

KAOS GL HUMAN RIGHTS OF LGBTI+S

2023 REPORT

FACT SHEET



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Kaos GL announced its report on the human rights of LGBTI+ persons in Turkey on 23 February. The full report and its details are available on Kaos GL social media accounts and the association's website. A brief summary of the report can be found in this fact sheet.

Similar to previous years, public institutions, who are responsible for preventing rights violations against LGBTI+ persons, were often the perpetrators of these rights violations.

The homophobic hate speech frequently produced by the President and ministers leads to a general judgement that violations against LGBTI+ persons will remain unpunished or unsanctioned.

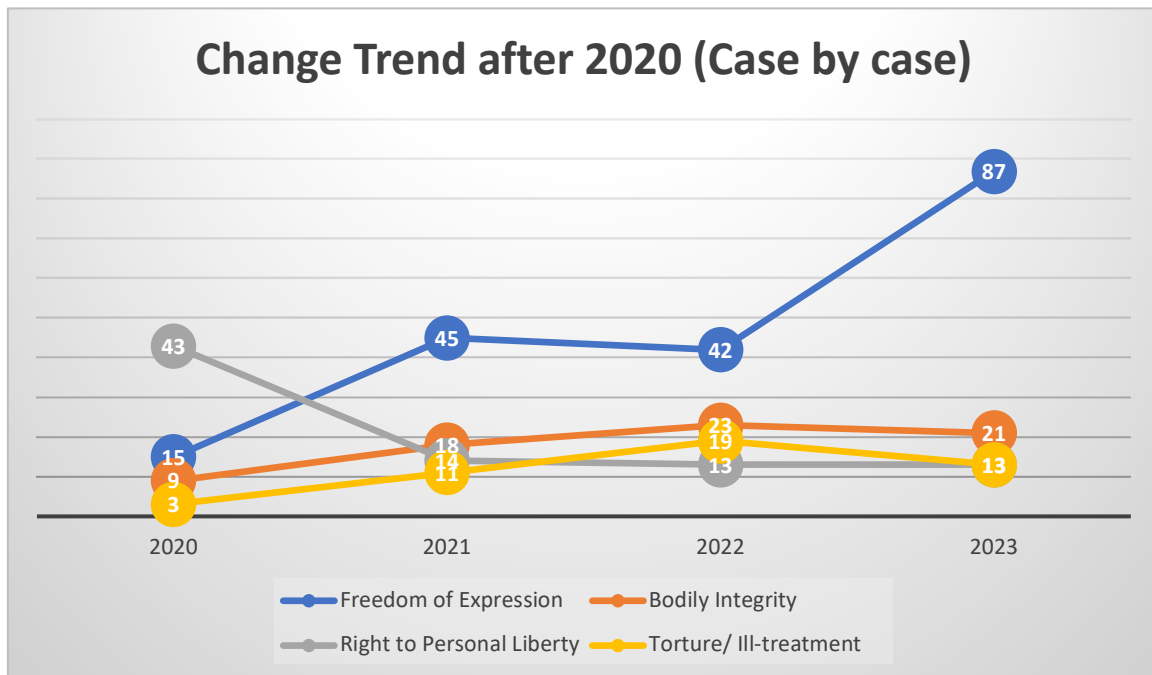
In hate crime trials, courts treat these acts as ordinary acts of killing. When the victim is LGBTI+, the state does not use punishment mechanisms effectively.

While public officials are the direct perpetrators of human rights violations of LGBTI+ persons through their actions, they also neglect their duty to take positive action by not preventing the cases they have an obligation to prevent. There are no effective investigation mechanisms regarding actions against LGBTI+ persons by third parties that cause violation of rights. LGBTI+ persons cannot access non-judicial mechanisms such as the Human Rights and Equality Institution of Turkey (TİHEK) and the Ombudsperson's Office (KDK), because these institutions either do not accept applications or do not issue violation decisions.

