. Kadıköy District Governorship banned the "Tea&Talk" event organised by Lambda Istanbul Association for years. Thus, drinking tea was added to the bans against LGBTI+s.<sup>41</sup> Furthermore, the event organised by the Revolutionary Socialist Workers' Party (DSİP) as part of Pride Month activities was also banned.<sup>42</sup>

- **Prevention of Press Statement at University**

56. The press statement organised at Mimar Sinan University was prevented by police blockade and intervention of private security guards.<sup>43</sup>

- **Decision on Public Service Announcement**

57. The press statement, which was planned to protest against the decision of the Supreme Council of Radio and Television to accept the call for an anti-LGBTI+ rally in a public space in front of the council's office in Izmir, was banned by the Izmir Governorate. 10 people were arrested.<sup>44</sup>

- **Closure of Hacettepe University Queer Research Community (Queer Deer)**

58. The Queer Research Community - Queer Deer, which has been operating as an official community of Hacettepe University since 2013, was closed down by the rectorate on 21 September 2023 for "not organising enough activities". The members of the community stated that this decision was political, that communities that had been officially inactive for many years were ignored, that they had carried out many online activities during the distance learning process due to the earthquakes on 6 February, but that these were deliberately not accepted as events by the university administration.<sup>45</sup>

- **Prohibition Decisions on the Rainbow Flag and Colours**

59. Although the examples we will give here are technically related to freedom of expression, we think it is important to include them in this report. Because interventions against the rainbow flag indirectly put at risk the protection of freedom of association and freedom of assembly.

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<sup>39</sup> <https://www.unikuir.org/haberler/izmir-39-de-bugun-yine-lgbti-ogrenciler-gozaltina-alindi-14-06-2023>

<sup>40</sup> <https://kaosgl.org/haber/diren-ayol-gosterimine-kaymakamlik-yasagi>

<sup>41</sup> <http://www.kadikoy.gov.tr/basin-aciklamasi-15062023>

<sup>42</sup> <https://www.evrensel.net/haber/493070/kaymakamlik-lgbti-haklarinin-konusulacagi-kafe-etkinligini-de-yasakladi>

<sup>43</sup> <https://www.unikuir.org/haberler/lgbti-ogrencilerin-basin-aciklamasina-polis-ablukasi-16-06-2023>

<sup>44</sup> <https://www.unikuir.org/haberler/nefret-mitingine-cagri-tv-de-protesto-edenler-gozaltinda-12-09-2023>

<sup>45</sup> <https://www.unikuir.org/haberler/hacettepe-universitesi-lgbti-ogrenci-toplulugunu-kapatti-21-09-2023>

60. During the election process, rainbow flags and banners were not allowed by the police during the controls at the entrance to the rally organised by the Labour and Freedom Alliance.<sup>46</sup>
61. A wall drawing with a rainbow in Urfa State Hospital was censored at the request of the Refah Party.<sup>47</sup>
62. Disciplinary proceedings were initiated against a graduating student who unfurled a rainbow flag at the graduation ceremony of Uşak University. While announcing the investigation on its social media account, the university claimed that the graduating student made a provocation and used the expression "LGBT rag" for the rainbow flag.<sup>48</sup>
63. Two rainbow-coloured sculptures in the exhibition opened at METU Northern Cyprus Campus were removed. Although excuses such as "renovation" were put forward by the university administration, rights defenders believe that the incident was motivated by anti-LGBTI+ sentiment.<sup>49</sup>
64. The exhibition opened by Istanbul Metropolitan Municipality in an art centre was protested by reactionary groups on the grounds that it "contained nudity, police hostility and LGBT propaganda". As a result of the provocation, an attempt was made to attack the exhibition building.<sup>50</sup> Instead of investigating the hateful attack, the Istanbul Chief Public Prosecutor's Office launched an investigation against the municipality on the charge of "inciting the public to hatred and hostility".<sup>51</sup> Similarly, in Eskişehir, an exhibition organised by the municipality was investigated on the same charge.<sup>52</sup>
65. Tekirdağ Governorship instructed inspectors to conduct inspections in schools to investigate whether there are "symbols that evoke LGBT colours".<sup>53</sup>
66. Efforts to target and erase the rainbow from public spaces continue. In recent days, the rainbow colours on the wall of Kocaeli City Hospital were erased as a result of social media targeting by Melih Gökçek, former Mayor of Ankara Metropolitan Municipality. In addition, the rainbow colours on the façade of a ferry in Istanbul were deleted, again as a result of targeting on social media.<sup>54</sup>

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<https://www.gercekgundem.com/siyaset/emek-ve-ozgurluk-ittifakindan-birlikte-degistirelim-mitingi-savasa-yoknulluga-baskilara-dur-diylim-407738>

47

<https://www.urfapusula.com/haber/13693259/lgbt-temasi-diye-tepki-gelmisti-balikligol-devlet-hastanesindeki-gorsel-kaldirildi>

