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FREEDOM OF THE PRESS

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Status change explanation: Turkey's status declined from Partly Free to Not Free as a result of a sharp deterioration in the press freedom environment in 2013. Journalists were harassed and assaulted while attempting to cover the Gezi Park protests that broke out in Istanbul in May, and dozens were fired or forced to resign in response to their reporting on the demonstrations. Throughout the year, other prominent journalists were fired over their coverage of sensitive issues like negotiations between the government and the separatist Kurdistan Workers' Party (PKK) or corruption scandals involving Prime Minister Recep Tayyip Erdoğan and his associates that emerged in December. The firings highlighted the close relationship between the government and many media owners, and the formal and informal pressure that this places on journalists.

Conditions for media freedom worsened in 2013, as the government used the financial and other leverage it holds over media owners to influence press coverage of politically sensitive issues. This was especially evident in the media coverage of the antigovernment Gezi Park protests that began in May. Several media outlets were slow to cover the protests, apparently out of fear of government reprisals, and those that did report on the demonstrations faced government pressure to fire journalists and editors who conveyed criticism of the government's harsh response. Several dozen journalists, including prominent columnists, lost their jobs as a result of such pressure during the year. In addition to political pressure, authorities continued to use the penal code, criminal defamation laws, the antiterrorism law, and the illegal organizations law to crack down on journalists and media outlets. The aggressive use of these laws, coupled with a system of extensive pretrial detention, meant that Turkey was reported to have more journalists in prison than any other country in the world for the second straight year in 2013. Moreover, recent changes in ownership and financial control over some media groups, in nontransparent deals surrounded by strong allegations of corruption, strengthened the view that government control over the media had increased considerably.

Constitutional guarantees of press freedom and freedom of expression are only partially upheld in practice. They are generally undermined by provisions in the penal code, the criminal procedure code, and the harsh, broadly worded antiterrorism law that effectively leave punishment of normal journalistic activity to the discretion of prosecutors and judges. The restrictive penal code continues to overshadow positive reforms that had been implemented as part of the country's bid for European Union (EU) membership, including a 2004 press law that replaced prison sentences with fines for media violations. A 2011 amendment to the press law allows for television broadcasts to be suspended and stations to be fined or closed by the prime minister or other designated ministers in cases of emergency or threats to national security. Also in 2011, the Constitutional Court approved the removal of Article 26 from the press law. The provision had restricted the amount of time prosecutors had to file a complaint against publications or journalists to two months in the case of dailies and up to four months for other publications. Defamation remains a criminal offense and frequently results in fines and prison terms. According to a report by the independent Turkish press agency Bianet, eight journalists were convicted of libel, fined, and sentenced to prison terms in 2013. Furthermore, three journalists and a newspaper were convicted of defaming Erdoğan and ordered to pay damages, with the journalists also receiving prison sentences.

Application of a range of restrictive laws has led to the imprisonment of dozens of journalists and writers in recent years. 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 state that genocide was committed against the Armenians in 1915, discuss the division of Cyprus, or criticize the

2014 SCORES

PRESS STATUS

Not Free

PRESS FREEDOM SCORE
(0 = BEST, 100 = WORST)

62

LOCAL ENVIRONMENT
(0 = BEST, 30 = WORST)

23

POLITICAL ENVIRONMENT
(0 = BEST, 40 = WORST)

26

ECONOMIC ENVIRONMENT
(0 = BEST, 30 = WORST)

13

security forces. A set of 2008 amendments to the article were largely cosmetic, substituting "Turkish nation" for "Turkishness" and "State of the Turkish Republic" for "Turkish Republic," and reducing the maximum prison sentence from three years to two. The requirement that the Ministry of Justice would have to approve use of Article 301, however, significantly reduced its application. 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 "inflaming hatred and hostility among peoples" and carries a prison term of six months to three years, continues to be used against journalists and other commentators. In April 2013, famous pianist Fazıl Say was sentenced to 10 months in prison for Twitter posts that were deemed to insult Islam. The charges had been brought against Say in 2012 under penal code Articles 216/3, for "humiliating religious values publicly," and 218/1, which increases the severity of a sentence under Article 216 if the offense was committed via press or broadcast media. The sentence was suspended on the condition that Say remains "under legal supervision" and does not commit a similar offense for two years; his appeal against the conviction was pending at year's end. In May, an Istanbul court sentenced author Sevan Nişanyan to just over a year in prison under Article 216 for insulting the prophet Muhammad in one of his writings; he had been charged with "denigrating the religious beliefs held by a section of the society."