KEY FINDINGS

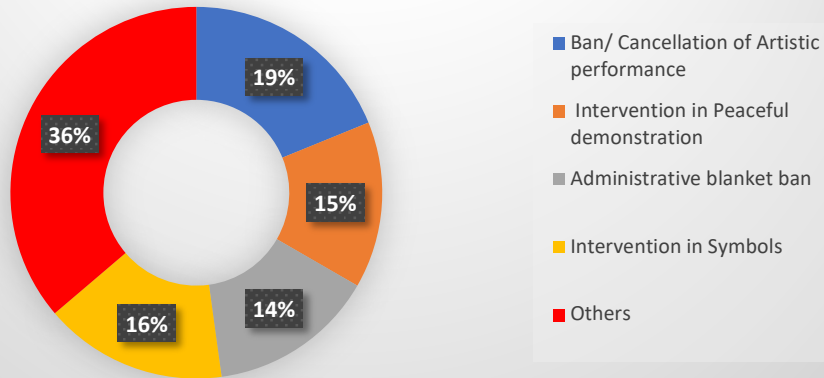
In General;

- LGBTI+ persons were violated in all categories of rights.
- Public officials, who continue the policy of excluding LGBTI+s from public life in all areas, violated LGBTI+ persons' freedom of expression the most in proportional terms. The increasing trend in violations of freedom of expression can be clearly seen in annual comparisons.



- All peaceful demonstrations of LGBTI+ persons were banned or violently suppressed. Cases of torture and ill-treatment of activists and subjects detained during these demonstrations increased exponentially.
- In 2023, freedom of artistic expression reached a remarkable level, especially in performance bans and concert cancellations due to pressure.

Collective Acts of Interference with Freedom of Expression



- LGBTI+ persons who were discriminated against in the ordinary period were also discriminated against during the disaster caused by two devastating earthquakes and could not meet their basic needs.
- In this election year, as in the previous ones, especially the political parties belonging to the ruling coalition systematically continued their transphobic and homophobic discriminatory discourses against LGBTI+s during election periods.

In 2023, LGBTI+ persons were on trial for 56 days out of 254 working days when the courthouses were open; they went to the courthouses for cases in which they were complainants, plaintiffs or defendants. LGBTI+ persons spent 37 days in the courthouse in 2022.

- The Press Advertisement Agency and Radio Television Supreme Council (RTÜK) carry out a special mission to promote institutionalized homophobia and transphobia. While the Press Advertisement Agency funds hate media, RTÜK imposes fines and censorship on broadcasting organizations that include LGBTI+ visibility.

- Civilian-looking state-sponsored organizations organized rallies to spread anti-LGBTI+ hatred, and RTÜK carried out special work to increase participation in these rallies.
- There is systematic discrimination in access to employment and post-employment workplace processes.
- Prisons produce systematic violations for LGBTI+ persons.
- The condition of hormonal and surgical intervention required for the legal recognition of gender constitutes the systematic infrastructure of violations against the bodily integrity of transgender people.
- The sealing of the houses of sex worker trans women, who are not accepted to legal working areas, on the grounds of prostitution leads to systematic violations of the right to shelter.
- Information and data of non-medically compulsory hormonal and surgical interventions performed on intersex bodies is not collected and shared with the public. Intersex people are deprived from the right to have a say over their own bodies.
- Education and higher education system ignore LGBTI+ persons.
- The Right to Information Law has lost its function to a great extent. Almost all of the public information requests of LGBTI+ rights organizations to conduct public debate are rejected.
- The discriminatory structure of the education curriculum continues to deepen with change

Grand National Assembly of Turkey;

- The General Assembly of the Parliament and especially the Constitutional Commission meetings were among the places where homophobic hate speech was produced in the public sphere in 2023.
- Law-making processes are not carried out with a participatory approach.
- Discriminatory laws continue to be enacted and the discriminatory structure of the existing legislation is not changed.

Presidency;

- The Presidency does not fulfil its responsibilities for state institutions to enable them to fulfill their responsibilities regarding LGBTI+'s access to human rights.
- Hate speech produced by the President and the Ministers fosters an insecure environment for LGBTI+ persons.

