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Freedom of the Press 2012 - Turkey

2012 Scores

Press Status: Partly Free

Press Freedom Score: 55

Legal Environment: 22

Political Environment: 22

Economic Environment: 11

The Turkish government, led by the Justice and Development Party (AKP), continued to crack down on unfavorable press coverage in 2011. Constitutional guarantees of freedom of the press and expression are only partially upheld in practice, and are generally undermined by provisions in the penal code and a strict antiterrorism law. Turkish law does not meet press freedom standards as laid out in the European Convention on Human Rights. The restrictive penal code continued 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. Defamation remains a criminal offense and can result in fines or prison terms. In January 2011, a new amendment to the media law was passed, allowing 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. In May 2011, the Constitutional Court approved the removal of Article 26 from Turkey's press law, which had restricted the amount of time prosecutors had to file a complaint against publications or journalists to 2 months in the case of dailies and up to four months for other publications.

Application of a range of restrictive laws has led to dozens of journalists and writers being imprisoned 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. In March 2011, novelist Orhan Pamuk was fined \$3,670 for "denigrating Turkishness." The charges stemmed from remarks he made during an interview in February 2005 with the Swiss publication *Das Magazin*. In the interview, Pamuk stated, "Thirty thousand Kurds have been killed here, and a million Armenians. And almost nobody dares to mention that." Turkish commentators were divided over the remarks.

Article 216 of the penal code, which bans "inflaming hatred and hostility among peoples" and carries a six-month to three-year prison term, continues to be used against journalists and other commentators who write about the Kurdish population or allegedly denigrate the armed forces. In March 2011, academic İsmail Beşikçi was sentenced to 15 months behind bars for an article entitled "The Rights of the Nations to Self-Determination and the Kurds." Beşikçi has spent a total of 17 years in prison for similar publications on the Kurdish minority. The first hearing in a case against cartoonist Bahadır Baruter was held in September, though no judgment had been reached by the end of the year. Baruter faced a one-year prison sentence for a cartoon that appeared in the weekly magazine *Penguen*, depicting the words "There is no God, religion is a lie" on the wall of a mosque.

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. Sixty-four of the reporters in detention at the end of 2011 were from Kurdish media outlets. In October, 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.

Extensive investigations surrounding Ergenekon, an alleged right-wing coup conspiracy, were ongoing in 2011. In February, three journalists from the website OdaTV were arrested in relation to the Ergenekon case. In March, police raided a number of homes of journalists and professors in search of notes and computers. Ten people were arrested, including journalists Nedim Şener and Ahmet Şık, who faced up to 15 years in prison. The fact that neither had access to the evidence brought against him was criticized by the Council of Europe's commissioner for human rights. The government and the chief prosecutor in the Ergenekon case have consistently maintained that journalists arrested during the investigation were detained not because of their writing, but because of evidence tying them to an illegal organization, though this evidence has not been released. The trial of Şener and Şık, as well as eight other reporters and editors from OdaTV, was ongoing at the end of the year. The OdaTV staff were allegedly targeted for their critical reporting on the Ergenekon case. Şık was reportedly detained because of his book on the Fethullah Gülen religious movement, 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 three years as of the end of December 2011.

In 2011, the government also stepped up its detention of 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 4,000 people – mostly members of the pro-Kurdish Peace and Democracy Party – had been officially arrested as of November 2011, on charges of undermining the state and assisting an illegal organization. Some 70 people were arrested for alleged links to the KCK in November, including the owner of Belge Publishing House, Ragıp Zarakolu. Twenty-six journalists, including a photographer for Agence France-Presse, were among about 100 people arrested in December for alleged connections to the KCK. As of December, 2,000 people remained in custody as part of the investigation. The Ergenekon and KCK cases have further encouraged editors and journalists to practice self-censorship to avoid violating legal restrictions.