48

<https://www.unikuir.org/haberler/usak-universitesi-lgbt-pacavراسi-acan-ogrenci-hakkinda-islem-baslatildi-19-07-2023>

49 <https://www.cumhuriyet.com.tr/egitim/odtude-heykel-tartismasi-2097319>

50 <https://twitter.com/ibbhabercomtr/status/1678117666500820992?s=46&t=BugTd7BpJw2mKEa18L9XGQ>

51 <https://bianet.org/bianet/sanat/283598-ibb-nin-sergisine-halki-kin-ve-dusmanliga-tahrik-iddiasıyla-sorusturma>

52

<https://www.sabah.com.tr/gundem/2023/07/19/odunpazari-modern-sanat-muzesindeki-lgbt-sapkinligi-tepki-cekmis-ti-ahlaksiz-sergiye-sorusturma>

53 <https://www.cumhuriyet.com.tr/egitim/mufettis-lgbti-renkleri-ariyor-okullarda-gokkusagi-avi-2097817>

54 <https://www.unikuir.org/haberler/gokkusagini-kamusal-alanlardan-silme-cabasi-devam-ediyor-25-07-2023>

## Answers to the key questions

Unfortunately, we will not be able to provide many positive examples from Turkey in response to the key questions in the Call for Contributions. However, we will list our recommendations that can serve as positive examples for the prevention, remedy and development of policies to address the violations listed above.

*1) What laws, guidance, protocols, and mechanisms or strategies/practices related to the facilitation and policing of protests did you find to be effective in ensuring human rights are respected and protected by law enforcement before, during and after protests?*

Law No. 2911 on Meetings and Demonstrations stipulates that citizens wishing to organise meetings and demonstrations must first come together in the form of an organising committee and notify the local authority of the meeting and demonstration before a certain deadline. The law states that meetings and demonstrations organised in violation of this obligation are no longer legal. While the police sometimes intervene for failure to comply with this obligation, they sometimes ensure that this is not a reason for intervention. Moreover, in the *Oya Ataman v. Turkey* judgment, the ECtHR ruled that this obligation should not be applied in such a way as to prevent the exercise of the right.

*2) What are the gaps and which of the protocols and guidance to law enforcement, and mechanisms related to facilitation and policing of protests did you find to be restrictive, undermining human rights protection, or encouraging or facilitating human rights abusive practices by law enforcement authorities in the context of protests? How should these be improved?*

One of the main problems violating LGBTI+ freedom of assembly in Turkey is the delay in judicial review of banning decisions by local authorities. In addition, local authorities usually announce the ban decision shortly before the demonstration in order to prevent a possible quick judicial review. However, the so-called stay of execution serves as a temporary measure to remedy administrative actions that are clearly unlawful and require urgent intervention. If this mechanism could be used effectively, some violations could be prevented. It is therefore necessary to make the suspension mechanism more effective and faster. Otherwise, it should be interpreted in favour of fundamental rights and freedoms.

In recent years, anti-LGBTI+ protests have increased. These protests are organised by civil society organisations close to the government. Political parties in power or close to it are also actively involved. In fact, the video calling for a hate-filled rally organised in Istanbul under the name 'Big Family Gathering' was accepted as a public service announcement by the Supreme Council of Radio and Television (RTÜK).<sup>55</sup> The video calling for the rally was broadcast free of charge on many national channels. Participants in the rally carried banners reading "Ban LGBT propaganda", "Stop socio-cultural terror", "Don't let children change their gender", "Stop LGBT imposition", "LGBT propaganda is child abuse".<sup>56</sup> Law enforcement officials, and therefore political power, almost support these hateful demonstrations by intervening in the peaceful protests of LGBTI+ people and the rainbow flag. In these demonstrations, LGBTI+ rights advocacy is labelled as an act of terrorism and many discriminatory slogans are chanted. In order to prevent hateful demonstrations, these

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<sup>55</sup> <https://www.diken.com.tr/rtuk-lgbti-karsiti-kamu-spotuna-onay-verdi/>

<sup>56</sup> <https://www.youtube.com/watch?v=keDiscvUGKQ>

demonstrations should be defined in the legislation and it should be made clear that they will be prevented.

Many protests against LGBTI+ people are unjustifiably met with police intervention, including physical and psychological violence, sometimes even torture. As a result, investigations and trials of LGBTI+ people arrested during demonstrations usually end in a decision not to prosecute or in acquittal. Despite foreseeing this outcome, law enforcement officials and prosecutors continue to issue arbitrary detention orders. This situation shows that detentions are carried out deliberately, even though they are known to be unlawful. The aim is not to punish the demonstrators through the judiciary, but to suppress and intimidate them through administrative action. Therefore, legal and criminal sanctions should be imposed on officials who arbitrarily issue arrest warrants. The material and moral compensation paid by the state after people have been acquitted by the courts is not enough. (In Turkey these amounts are very low. For 1 day of detention, the average is not even 20 euro). In order to be an effective solution, non-criminal wrongful acts of public officials should also be sanctioned.