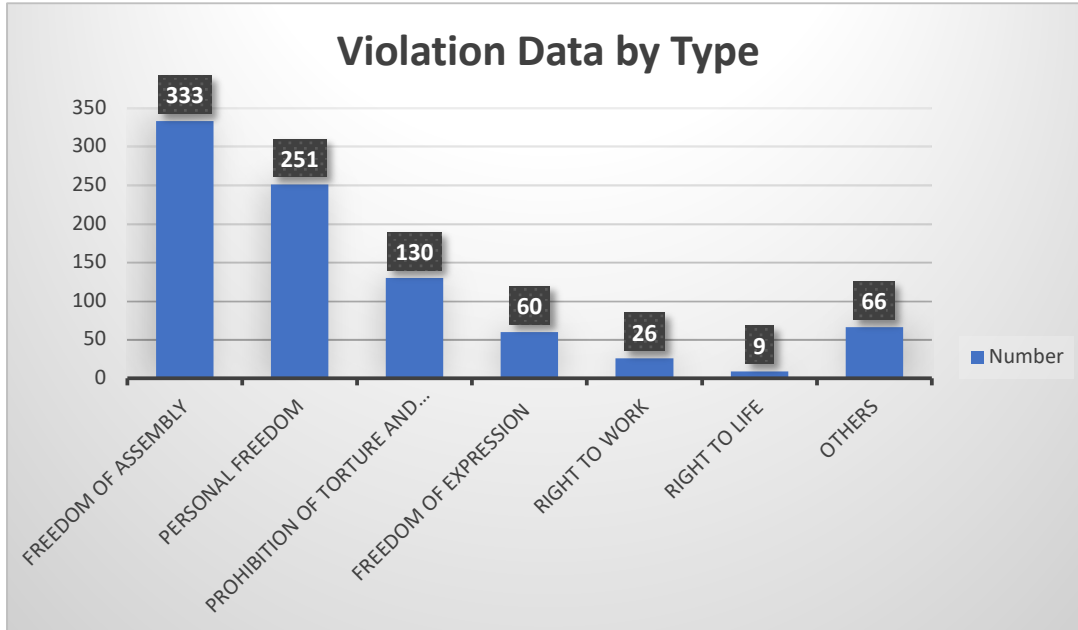
- The Ministry of Interior, with its strong position in the executive function, is the main responsible for the systematic violation of rights against LGBTI+ persons with its law enforcement force.

Judicial Mechanisms

- Judicial review mechanisms are dysfunctional for LGBTI+ persons.
- The individual application mechanism at the Constitutional Court is ineffective for LGBTI+ person

