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Freedom Of The Press - Turkey (2011)

Status: Partly Free
Legal Environment: 22
Political Environment: 21
Economic Environment: 11
Total Score: 54

The government, led by the Justice and Development Party (AKP), continued to crack down on unfavorable press coverage in 2010. A politicized case against one of the country's major media companies, the Doğan Group, for purported tax evasion worth \$3.4 billion continued in 2010. The conglomerate achieved mixed results in a series of court rulings during the year, and pledged to pursue further appeals. The Doğan Group has consistently reported on the ruling party's shortcomings and its involvement in an Islamic charity scandal in 2008.

Constitutional guarantees of freedom of the press and expression are undermined by other provisions, and in practice they are only partially upheld. Despite some minor amendments in 2008, the restrictive 2005 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 that can result in fines or prison terms. A total of 104 journalists were tried in 2010 for alleged offenses related to freedom of expression. According to the Independent Communication Network (BIA) 2010 Media Monitoring Report, 30 journalists remained in prison at year's end.

Article 301 of the penal code provides for prison terms of six months to two years for "denigration of the Turkish nation." The Justice Ministry rejected 342 of the 352 complaints under Article 301 that it received in 2010, allowing only 10 to proceed. Article 301 has previously been used to punish journalists for stating that genocide was committed against the Armenians in 1915, discussing the division of Cyprus, or writing critically about the security forces. Amendments to the article in 2008 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. Nationalist lawyers' groups such as the Great Lawyers' Union, accused by many human rights groups of leading the push for prosecutions, continued to file insult suits throughout the year. The owner and editor of *Gerger Firat*, Hacı Boğatekin, received a five-year prison sentence in March 2010 for insulting state prosecutors; he had written articles alleging that Turkey faced a more serious threat from conservative religious movements than from the Kurdish Workers' Party (PKK) militant group. Very few prosecutions under Article 301 end in convictions, but the trials are time-consuming and expensive. Article 216 of the penal code, which covers "inflaming hatred and hostility among peoples," is also used against journalists who write about the Kurdish population or

are deemed to have denigrated the armed forces.

Amendments to the Antiterrorism Law (TMY) passed in 2006 allow journalists to be imprisoned for up to three years for disseminating the statements and propaganda of terrorist organizations. The law raised concerns about arbitrary prosecutions, since members of the pro-Kurdish press are sometimes accused of collaborating with the PKK, a designated terrorist organization. Nearly 150 people were prosecuted under the TMY in 2010, six times as many as in 2009. Most had been covering subjects related to the Kurdish minority and the PKK. In 2010, the pro-Kurdish daily newspaper *Özgür Gündem* had more than 500 cases filed against it under the TMY. The government has banned the Diyarbakır-based newspaper *Azadiya Welat* a total of eight times, and several of its journalists are serving prison sentences under the TMY for spreading propaganda. In February 2010, *Azadiya Welat* editor Ozan Kılınç was sentenced to 21 years in prison for printing 12 editions of the paper that contained references to the PKK. The following editor in chief, Vedat Kurşun, received a 166-year prison sentence in May for disseminating PKK propaganda. The paper's editorial manager, Emine Demir, received a 138-year prison sentence at the end of December for articles she published in 2008 and 2009 that were also purportedly propaganda for the PKK. Separately, a well-known journalist for *Express* received a 15-month prison term in June for his coverage of PKK opinions on the Turkish government, but he remained free at year's end pending appeals. The editor of *Express* was also fined some \$10,000 in connection with the report. The Court of Cassation ruled in October that Turkish novelist and Nobel Prize winner Orhan Pamuk could legally be sued for comments on the Kurds and Armenians that he made to a Swiss magazine in 2005. In August, an American journalist for the Inter Press Service (IPS) agency was deported for spreading PKK propaganda through reports on the Turkish army's bombing of Kurdish settlements in northern Iraq. Under the TMY in 2010, a total of 33 people were sentenced to more than 365 years in prison and received fines of up to \$35,000.