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 its expansive broadcasting principles. The council is frequently subject to political pressure. Print outlets can also be closed if they violate laws restricting media freedom. In a 2011 survey of 67 journalists from top Turkish media outlets by Esra Arsan of Istanbul Bilgi University, 95 percent of respondents said the government interferes in news production, while 85 percent said media owners also intervene. Arsan's report

found that in contrast to years past, when the military had influence over the news, the police now play a stronger role.

Threats against and harassment of the press remained much more common than acts of violence. Journalists are rarely killed – none were murdered in 2011 – 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 September 2010 that the Turkish government had failed to respond to ultranationalist hostility toward Hrant Dink, the editor in chief of the Turkish-Armenian weekly *Agos* who was assassinated in 2007. Prior to his murder, Dink had twice been prosecuted under Article 301 for insulting Turkishness. In July 2011, a juvenile criminal court convicted Ogün Samast of premeditated murder and sentenced him to more than 22 years in prison for Dink's death. In September, the High Criminal Court held its 20th hearing in the cases of an additional 19 individuals charged in relation to Dink's murder. No journalists were murdered in 2011.

There are approximately 370 newspapers operating in Turkey, including 38 daily national papers. 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 January 2009. Media ownership is highly concentrated, with a few major private holding companies subtly applying pressure on editors and journalists to refrain from coverage that could harm the parent company's business interests. This can include avoiding criticism of the government or potential advertisers. In February 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. The Turkish print media tend to focus on columns and opinion articles rather than pure news, while independent domestic and foreign print media are able to provide diverse views, including criticism of the government and its policies. Three books were confiscated in 2011, and four newspapers and two magazines received short publication bans.

The politicized case against one of the country's major media companies, the Doğan Group, for purported tax evasion worth some \$3 billion was apparently 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. In April, the Doğan Group announced that it was selling two of its major papers, *Milliyet* and *Vatan*, to the Karacan family in partnership with the Demirören Group for \$74 million, in order to raise funds to pay the remaining back taxes and fines. *Milliyet* was launched by Ali Naci Karacan in 1950, meaning the paper was essentially returning to its founders. Doğan settled with the Finance Ministry in May, agreeing to pay \$590 million. Demirören and the Karacan family subsequently entered into a months-long dispute over control of the two papers, forcing a third party to step in to administer them. As the year came to a close, journalists at the papers were having trouble getting paid due to the ongoing disagreement. In October, Doğan Group sold one of its television stations, Star TV, for \$327 million. Doğan employees have reported practicing self-censorship to avoid further trouble with the law.

An estimated 42 percent of the population accessed the internet in 2011. Law 5651 on the internet allows prosecutors to block sites that offend "Turkishness," attack Republic of Turkey founder Mustafa Kemal Atatürk, or contain content that "incites suicide, pedophilia, drug abuse, obscenity, or prostitution." 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 June 2011, the Turkish Telecommunications Directorate had reportedly blocked over 15,000 websites, many of which allegedly contained pornography. Many websites that published content on Turkey-

related issues were the subject of blocking orders in 2011, including news sites – such as Özgür Gündem, Azadiya Welat, Keditör, Fırat News, and Günlük Gazete – that focus on southeastern Turkey and Kurdish issues. A blocking order was also issued against Google-owned Blogspot, which then remained inaccessible for approximately three months. The prosecutor's office requested the internet protocol (IP) addresses of anonymous users of the website Eksi Sozluk (Sour Dictionary) in June after comments insulting Islam were posted. If identified and found guilty, the users could face up to two years in prison for inciting religious hatred. In September, the presidency of the Turkish parliament interfered with access to the websites of two lesbian, gay, bisexual, and transgender (LGBT) organizations, posting warnings about the sites and requiring visitors to fill in their contact information. In October, police raided the home of a Facebook user who had posted comments and videos insulting Erdoğan and other government ministers. The police accessed the user's computer files during the raid. Prosecutors were seeking a two-year jail term for the defendant. In November, a modified internet-filtering system came into force, giving users two voluntary filtering options: "family" or "child." While the filtering, originally conceived as mandatory, is now optional, concerns remain over the fact that internet service providers will be required to offer it, and that the government will have access to the profiles of those who choose to use it.

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