Other Mechanisms and Public Institutions

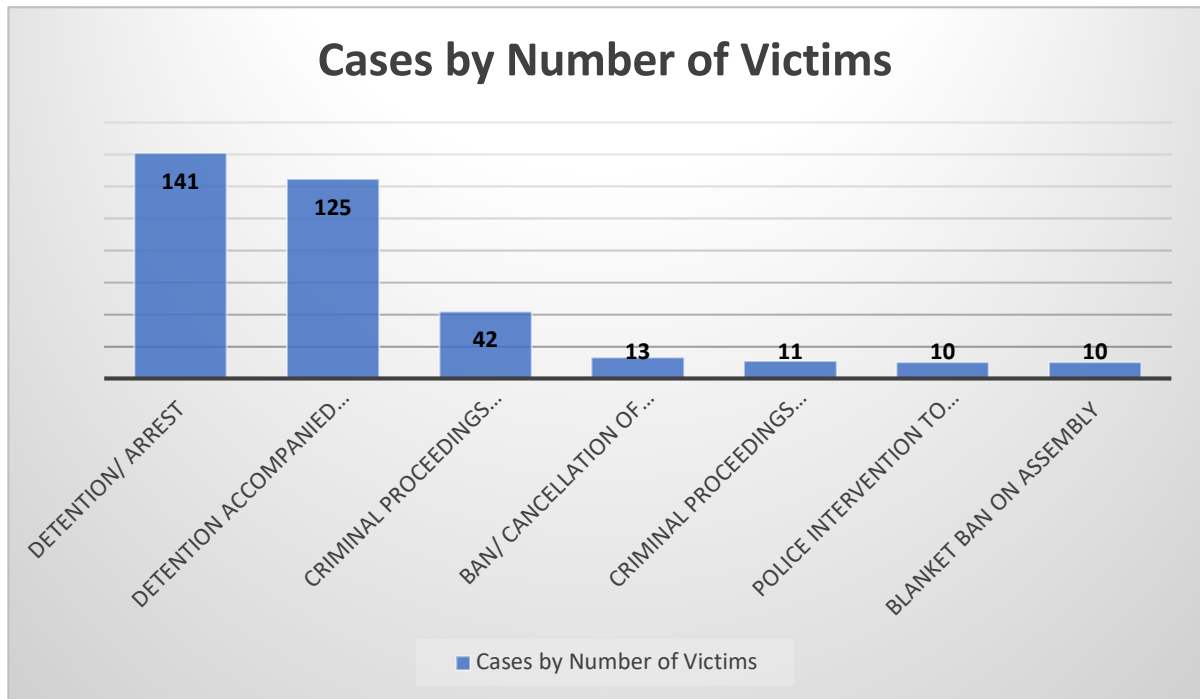
- Under the guise of human rights mechanisms, structures such as TİHEK and KDK produce the counter-narrative that LGBTI+ existence and LGBTI+ rights are not fundamental rights.
- TİHEK makes a special effort to disseminate the counter-narrative through its collaborations, consultative relations and alliances in the field of human rights.
- Representatives of TİHEK and KDK perpetuated homophobia and transphobia in the Constitutional Commission meetings they attended during the constitutional amendment process.



- The tools of the exclusion of LGBTI+s from public life within the executive branch are the Advertisement Board, the Board for the Protection of Minors from Obscene Publications, the Radio and Television Supreme Council, and the Press Advertisement Agency.

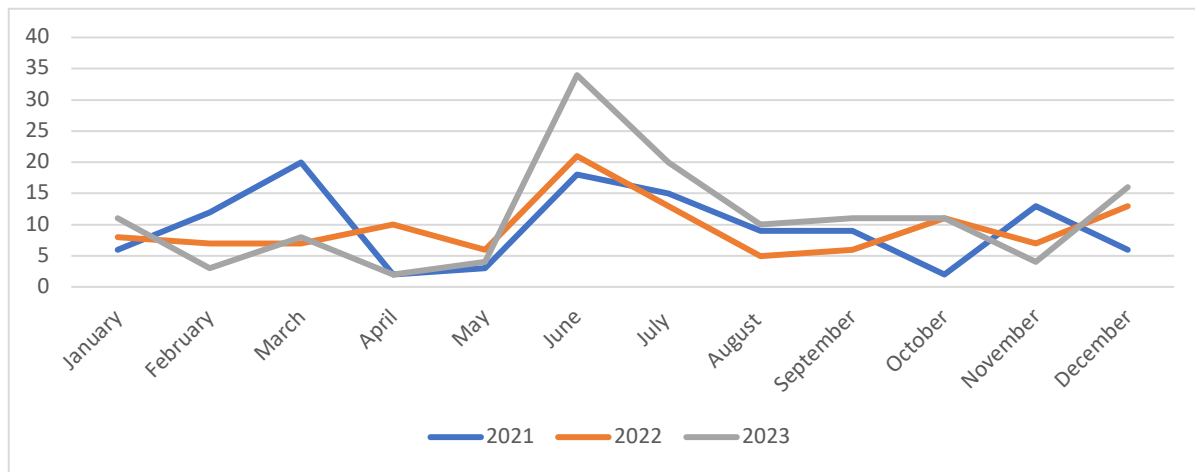
As a result of the policy of excluding LGBTI+ persons from the public sphere, the right to assembly was the highest category based on the number of rights violated. When violations of the right to assembly were excluded, freedom of expression came in fourth place with 60 violations. These were violations such as performance bans and investigations for using rainbow-colored symbols.

