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Freedom of the Press 2017 - Turkey

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Press Freedom Status: Not Free

Total Score: 76/100 (↓5) (0 = Most Free, 100 = Least Free)

Legal Environment: 27/30 (↓1)

Political Environment: 33/40 (↓3)

Economic Environment: 16/30 (↓1)

Quick Facts

Population: 79,500,000

Freedom in the World Status: Partly Free

Net Freedom Status: Not Free

Internet Penetration Rate: 53.7%

Key Developments in 2016:

- The government, using enhanced powers under a state of emergency, carried out a massive purge of media outlets accused of links to an attempted military coup in July. Authorities seized control of some outlets, forcibly closed or blocked dozens of others, and detained scores of journalists.
- Journalists working in the country's predominantly Kurdish southeast faced serious obstacles to their reporting – such as threats, physical violence, and criminal investigations – in the context of a counterinsurgency campaign against Kurdish separatist fighters. At least one journalist was killed while working in the region, and residents experienced multiple episodes of interrupted internet service or social media access.
- Restrictive legal and regulatory changes adopted during the year included a new rule permitting the telecommunications regulator to shut down internet service for national security reasons and a state advertising policy barring official advertisements in media linked to loosely defined terrorism charges.

Executive Summary

President Recep Tayyip Erdoğan and his Justice and Development Party (AKP) have overseen a substantial decline in press freedom over the past decade, aggressively using the penal code, criminal defamation laws, and antiterrorism legislation to jail large numbers of journalists and

punish critical reporting. The authorities have also employed legal tools and the state's economic leverage to seize or engineer changes in ownership at major media groups, resulting in more consistently progovernment coverage by mainstream outlets.

Media freedom deteriorated dramatically in the aftermath of the coup attempt in July 2016. After security forces loyal to Erdoğan successfully put down the violent insurrection, the government declared a state of emergency and began to purge the bureaucracy, armed forces, and civil society of elements it accused of supporting or collaborating with the coup plotters. Erdoğan named the exiled Islamic preacher Fethullah Gülen as the mastermind of the coup, but the purge also targeted those suspected of affiliation with leftist or Kurdish organizations.

The press was particularly affected by the crackdown. More than 150 media outlets – including newspapers, television and radio channels, news agencies, magazines, publishing houses, and news websites – were forcibly shut down and had their assets seized in the months following the coup bid. As of December, the Committee to Protect Journalists (CPJ) confirmed that at least 81 journalists were behind bars in Turkey, making the country the world's leading jailer of journalists. Other groups put the tally higher, with the Turkey-based Platform for Independent Journalism (P24) counting as many as 145 detained journalists. More than 2,700 media workers were fired or forced to resign, hundreds lost their press credentials, an unknown number had their passports revoked and were forbidden from leaving the country, and 54 journalists had their property confiscated.

Legal Environment: 27 / 30 (↓1)

Constitutional guarantees of press freedom and freedom of expression are undermined by provisions in the penal code, the criminal procedure code, and the harsh, broadly worded antiterrorism law that essentially leave punishment of normal journalistic activity to the discretion of prosecutors and judges. Constitutional protections have also been subverted by hostile public rhetoric against critical journalists and outlets from Erdoğan and other government officials, which is often echoed in the progovernment press. Executive decrees issued under the state of emergency following the July 2016 coup attempt suspended many legal safeguards, empowering the authorities to dismiss public employees, shutter companies and organizations, confiscate property, and waive protections against the arbitrary detention and abuse of suspects, all without independent review.

A 2004 press law replaced prison sentences with fines for violations of its provisions, but elements of the penal code and several other restrictive laws have led to the imprisonment of dozens of journalists and writers in recent years. Estimates of the number of journalists behind bars at the end of 2016 varied, but CPJ counted at least 81 as of December, and P24 reported as many as 145.

Article 301 of the penal code, which prescribes prison terms of six months to two years for "denigration of the Turkish nation," can be used to punish journalists who discuss the division of Cyprus, criticize the security forces, or state that genocide was committed against the Armenians beginning in 1915. While a set of 2008 amendments to the article were largely cosmetic, the maximum prison sentence was reduced from three years to two, and a requirement that the Ministry of Justice would have to approve use of Article 301 significantly curbed its application in practice. Very few of those prosecuted under Article 301 receive convictions, but the trials are time-consuming and expensive, and the law exerts a chilling effect on speech. Article 216 of the penal code, which bans incitement of hatred or violence based on ethnicity, class, or religion and carries a prison term of up to three years, has also been used against journalists and other commentators.

