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2013 Scores

Press Status: Partly Free

Press Freedom Score: 56

Legal Environment: 21

Political Environment: 24

Economic Environment: 11

The Turkish authorities continued to use the penal code and an antiterrorism law to crack down on journalists and media outlets in 2012, leading Turkey to imprison more journalists than any other country in the world. According to the Committee to Protect Journalists (CPJ), 49 were behind bars as of December.

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 and the criminal procedure code, and by the country's strict, broadly worded antiterrorism law, which effectively makes many types of investigative or critical journalism tantamount to terrorist activity. 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 Prime Minister Recep Tayyip Erdoğan 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 can result in fines or prison terms. In December 2012, Erdoğan won compensation in a libel suit against Ahmet Altan, the former editor in chief of the daily *Taraf*, for a column that called the prime minister "arrogant, uninformed, and uninterested." Altan was found to have violated Erdoğan's personal rights and was forced to pay 15,000 lira (\$8,400).

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," has been used to punish journalists who state that genocide was committed against the Armenians in 1915, discuss the division of Cyprus, or criticize the 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. Very few of those prosecuted under Article 301 receive convictions, but the trials are time consuming and expensive. 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 who write about the Kurdish population or allegedly denigrate the armed forces.

Many journalists currently in prison are charged with being a member of a criminal organization under Article 314 of the penal code. Convictions under Article 314 carry a minimum sentence of seven and a half years in prison. In January 2012, 11 employees of Ozan Publishing Company and *Yürüyüş* magazine who had been arrested in a December 2010 raid had their first court hearing, 13 months after their arrest. By July, eight of them had been released pending trial on charges of "publishing propaganda for a terrorist organization," specifically an illegal leftist group. In October, editor in chief Hatice Duman of the leftist weekly *Atılım*, who has been serving a life sentence since 2003 for allegedly being the leader of a terrorist organization, had her appeal rejected by the Supreme Court of Appeals. However, in the same case, the court overturned *Atılım* journalist and editor Necati Abay's sentence of 18 years and nine months, on the grounds that he was just a member – not a leader – of a terrorist organization.

Amendments to the antiterrorism law, officially called the Law on the Fight against Terrorism, that were passed in 2006 allow journalists to be imprisoned for up to three years for the dissemination of statements and propaganda by terrorist organizations, and five years for creating propaganda on behalf of a terrorist organization. The legislation has raised concerns about arbitrary prosecutions, since members of the pro-Kurdish press are sometimes accused of collaborating with the separatist Kurdistan Workers' Party (PKK) militant group, a designated terrorist organization. According to a report by the independent Turkish press agency Bianet, the majority of the reporters in detention at the end of 2012 were from Kurdish media outlets. In October 2011, the Council of Europe's commissioner for human rights voiced concern over the broad wording and application of both the antiterrorism law and Article 220 of the penal code, which assigns one to three years in prison to those found guilty of creating propaganda in support of a criminal organization or its objectives. Such cases are tried in special courts that limit the defendant's access to evidence and to legal counsel. In July 2012, the parliament passed the Third Judicial Reform Package, including Law 6352, which allows the suspension or dismissal of cases brought against journalists charged with spreading propaganda for terrorist organizations prior to December 31, 2011. The reform package also mandates that judges provide written justification for the pretrial incarceration of suspects accused of being affiliated with "outlawed" organizations. However, that same month, the ruling Justice and Development Party (AKP) introduced a constitutional amendment that would restrict reporting on the judicial system and security issues. The amendment had yet to be adopted at the end of 2012.

The extensive ongoing investigations surrounding Ergenekon, a broad and vaguely defined alleged coup conspiracy, have led to the arrests of multiple journalists. In 2011, police raided a number of homes of journalists and professors. Ten people affiliated with OdaTV, a nationalist news website

that is critical of the Erdoğan government, were arrested and charged with offenses including "aiding an armed terrorist organization" and "inciting hatred and hostility." Among those charged were prominent journalists Nedim Şener and Ahmet Şık, who faced up to 15 years in prison. Neither journalist was able to access the evidence against him, drawing criticism from the Council of Europe's commissioner for human rights. The government and the chief prosecutor in the Ergenekon case have maintained that journalists arrested during the investigation were held not because of their writing, but due to evidence tying them to an illegal organization, though this evidence has not been presented publicly. All 10 journalists arrested in the 2011 sweep were released in 2012, including Şener and Şık. Their trial was ongoing at the end of 2012. The OdaTV staff members were apparently targeted for their critical reporting on the Ergenekon case, while Şık was reportedly detained because of his book on the religious movement founded by Fethullah Gülen, and Şener for his book on ethnic Armenian journalist Hrant Dink's assassination in 2007. Separately, Mustafa Balbay, a bureau chief of the daily *Cumhuriyet* who was arrested in connection with Ergenekon, had been held in prison without charge for nearly four years as of the end of 2012.