In 2023, at least 251 people were detained for participating in events such as pride marches organized by LGBTI+ persons and kept in police vehicles or police stations for hours.



THE OVERVIEW OF LGBTI+ RIGHTS ON FREEDOM OF EXPRESSION REVEALS TURKEY'S RECORD OF VIOLATIONS

The Republic of Turkey has been identified with violations of freedom of expression for many years. The public authorities, who never allow a public debate outside their sphere of control, have taken all kinds of measures to prevent LGBTI+ persons from entering the public sphere, as well as all segments that are not under their control.



When we look at the distribution within the year, intensity of the violations in June stand out clearly compared to other months.

Pride marches are banned, activists or civil society organizations file lawsuits to have these bans cancelled. Since stay of execution decisions are not issued, peaceful demonstrations cannot be held, cancellation decisions are issued long after the event. And these cancellation decisions do not prevent governors, district governors or rectors from banning peaceful demonstrations such as pride marches in the following years.



Bans on Pride marches, harsh police interventions and the accompanying wave of detentions put June at the top of the violations list, as in previous years.

AS HATE SPEECH BECAME THE NORM, SPACES CLOSED TO LGBTI+ PEOPLE WERE OPENED UP TO VENT HATE.

Especially the election period was a period in which hate speech against LGBTI+s was used intensively as propaganda material. April and May were remarkable in this sense. The President of the Republic, ministers, ruling party executives or MPs, general chairs of political parties that are members of the ruling coalition, and sometimes local administrators turned into production centers of homophobic and transphobic hate speech. The increase in hate speech strengthens the understanding that criminal acts against LGBTI+ persons will go unpunished.

The Radio and Television Supreme Council decided to broadcast the video and audio message prepared by the association calling for the rally as a public service announcement on radio and television in order to increase participation in the rallies organized in 2023 for the criminalization of homosexuality and the closure of LGBTI+ associations. The lawsuit filed by Kaos GL against this decision was rejected on the grounds of family protection. Kaos GL's appeal to the Regional Administrative Court was also rejected. The appeal review continues at the Council of State.

Public authorities, who directly produce hate speech instead of fulfilling their responsibility to take positive action, were participants in rallies calling for the criminalization of LGBTI+ existence and the closure of their organizations.

MONITORING MECHANISMS DO NOT MONITOR VIOLATIONS AGAINST LGBTI+ PERSONS

The Human Rights and Equality Institution of Turkey, the Board for the Protection of Minors from Obscene Publications, the Radio and Television Supreme Council, whose members are determined by the Turkish Grand National Assembly, and the Ombudsperson's Office have signed decisions that ignore LGBTI+ rights.

LGBTI+ persons are deprived of constitutional guarantees. Their rights regarding family law, which does not exist, are made even more impossible with the regulations in the constitution. There are no regulations prohibiting so-called conversion therapy, there is no regulation ensuring equality in access to

TİHEK categorically rejects the applications of LGBTI+ persons on the grounds that sexual orientation, gender identity, gender expression and sex characteristics are not listed among the forms of discrimination in Article 3 of its founding law. However, according to Article 10 of the Constitution, everyone shall be equal before the law regardless of any reason.

goods and services. There are more obstacles for LGBTI+ persons in access to employment, and those who are employed are not protected against discrimination based on sexual orientation, gender identity and characteristics.

Non-consensual surgical interventions continue to be performed in cases of intersex births, even though they are not medically obligatory. The legal recognition of the gender of transgender people has turned into a systematic torture process in which hysterectomy, breast removal, penis and testicle removal, and sometimes vagina, breast and penis surgeries are compulsory. For transgender people, accepting hormone intervention is another type of intervention.

So-called conversion therapies, which are a method of torture, are legal and it is free to defend them.