*3) What are the main obstacles for law enforcement authorities in your country to facilitate and police protests in compliance with international human rights law and standards?*

The biggest obstacle to freedom of assembly in Turkey is the politics of political power. Legally, governors and district governors are civil servants, not political figures. However, they are appointed by presidential decree. This situation leads the governors, who are local administrators, to take instructions from the political power. Proof of this is that in recent years, LGBTI+ events in dozens of different parts of Turkey have been prevented by banning orders that appear to have been written by a single person.

Legislative provisions (mainly Law No. 7145 and the relevant articles of Law No. 5442) that allow governors and district governors to ban freedom of assembly and marches indefinitely or for long periods (e.g. one month) and impose other disproportionate restrictions should be abolished. The necessary changes should be made to the legislation to prevent local authorities from issuing consecutive bans on the same issue.

*5) Are you aware of any protocols for law enforcement and have you observed any positive measures taken by law enforcement authorities to prevent and protect protesters and activists from sexual and gender-based violence in the context of protests? How can these be improved?*

In Turkey, gender-based policies are gradually being abolished. As you know, Turkey withdrew from the Istanbul Convention on 20 March by presidential decree. This situation has also had a negative impact on existing gender policies. However, there has never been a gender perspective on law enforcement practices and protests. The only measure that can be taken in this regard is that arrested female demonstrators are searched by female police officers. However, this is based on the gender written on their identity cards, not the gender declared by the individual.

*6) What measures should be adopted by law enforcement authorities to prevent unlawful arrests and detention in the context of protests; as well as to ensure the human rights of those lawfully detained in the context of protests are respected according to the international standards, including being protected from torture and ill-treatment or sexual and gender-based violence?*



There have been significant legislative advances in this area over the years. For example, progressive steps have been taken in relation to children involved in crime, the right of access to a lawyer, health checks and detention periods. However, violations of rights, of which there are many examples, cannot be prevented. Improvements in legislation are used as a tool to create positive arguments, especially in international relations. Some legislation is not implemented and situations not provided for in the legislation are applied to the detriment of rights holders.

Ensure that medical examinations in and out of detention are carried out in accordance with the Manual for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). Demonstrators who suffer serious injuries (suffocation, head trauma, etc.) as a result of the disproportionate use of force by law enforcement authorities during demonstrations should receive immediate emergency medical attention.

It should be ensured that the hospital to which detainees are taken for entry and exit medical checks is in a central and easily accessible location, not on the outskirts of the city, and that the information about the hospital where the procedure will be carried out is immediately communicated to the detainee's relatives and lawyer.

Cameras with audio and video recording capabilities should be installed in detention vehicles to prevent ill-treatment.

Necessary measures should be taken to effectively monitor whether the basic needs of detainees (water, food, toilet, cigarettes, etc.) are being met. It should be ensured that lawyers can monitor such situations without delay. In Turkey, lawyers are often unable to visit their detained clients in the prison van for "security reasons". In some cases, however, detention in the vehicle can last for several hours.

In Turkey, police often handcuff protesters taking part in peaceful demonstrations behind their backs. Forensic reports of detainees clearly show traces of tightly applied reverse handcuffs. The practice of reverse handcuffing should be recognised as torture under national and international law.

Media workers, representatives of rights-based civil society organisations and professional associations, and lawyers should not be prevented from observing, monitoring, reporting and documenting meetings and demonstrations. This should be guaranteed by law.

Law enforcement officials should receive qualified and regular training on the prohibition of torture and ill-treatment, the rights of suspects, LGBTI+ rights and non-violent communication.

*8) What other measures have you found/experienced of law enforcement authorities undertaking to prevent and minimise the harm to protesters, journalists and other actors involved in monitoring and/or reporting on protests, and bystanders in the context of protests; especially:*

During peaceful assemblies and demonstrations organised in Turkey in recent years, law enforcement officers often remove media workers, lawyers and observers from the

demonstrators, citing security reasons or claiming to create a security corridor. However, there is no concrete security concern when this happens. The police use this as a pretext to prevent images from being taken and violations from being exposed. Sometimes media workers, lawyers and observers doing their duty are even detained. It is therefore necessary to check whether the measures taken in this regard are in accordance with the law and the material reality.

*10) What strategies, policies or protocols, and measures should be put in place to ensure accountability for law enforcement officials alleged of committing human rights violations in the context of protests?*

Rules, principles and decisions on the exercise and implementation of the right to freedom of assembly and demonstration should be established through mechanisms involving all rights-holders. It should be ensured that all groups such as LGBTI+, women, children, refugees, workers, elderly people, relatives of prisoners, relatives of the disappeared, ethnic and religious minorities are represented in these mechanisms.

Blocking media workers during interventions at meetings and demonstrations has a major negative impact. It hampers the public's freedom of information, makes public scrutiny of the actions of political power more difficult, prevents the documentation of torture and ill-treatment, and limits the possibility of evidence-based advocacy by civil society organisations.