Turkey's antiterrorism law, officially called the Law on the Fight against Terrorism, and related provisions in the penal code rely on broad language and vague definitions, allowing room for

application against a wide range of activities. Article 314 of the penal code, pertaining to membership in an armed organization, is regularly used against members of the media, particularly Kurds and those associated with the political left. Other articles as well as the antiterrorism law penalize "making terrorist propaganda" and the publication of the statements of illegal groups. The Fourth Judicial Reform package, passed in 2013, slightly alleviated the antiterrorism law's limitations on publishing such statements, clarifying that publication would only be a crime if the statement constituted coercion, violence, or genuine threats. Nevertheless, both the law and related sections of the penal code remain highly restrictive, and have been widely criticized by media and human rights groups. The European Court of Human Rights has found in multiple rulings that specific provisions of the antiterrorism law amount to censorship and violations of free expression.

Media face additional restrictions in the 2014 Law Amending the Law on State Intelligence Services and the National Intelligence Organization, which granted the National Intelligence Organization (MİT) much greater powers, including the ability to access any personal data without a court order. It also gave MİT personnel immunity for legal violations committed in the course of their work, and criminalized reporting on or acquiring information about the body. Media workers can face up to nine years in prison for publishing information from leaked intelligence material.

Most of the scores of journalists who were detained on criminal charges during 2016 were accused of belonging to, propagandizing for, or aiding a terrorist organization – usually a reference to the Gülen movement or the Kurdistan Workers' Party (PKK) militant group. In one prominent case, *Cumhuriyet* editor in chief Can Dündar and the paper's Ankara bureau chief, Erdem Gül, were convicted of divulging state secrets and sentenced to five years and 10 months and five years in prison, respectively. They had originally been arrested in November 2015 on charges that included assisting a terrorist group, namely the Gülen movement; the charges stemmed from the newspaper's publication of information about the MİT allegedly supplying weapons to Islamist militants in Syria. The two had been released pending trial in February 2016 thanks to a ruling from the Constitutional Court, and they were allowed to remain free while appealing their sentences. Dündar eventually left the country and resigned his position, though both he and Gül faced new charges of aiding a terrorist organization in a case that was ongoing at year's end. In October, police detained *Cumhuriyet*'s new editor in chief, Murat Sabuncu, and at least 11 other staff members and directors for allegedly aiding terrorist organizations. In November, Murat and eight of the others were formally arrested, charged, and jailed pending trial.

Defamation is a criminal offense and often results in high fines and prison terms, which have a chilling effect on journalistic work. Insulting the president is a separate offense outlined in the penal code. Prominent officials, including Erdoğan, frequently initiate defamation and insult cases against journalists, cartoonists, artists, and academics. As of June 2016, Erdoğan had brought nearly 2,000 such cases since assuming the presidency in 2014. In July, he announced that he was withdrawing all pending complaints against those charged with insulting him in a gesture of national unity following the coup attempt. However, defamation cases involving other state officials continued, and the president's legal team began filing new charges.

Journalists do not generally receive fair treatment in the judicial system, and the courts' handling of media-related cases in 2016 showed a lack of impartiality and independence. Turkey's Constitutional Court, which historically has demonstrated some willingness to rule against prosecutors and protect the rights of journalists, appeared to change course after some of its members were arrested following the coup attempt. According to the independent press agency Bianet, the court ruled favorably on only two applications by journalists during 2016, compared with eight in 2015.

Turkey adopted a freedom of information law in 2003. However, state secrets whose release may harm national security, economic interests, state investigations, or intelligence activity, or "violate the private life of the individual," are exempt from requests. In practice, access to official information remains challenging.

The Supreme Council of Radio and Television (RTÜK), whose members are elected by the parliament, has the power to issue and cancel broadcasting licenses, a process which is heavily politicized. It also has the authority to sanction broadcasters if they are not in compliance with the law or the council's expansive broadcasting principles. The body is frequently subject to political pressure, and its board is currently dominated by members affiliated with the AKP. According to Bianet, RTÜK issued 50 warnings and 112 fines to television channels, and 7 warnings and 11 fines to radio stations in 2016. Within days of the July coup attempt, RTÜK withdrew the operating licenses of two dozen television and radio outlets over their alleged links to the Gülen movement, and many more were later closed by executive decree. Print outlets can be shut down if they violate laws restricting media freedom, and they too faced dozens of closures beginning in July.