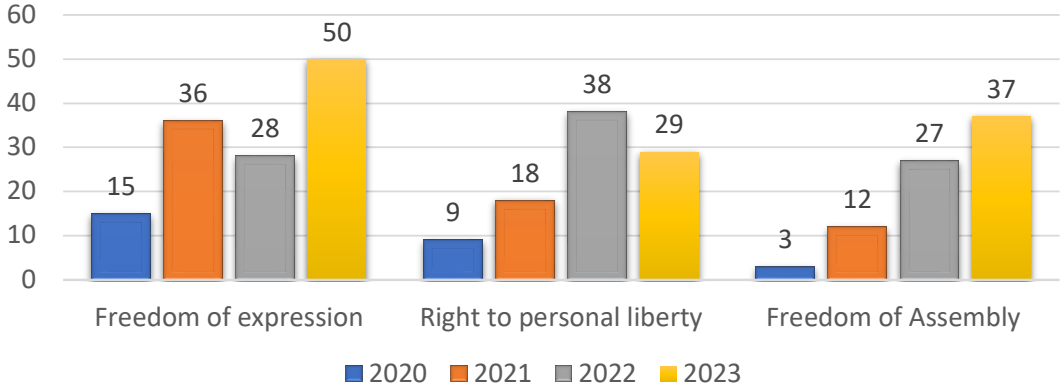
Information requests to the Ministry of Health for the disclosure of numerical data on intersex births or gender reassignment operations continued to be systematically rejected.

LGBTI+ organizations are rendered inoperable by audits carried out at least once a year, they have no access to public funds.

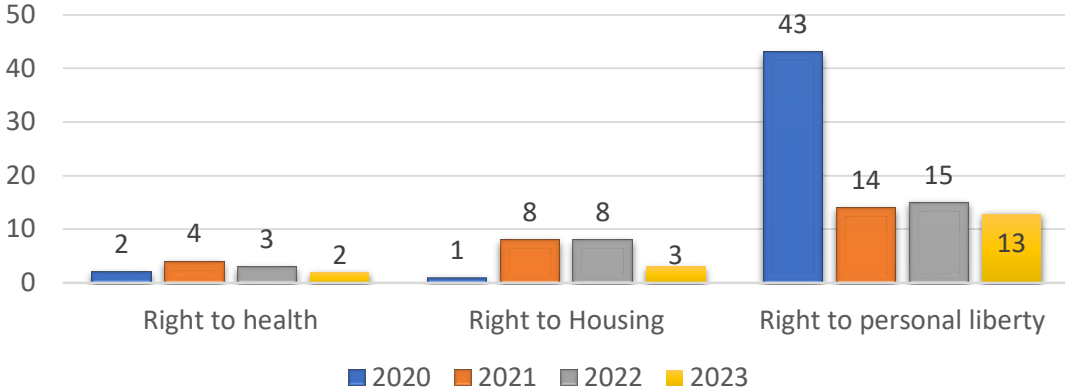
THE CONSTITUTIONAL COURT IS FAR FROM BEING A PLACE WHERE LGBTI+ PERSONS CAN GET RESULTS IN THEIR APPLICATIONS

Kaos GL's two individual applications to the Constitutional Court in 2023 did not yield any results. In May 2015, the Constitutional Court did not find a violation of rights when the march organised by Kaos GL was banned on the grounds of the ruling party's congress and no alternative route was shown. In another application, the Constitutional Court assessed that a series of expressions against Kaos GL, including the word "deviant/ pervert", did not constitute hate speech requiring the use of criminal law mechanisms.