Throughout 2012, the government also continued to detain and prosecute individuals suspected of having links to the Union of Communities in Kurdistan (KCK), a wing of the PKK, as part of a crackdown launched in April 2009. Approximately 7,000 people – mostly members of the pro-Kurdish Peace and Democracy Party – had been arrested as of November 2012 on charges of undermining the state and assisting an illegal organization. In late 2011, nearly 200 people were arrested for alleged ties to the KCK, including some 30 journalists and the owner of Belge Publishing House, Ragıp Zarakolu. Zarakolu was released in April 2012 pending trial. In September, a trial began for 44 journalists employed by *Özgür Gündem* and the DIHA news agency, both pro-Kurdish media outlets. Thirty-six of the journalists had been held in pretrial detention since December 2011. The Ergenekon and KCK cases have further encouraged editors and journalists to practice self-censorship to avoid violating legal restrictions.

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.

The Supreme Council of Radio and Television, 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. 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 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 May, a court suspended *Demokratik Vatan* for one month for allegedly spreading terrorist propaganda through the publication of pro-Kurdish stories. During a televised debate in August, Erdoğan stated that journalists must ignore the conflict between the Turkish army and the PKK, especially regarding the number of Turkish casualties, on the grounds that such coverage amounted to propaganda for terrorism.

Ten books were newly banned in 2012, adding to a list of around 400, while 12 newspapers were among 46 publications that were confiscated during the year. Publications were banned under

orders from a variety of different ministries and offices. Restricted topics included Kurdish issues, the Armenian genocide, or any subject deemed offensive to Islam or the Turkish state. As part of the Third Judicial Reform Package, all bans on publications will be void unless renewed by court order prior to a January 5, 2013, deadline.

Law 5651 allows the authorities to block websites that insult Turkish Republic founder Mustafa Kemal Atatürk or contain content that "incites suicide, pedophilia, drug abuse, obscenity, or prostitution," among other criteria. After being blocked for more than two years for carrying videos that were deemed insulting to Atatürk, the video-sharing website YouTube was unblocked in October 2010. As of December 2012, the Turkish Telecommunications Directorate had reportedly blocked more than 6,600 websites that year and more than 22,000 overall, 47 percent of which allegedly contained pornography, according to the Information Technologies Institute. Many websites that published content on Kurdish-related issues were blocked in 2012, including news sites such as Özgürlük.org and Firatnews.org.

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.

Threats against and harassment of the press remain much more common than acts of violence. Journalists are rarely killed – none were murdered in 2012 – and their work is not regularly compromised by the fear of physical attacks, although instability in the southeastern part of the country does infringe on journalists' ability to work. The European Court of Human Rights (ECHR) ruled in 2010 that the Turkish government had failed to respond to ultranationalist hostility toward Hrant Dink, the editor in chief of the Armenian Turkish weekly *Agos* who was assassinated in 2007. Prior to his murder, Dink had twice been prosecuted under Article 301 for insulting Turkishness. In 2011, a juvenile criminal court convicted Ogün Samast, who was 17 at the time of the killing, of premeditated murder and sentenced him to more than 22 years in prison. In January 2012, the High Criminal Court issued rulings in the cases of an additional 19 individuals charged in relation to Dink's murder. Three were given prison sentences ranging from 12 years to life. However, the remaining 16 were acquitted, and the court rejected any allegations of a state-level conspiracy to assassinate Dink.

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 tend to focus on columns and opinion articles rather than pure news. The country's broadcast media are also well developed, with hundreds of private television channels, including cable and satellite, and more than 1,000 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 is highly concentrated, with a few major private holding companies subtly applying pressure on editors and journalists at their outlets to refrain from coverage that could harm their broader business interests, including criticism of the government or potential advertisers. In 2011, the parliament passed legislation that allows foreigners to own up to 50 percent of a Turkish

broadcaster, an increase from the existing 25 percent cap. The new law also reduced the amount in advertising revenues that channels are required to turn over to the Radio and Television Supervision Agency.

A politicized case against one of the country's major media companies, the Doğan Group, for purported tax evasion worth some \$3 billion was resolved in 2011. The Doğan Group had consistently reported on the ruling party's shortcomings and its involvement in an Islamic charity scandal in 2008. In February 2011, the courts overturned approximately \$1.1 billion in fines and interest allegedly owed by Doğan. The company subsequently sold two of its major papers, *Milliyet* and *Vatan*, and one of its television stations, Star TV, in order to raise funds to pay the remaining back taxes and fines. Doğan settled with the Finance Ministry in May 2011, agreeing to pay \$590 million. Doğan employees have reported practicing self-censorship to avoid further trouble with the law.

An estimated 45 percent of the population accessed the internet in 2012. There are reportedly 28,000 internet cafés in Turkey, and they require a license from the local government in order to operate.

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