Amendments made in 2014 to Law No. 5651, commonly known as the Internet Law of Turkey, expanded the power of the Telecommunication and Communication Presidency (TİB) to order the blocking of websites, allowing it to do so on vaguely defined grounds and without prior court approval, though a court must uphold the order within 48 hours for a block to remain in place. Regulatory revisions published in the official gazette in June 2016 appeared to grant the Information and Communication Technologies Authority (BTK), the country's main telecommunications regulator, greater power to suspend internet and telecommunications service for national security purposes. In August, the TİB, which had been accused of infiltration by the Gülen movement, was disbanded by decree; its functions were folded into the BTK.

A discriminatory accreditation system enforced by the Directorate General of Press and Information (BYEGM), a body under the control of the prime minister's office, is used to screen out critical journalists, restricting access to the offices of the president and cabinet ministers. Regulatory amendments published in the official gazette in 2015 granted the deputy prime minister overseeing the BYEGM the power to issue permanent press cards, and altered the composition of the BYEGM's Press Card Commission, increasing its membership from 13 to 15 but decreasing the number of seats for media representatives from 8 to 5. Local journalists' organizations criticized the move, which was made without meaningful consultation with the media, for further reducing the impartiality of the accreditation process. The Turkish Journalists' Association (TGC) and Turkish Journalists' Union (TGS) withdrew from the Press Card Commission as a result. According to the TGS, only 1.5 percent of journalists belong to a union. In 2016, nearly 800 press cards were revoked, largely as part of the postcoup crackdown.

Political Environment: 33 / 40 (↓3)

Systematic political pressure from the executive branch has led to widespread dismissals of journalists for critical reporting on the Erdoğan government in recent years. This pattern continued in 2016, but firings and forced resignations accelerated dramatically during the postcoup purge. According to Bianet, more than 2,700 journalists and other media workers were dismissed or forced to quit during the year, compared with 348 in 2015. Leaked documents and wiretaps, particularly in 2013 and 2014, have revealed the extent of government efforts to create a loyal media, and shown Erdoğan and other prominent officials exerting editorial pressure through direct instructions, admonishments for undesirable content, and financial incentives.

Media outlets are sometimes denied access to events and information for political reasons. Critical outlets are regularly denied access to the AKP's party congress and meetings, and the government

prevents certain journalists from attending press conferences or accompanying officials on foreign visits.

Censorship of content occurs both offline and online. Sensitive topics include Kurdish issues, the Armenian genocide, and subjects deemed offensive to or critical of Islam or the Turkish state. Enforcement of the relevant laws is arbitrary and unpredictable, and many publications on such subjects have been available over the years. However, censorship reached unprecedented levels following the July 2016 coup attempt. On one day alone toward the end of July, the government ordered the closure of nearly 50 newspapers, 3 news agencies, 16 television channels, 15 magazines, and almost 30 publishers over their alleged support for or connections to the coup plotters. According to Reporters Without Borders, close to 150 different media outlets were forcibly closed between July and December, with only 20 eventually permitted to reopen. Other observers placed the number of closures at nearly 200. Kurdish outlets were especially hard hit.

Censorship typically intensifies following major security incidents, as demonstrated earlier in 2016. Following a suicide bombing that killed at least 10 people in Istanbul in January, authorities instituted a blackout on media coverage of the explosion. A similar order was issued following a car bombing in Ankara that killed 28 people in February. After a carefully orchestrated terrorist attack at Istanbul's Atatürk Airport killed more than 40 people in June, a gag order prohibited the broadcast of any images of the explosion, blast site, or the dead and wounded, and restricted the release of information about the investigation.

Censorship of content published on online news and social media platforms continued during the year, and access to major services including YouTube, Twitter, and Facebook was temporarily blocked on several occasions. Such restrictions were particularly pervasive in the country's predominantly Kurdish southeast; all internet access in the region was suspended in September and October in response to protests against the detention of local Kurdish officials. Nationwide blockages of WhatsApp, the popular messaging application, were reported in November. According to the independent organization Engelli Web, the total number of websites blocked in Turkey – including for apolitical reasons like copyright infringement – surpassed 115,000 by the end of 2016.

Fear of legal reprisals or loss of employment in a concentrated media market has led to widespread self-censorship in recent years. Some journalists have nevertheless attempted to cover sensitive political, religious, and social issues. The 2016 purge accelerated the erosion of media diversity, though even before the mass closures, the sector was strikingly polarized, with most outlets representing distinct political and social viewpoints and reporting news from predetermined angles. The high rate of dismissals in previous years had led many prominent commentators to write for smaller online outlets that were less susceptible to political pressure. However, their audiences were also considerably smaller.