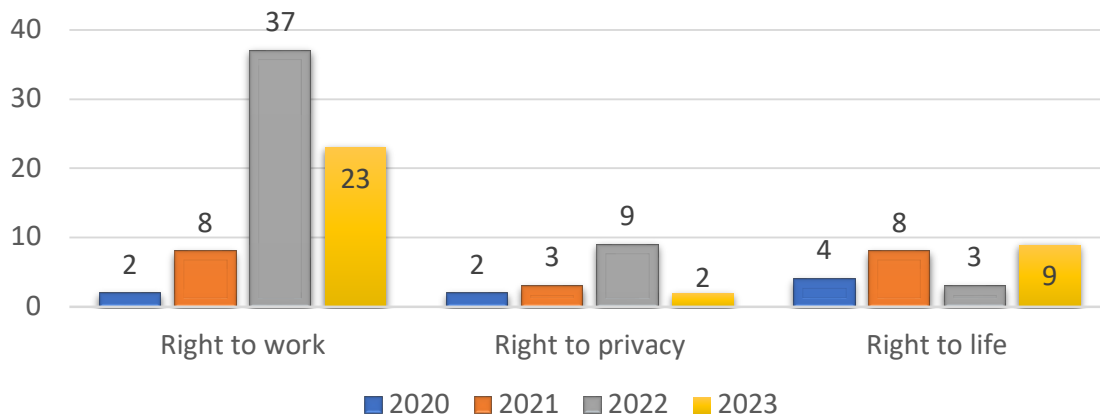
DATA SHOW THAT TURKEY REGRESSES YEAR BY YEAR IN THE FIELD OF LGBTI+ RIGHTS



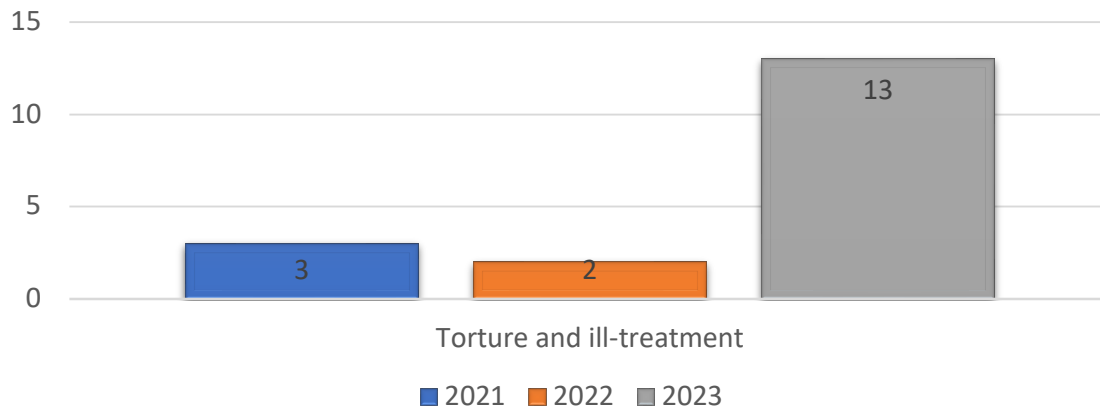
The increasing trend in violations of both the right to assembly and freedom of expression outside this heading is an indicator of the policy of exclusion of LGBTI+ persons from the public sphere as a whole.



Hundreds of activists were detained in 2023, although number of violations of the right to liberty decreased on a case-by-case basis.



Hate crimes continued to be committed in 2023. Ineffective sentences in hate crime trials resulted in procedural violations of the right to life.



It is observed that torture and ill-treatment followed a high course with 13 separate incidents. In these 13 cases, 125 people were detained in violation of the prohibition of ill-treatment and torture.

RECOMMENDATIONS TO THE LEGISLATURE, THE GRAND NATIONAL ASSEMBLY

- Include LGBTI+ rights organizations in legislative processes to the extent of their interest, through appropriate means
- Take into account Article 10 of the Constitution in legislative work
- Ratify Additional Protocol No. 12 to the European Convention on Human Rights on the General Prohibition of Discrimination, signed by the Republic of Turkey on 18 April 2001
- Reform Article 122, 216 of the Turkish Penal Code, Article 40 of the Civil Code and Article 3 of the TIHEK Law
- Amend the Provincial Administration Law and Law No. 2911 on Meetings and Demonstrations, which are frequently used for systematic violations of freedom of expression and are the basis for arbitrary practices
- Differentiate the penalties for hate-motivated crimes so that they are higher than the penalties for the simple forms of the same offenses
- Make regulations to prevent hate speech in the media, prevent the transfer of public funds to media organs that produce hate speech
- Make rights-based amendments to the law on associations, which has become a tool of pressure on LGBTI+ rights organizations, and reform the law collecting aid