According to the Committee to Protect Journalists (CPJ), Turkey had 40 journalists in prison as of December 1, 2013, making it the world's leading jailer of journalists for the second consecutive year. Figures compiled by Bianet were higher, showing 59 journalists and 23 publishers in prison in 2013, with 38 new journalist convictions in 2013 under charges of belonging to, leading, or collaborating with a terrorist organization. Many of those incarcerated or detained were held under Article 314 of the penal code, which addresses membership in a criminal organization and carries a minimum sentence of seven and a half years in prison. Turkey also has a separate antiterrorism law, officially called the Law on the Fight against Terrorism, which was adopted in 1991 and has been used to charge and jail journalists for activities that, according to Human Rights Watch, amount to "nonviolent political association" and speech. The Carnegie Endowment reported that in 2012 alone, 71 journalists were charged under the antiterrorism law.

Throughout 2013, the government continued to detain and prosecute individuals suspected of having links to the Union of Communities in Kurdistan (KCK), the alleged civilian branch of the PKK. A large crackdown on the KCK in late 2011 resulted in the arrest of 46 journalists for their suspected role in the "press wing" of the group. They were charged under the antiterrorism law for membership in an illegal group. While more than half of the journalists have been released pending trial, 19 remained in jail at the end of 2013, with trials scheduled to resume in mid-January 2014. The owner of Belge Publishing House, Ragıp Zarakolu, and his son Deniz, an editor at Belge, were arrested in the 2011 crackdown; while Ragıp was released pending trial in April 2012, Deniz was still detained at the end of 2013, awaiting the continuation of his trial.

In early November 2013, three journalists were sentenced to life in prison and one to seven and a half years on charges that they were senior members of the Marxist-Leninist Communist Party (MLKP), which is banned under the antiterrorism law. One of the journalists sentenced to life was Fusun Erdoğan, founder of Özgür Radio. She was arrested in 2006 and held in pretrial detention until her conviction. The journalists remained behind bars after appeals were filed.

The antiterrorism law has been widely criticized, and the European Court of Human Rights has found in multiple rulings that specific provisions of the law amount to censorship and violations of free expression. In response to such criticism, and in light of the government's efforts to renew negotiations with Kurdish rebels, the parliament enacted the Fourth Judicial Reform package in late April. It was generally regarded as falling short of international human rights standards regarding freedom of expression. However, Articles 6/2 and 7/2 of the antiterrorism law were amended to be less restrictive regarding the publication of the statements of illegal groups; publication would only be a crime if the statement constituted coercion, violence, or genuine threats. However, the reform package did not alter problematic penal code provisions such as Articles 125 (on criminal defamation), 301, and 314. Amnesty International and Human Rights Watch both expressed concern that the reform package "will allow abusive prosecutions to continue" and failed to remove the threat of jail time for legitimate journalists and activists.

The extensive investigations surrounding Ergenekon, a broad and vaguely defined alleged coup conspiracy that also led to the arrests of multiple journalists, ended in September 2013. At least 20 journalists and essayists were convicted. The government and the chief prosecutor in the Ergenekon case have publicly stated that the journalists' arrests were related only to evidence tying them to the Ergenekon conspiracy, denying that any of the charges were based on their writing or reporting. This evidence has not been presented publicly. In March 2011, prominent journalists Nedim Şener and Ahmet Şık were arrested and charged as part of the Ergenekon investigation; neither was able to access the evidence against him, drawing criticism from the Council of Europe's commissioner for

human rights. Britain's *Guardian* newspaper described the charges against Şener and Şık as "so nebulous even prosecutors can't explain them." The two were released in March 2012 after being held in pretrial detention for just over a year, though they continued to face charges at the end of 2013. Mustafa Balbay, bureau chief of the daily *Cumhuriyet*, was arrested for his alleged connection to Ergenekon in March 2009; he was held in detention for almost five years, even after his conviction and sentencing in August 2013, as he waited for the appeal process to begin. Balbay was elected to the parliament while in jail in 2011. He was finally released from detention in December 2013, following a ruling that his continued detention was a violation of his parliamentary immunity. His appeal remained pending.