Both local and foreign journalists were subject to increased harassment, intimidation, and arrests while covering newsworthy events during 2016; retaliatory violence against the media also escalated. According to Bianet, 56 journalists and 6 outlets faced some form of attack, while 118 journalists and 5 media outlets were subjected to threats. Moreover, multiple foreign journalists were either deported or refused entry into Turkey as a result of their work. Among other cases, Hasnain Kazim, a foreign correspondent for *Der Spiegel* in Istanbul, was forced to leave the country in March after authorities refused to renew his residency permit. In April, the Dutch-Turkish columnist Ebru Umar was arrested on charges of defaming Erdoğan during a visit to Turkey; she was eventually released and forced to leave the country in May. Also in April, the Turkish bureau chief of Sputnik news agency was prevented from reentering Turkey from Russia after his press card and residency permit were revoked.

In February 2016, the offices of two newspapers, *Yeni Akit* and *Yeni Şafak*, were attacked by assailants hurling Molotov cocktails and firing gunshots. No one was injured, but no suspects were identified by police. In May, Can Dündar, the *Cumhuriyet* editor in chief, was attacked by a gunman outside the courthouse where his trial was taking place. He escaped unharmed, but a nearby journalist with the NTV television station was shot in the leg. The gunman was arrested and was free pending trial at year's end.

According to CPJ, two journalists were killed in Turkey in connection with their work during 2016. Rohat Aktaş, a reporter with the Kurdish daily *Azadiya Welat*, was killed while covering clashes between Turkish security forces and Kurdish militants in Cizre in February. In April, Zaher al-Shurqat, a Syrian journalist and correspondent for the online broadcast outlet Aleppo Today, was assassinated in Gaziantep. Al-Shurqat was known for his critical coverage of the Islamic State militant group, which claimed responsibility for the murder.

Economic Environment: 16 / 30 (↓1)

Thousands of privately owned newspapers and periodicals are published in Turkey, though only a small fraction are dailies with national reach, and many contain a high proportion of columns and opinion articles as opposed to news reports. Broadcast media are also numerous, with hundreds of private television channels, including those available via cable and satellite, and more than 1,000 commercial radio stations.

More than 58 percent of the population accessed the internet in 2016, and online outlets are increasingly popular as venues for critical journalism, particularly by reporters who have been dismissed or forced to resign from traditional outlets for political reasons. Major online news portals include T24, P24, Diken, and Bianet. Although a number of these platforms consistently provide independent reporting, they have limited financial resources. Internet service providers can face high fines for noncompliance with blocking orders. The deliberate disruptions of internet service or access to major communications platforms that were imposed by the authorities during 2016 seriously affected the ability of journalists to produce and disseminate their work.

Private media ownership remains concentrated in the hands of a few large holding companies that earn the majority of their revenue from nonmedia assets, particularly in construction, energy, mining, and financial services. The centralization of public procurement decisions at the highest levels of the executive branch under AKP rule has led to increasing use of economic leverage to influence the content of media outlets owned by these companies. In one of the most flagrant examples of such manipulation, wiretap recordings leaked in 2013 indicated that the government dictated which holding companies would purchase the Sabah-ATV media group in exchange for a multibillion-dollar contract to build Istanbul's third airport.

The government has also used various forms of financial pressure to punish dissent, including the withholding of state advertising from critical outlets. In October 2016, the Press Advertising Authority (BIK), which controls the allocation of official advertising, adopted a new policy under which newspapers whose ownership, management, or employees are facing terrorism-related charges cannot benefit from state advertising. Access to advertising can only be restored if the suspect employees are fired or the charges are either dropped or fully adjudicated.

The most aggressive form of state intervention in the business operations of media enterprises has been the direct seizure of assets. For example, the courts placed several major media outlets under the control of government-appointed trustees in 2015 as part of an investigation into the alleged Gülenist ties of their holding company, and similar actions occurred in the first half of 2016. In March, the newspaper *Zaman*, a leading outlet known for its criticism of the government, was seized and placed under the management of trustees. Following the takeover, observers noted a dramatic shift in its editorial content, which became markedly more progovernment; the paper was

shuttered entirely in the aftermath of the July coup attempt. The Cihan news agency was also seized in March and forced to close along with *Zaman* in July. Decrees issued under the state of emergency allowed the authorities to seize the assets of the news outlets they shuttered on national security grounds, and numerous media companies were taken over in this manner.

The purges have caused widespread unemployment among journalists and other media workers, with more than 10,000 out of work by the end of 2016, according to the Turkish Journalists' Association.

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