RECOMMENDATIONS TO THE PRESIDENCY AS THE EXECUTIVE BODY

- End hate speech emanating from public authorities, including the presidential cabinet
- Establish special mechanisms for the investigation and monitoring of hate crimes
- Develop an action plan to combat violations of LGBTI+ rights caused by public authorities
- Revoke LGBTI+ exclusion instructions sent to public institutions

- Unseat district governors, governors and police chiefs who violate LGBTI+'s freedom of expression in violation of the Constitution
- Establish mechanisms to monitor LGBTI+ discriminatory activities of law enforcement and impose sanctions
- End the Law on Misdemeanors and Highway Traffic Law and Regulations, which are used as pressure mechanisms on transgender people
- Introduce effective appeal procedures against arbitrary house sealings, and ensure that people's housing needs are safeguarded where sealings are unavoidable
- End the de facto obstacles to the registered work of transgender sex workers, include them in the system and secure their social rights
- Reinstate the Istanbul Convention
- Plan on-the-job trainings, taking into account that public officials are primarily responsible for violations
- Put an end to inspection practices that have become an obstacle to freedom of association and revise the rules in line with the Venice Commission's assessments
- Define a mandate for the Ministry of Labour and Social Security to combat homophobic and transphobic discrimination in working life; combat discrimination in this area, including access to employment
- Remove administrative barriers to LGBTI+'s access to social assistance and social support programmes within the scope of the equality before the law provision in Article 10 of the Constitution
- Raise the standards of gender affirming process operations in public hospitals
- End discriminatory and homophobic/transphobic practices in recruitment processes
- Raise the living standards of LGBTI+ prisoners and detainees in prisons, and end discriminatory practices
- Make protective regulations and mechanisms to end discriminatory practices at universities
- Include content on LGBTI+ rights and prevention of discrimination in general in the trainings to be given to judges and prosecutors

TO COUNCIL OF EUROPE AS A REGIONAL MECHANISM

- Ensure effective follow-up to calls made by the High Commissioner for Human Rights
- Implement mechanisms to ensure that all judgements on LGBTI+ rights issued by the European Court of Human Rights are implemented in member states
- Strive for the effective implementation of the Committee of Ministers' recommendations on LGBTI+ rights and discrimination in general
- Draw attention to reports of widespread violations of LGBTI+ rights in all forms of communication with the Republic of Turkey and call on the authorities to act in accordance with Council standards in this regard
- Make the necessary arrangements to include the Council standards on LGBTI+ rights in the content of joint training projects with judicial bodies in Turkey
- Increase and deepen information on LGBTI+ rights in the monitoring processes of the Parliamentary Assembly
- Emphasize in joint meetings and press statements that LGBTI+ rights are a shared value for the Council of Europe
- Be an active follower of the recommendations of the Council's bodies on LGBTI+ rights in Turkey.

TO THE EUROPEAN UNION

- Cancel the cooperation protocols of homophobic/transphobic universities and create means for students to benefit from the programmes without the intermediation of universities.
- Develop criteria to measure the status of the public institutions you fund in terms of LGBTI+ rights, terminate protocols with universities and other public institutions that institutionally promote homophobia/transphobia and discriminate against LGBTI+s, unless they commit to end these attitudes
- Be a spokesperson for the findings and recommendations contained in the monitoring reports of the European Commission against Racism and Discrimination, a Council of Europe body
- Ease the Schengen visa regime for human rights defenders, which has become an obstacle for international advocacy work of LGBTI+ rights defenders from Turkey
- Develop facilitating principles for LGBTI+ rights organizations in Turkey to access funding opportunities offered by the EU and its members