Turkey adopted a freedom of information law in 2003. However, state secrets that may harm national security, economic interests, state investigations, or intelligence activity, or that "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 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 from the ruling Justice and Development Party (AKP). According to Bianet, RTÜK in 2013 issued 324 warnings and 1,208 fines to television channels, and 124 warnings and 92 fines to radio stations. In June, four opposition-aligned television stations were fined \$6,460 by RTÜK for "inciting violence" and "violating broadcasting principles" by providing live coverage of the Gezi Park protests centered in Istanbul. Print outlets can also be closed if they violate laws restricting media freedom. In addition to arrests of Kurdish journalists, several Kurdish newspapers have been suspended in recent years. In March 2012, *Özgür Gündem* was suspended for one month by the High Criminal Court after it ran a headline about Kurds that read "Revolt Speaks." Police raided the publisher of the paper, the Gün Printing Company, and confiscated copies with the banned headline. The editor in chief of *Özgür Gündem*, Reyhan Çapan, was sentenced to one year and three months in prison for printing the headline.

In addition to punitive measures applied by law, systematic political pressure from the executive branch led to scores of journalists and media workers being fired in 2013 for critical reporting on the Erdoğan government. In February, the daily *Milliyet* published a story about peace negotiations with the PKK, drawing verbal attacks from Erdoğan. In an opinion piece published in March, Hasan Cemal, a prominent columnist who had been writing for *Milliyet* for 15 years, defended the paper's decision to run the story and criticized Erdoğan's attempts to intimidate the press. *Milliyet*, under pressure from authorities, suspended Cemal for two weeks. He was set to return on March 18, but he left the paper after it refused to publish his return column. In all, more than 100 journalists—including senior columnists and editors such as Can Dündar, Nazlı Ilıcak, Murat Aksoy, Kürşat Bumin, Amberin Zaman, and Yavuz Baydar—were fired during the year, and dozens more were forced out of their jobs, in many cases after the beginning of the Gezi Park protests in June, according to Bianet. CPJ reported that 22 were fired and 37 were forced to resign as a direct result of coverage criticizing the government response to the protests. On several occasions media professionals spoke out publicly, or published articles and books, detailing the political and managerial pressures they faced. Leaked recordings of telephone conversations between Erdoğan and media managers showed that the prime minister had repeatedly and personally interfered with outlets' editorial decisions and exerted pressure on managers to fire journalists who were critical of his government.

The state broadcaster, Turkish Radio and Television Broadcasting Company (TRT), and the semiofficial news agency, Anadolu Ajansı, also experienced tighter government control during 2013, and several private television outlets exercised self-censorship in response to direct political pressure. In one infamous case in June, while CNN International offered extensive coverage of the growing protests, the local CNN affiliate, CNNTürk, aired a nature show on penguins. Government-aligned media outlets such as NTV broadcast the government's narrative of the protests, leading to the resignation of that station's editor and public protests outside media buildings. Some top managers at CNNTürk alleged that the government had imposed a boycott on the channel because of its earlier coverage of demonstrations in May.

Media outlets are sometimes denied access to events and information for political reasons. In September 2012, seven publications—*Cumhuriyet*, *Sözcü*, *Birgün*, *Evrensel*, *Aydınlık*, *Özgür Gündem*, and *Yeniçağ*—were denied the accreditation needed to cover the AKP's fourth party congress. Within hours of two lethal bombings in the southern town of Reyhanlı on May 11, 2013, the Reyhanlı magistrate's court imposed a sweeping ban on coverage of the incident. Citing the need to prevent rumors and protect the security of the investigation, the court banned transmission or publication of "any information" on the victims or the investigation. After an appeal, the ban was lifted on May 16. In December, after law enforcement agencies unveiled a major political corruption case that implicated top government officials, the national police department announced that journalists

would no longer be able enter police facilities, except in the event of a formal press conference, and that the press rooms at two major stations in Istanbul would close.

Censorship of content occurs both offline and online. According to the Turkish Publishers Association (TPA), 453 books and 645 publications of other types remained banned in 2013 under orders from a variety of different ministries and offices. Restricted topics included Kurdish issues, the Armenian genocide, and subjects deemed offensive to Islam or the Turkish state. Enforcement of these laws is arbitrary and unpredictable, and many publications on such subjects are available. As part of the 2012 Third Judicial Reform package, all prior bans on publications were voided unless renewed by court order prior to a January 2013 deadline. Most of the prior bans on leftist and Kurdish publications were renewed.

Many websites in Turkey are subject to censorship. Law 5651 allows the authorities to block sites that insult Turkish Republic founder Mustafa Kemal Atatürk or contain content that "incites suicide, pedophilia, drug abuse, obscenity, or prostitution," among other criteria. Websites are also blocked for intellectual property infringement, particularly file-sharing and streaming sites; for reporting news on southeastern Turkey and Kurdish issues; and for defaming individuals. By September 2013 the number of blocked sites had grown to more than 32,000. In addition to widespread filtering, state authorities are proactive in requesting the deletion or removal of specific online content.

Fear of legal reprisals or loss of employment has led to widespread self-censorship within the Turkish media. There is nevertheless critical reporting, and some journalists do attempt to cover sensitive political, religious, and social issues. Previously taboo subjects, like the Armenian genocide and Kurdish rights, have become common topics of media discussion in the past several years, albeit ones that are frequently marred by hate speech against minority groups. The media environment is diverse but strikingly polarized, with most outlets representing distinct political and social viewpoints and reporting news from predetermined angles. A side effect of the mass firings in 2013 is that many prominent commentators now write for smaller online outlets that are less susceptible to political pressure. However, their audiences are also considerably smaller and likely less representative of the country as a whole.

Harassment and intimidation of the press were more common than acts of violence in 2013, as in previous years. No journalists were murdered in 2013, but their work was increasingly challenged and disrupted. According to Bianet, 186 reporters were subjected to attacks, with 153 assaulted by police during protests between May and September. On May 1, six journalists were attacked while attempting to cover May Day demonstrations in Istanbul's Taksim Square, as police used tear gas and water cannons to disperse demonstrators. Three female journalists were harassed and physically assaulted by police during related protests on May 5. In June, journalists were also harassed, arbitrarily arrested, and abused while covering the Gezi Park demonstrations and related protests elsewhere in Turkey; the advocacy group Reporters Without Borders condemned law enforcement agencies for deliberately targeting journalists. Police officers also seized and destroyed journalists' footage or photographs in multiple instances. Foreign journalists were attacked and detained as well, including a Portuguese journalist who was beaten by police and two Canadians who were detained for 11 hours.

There are approximately 370 newspapers operating in Turkey, including 38 daily national papers. Independent domestic and foreign print media are able to provide diverse views, including criticism of the government and its policies, though Turkish print outlets contain a high proportion of columns and opinion articles rather than pure news. The country's broadcast media are also numerous, with hundreds of private television channels, including via cable and satellite, and more than 1,200 commercial radio stations. State television and radio provide limited broadcasting in minority languages, including several local radio and television stations that broadcast in Kurdish. The introduction of Kurdish-language stations in recent years marked a major step forward for freedom of expression, although critics say that the broadcasts are too restricted and their quality is poor. An Armenian-language radio outlet, Nor Radio, began broadcasting over the internet in 2009.

Media ownership remains highly concentrated in the hands of a few major private holding companies that earn the majority of their revenue from nonmedia interests. The centralization of public procurement decisions within the prime minister's office under AKP rule has led to increasing use of economic leverage against these holding companies to force them to toe the party line. The prime minister's office directly controls the Privatization High Council (OİB), the Housing Development Administration (TOKİ), and the Defense Industry Executive Committee, which together account for tens of billions of dollars in procurement contracts per year. In one of the most flagrant examples of the use of economic leverage to shape media ownership, wiretap recordings leaked in December 2013 indicated that the government dictated which holding companies would purchase the Sabah-ATV media group in exchange for a contract to build Istanbul's multibillion-dollar third airport. The Savings Deposit and Insurance Fund (TMSF) has also been used to transfer media assets to supportive businessmen, as was done in November, when Ethem Sancak, a Turkish businessman with close ties to Erdoğan, bought three media outlets previously owned by the Çukurova Group from TMSF.

An estimated 46 percent of the population accessed the internet in 2013. There are reportedly 30,000 internet cafés in Turkey, and they require a license from the local government in order to operate. Social media are used at very high rates. Turkey is among the world's top-ranked countries for Twitter penetration, with just over 31 percent of the population using the microblogging service. In light of restrictions on traditional media, social media have emerged as an alternate forum for public debate on a number of contentious political and social issues.

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