The trial of 153 suspected supporters of the Democratic Confederation of Kurdistan (KCK), a wing of the PKK, began in October 2010. The suspects, who included several Turkish journalists, were charged with undermining the state and assisting an illegal organization, and more than 100 had remained in detention without charge for over a year. If convicted, the suspects faced between 15 years and life in prison. Separately, in January the European Court of Human Rights (ECHR) issued two rulings that ordered the government to pay \$55,000 to journalists whose freedom of expression under Article 10 of the European Convention on Human Rights had been violated. The rulings were related to the government's suspension of five newspapers in 2005 and fines issued against the magazine *Yeni Dünya İçin Çağrı* in 2001 for articles criticizing abuse within Turkey's prison system.

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, and a number of closures occurred during the year. For example,

Azadiya Welat was shut down three times in 2010 alone.

Investigations surrounding an alleged plot to overthrow the government, referred to as Ergenekon, were ongoing in 2010. According to a European Union progress report released in November, 4,091 investigations have been launched against journalists for violating state secrets through their reporting on the Ergenekon case. Several of those journalists, arrested in 2008, continued to be held without charge at the end of 2010. Six journalists were being prosecuted for alleged involvement in the plot. As of August 2010, at least 47 journalists remained in detention pending trial. The Ergenekon case and the trial related to the KCK have further compelled editors and journalists to practice self-censorship to avoid legal repercussions. Doğan Group employees have reported engaging in self-censorship so as not to add to their company's existing legal trouble.

Threats against and harassment of the press remained much more common than acts of violence. Journalists are rarely killed, and their work is not regularly compromised by the fear of physical attacks, though instability in the southeastern part of the country does infringe on journalists' freedom to work. Several journalists received death threats in 2010 by telephone and e-mail, while a number of others were physically threatened or attacked. In June, the owner of the local Manavgat newspaper *Türkbeleni Mehmet Ali Ünal* was shot at outside his office, though no injuries were reported. In July, three Kurdish journalists—two working for Diha news agency and another with Doğan Group and the local weekly *Midyat Habur*—were injured while reporting on pro-Kurdish Peace and Democracy Party (BDP) protests in Istanbul and in the southeastern province of Mardin. The ECHR ruled in September that the Turkish government had failed to respond to ultranationalist hostility toward Hrant Dink, editor in chief of the Armenian-Turkish weekly *Agos*, prior to his 2007 assassination. The court also stated that the security forces had known about the plot, yet had done nothing to thwart it. The government was ordered to pay Dink's family \$135,000 in compensation. Prior to his murder, Dink had twice been prosecuted under Article 301 for insulting Turkishness. The state had yet to convict anyone for the murder at year's end, and continued to face criticism for failing to investigate alleged involvement by high-level security agents and civil servants. No journalists were murdered in 2010. In late December, police raided the offices of the magazine *Yürüyüş* in a purported effort to arrest an alleged member of the Revolutionary People's Liberation Party (DHKP), a designated terrorist organization. The offices were seriously damaged during the raid, and the magazine's editor and several other staff members were detained. The Contemporary Lawyers' Association (CHD) condemned the operation, claiming that the alleged DHKP member had no affiliation with the magazine. The government had suspended the magazine for a month in April for allegedly spreading propaganda for an outlawed organization.

Turkey's broadcast media are well developed, with hundreds of private television channels, including on cable and satellite platforms, as well as more than 1,000 commercial radio stations. State television and radio outlets provide limited broadcasting in minority languages, now including several local radio and television stations that broadcast in Kurdish. The introduction of Kurdish-language programming marks a

major step forward for freedom of expression, though critics say that the broadcasts are too restricted and quality is poor. An Armenian-language radio outlet, Nor Radio, began broadcasting over the internet in January 2009. Several hundred private newspapers operate across the country in a very competitive print sector. Media ownership is highly concentrated, with a few dominant holding companies that subtly pressure editors and journalists to refrain from coverage that could harm their broader business interests. This can include avoiding criticism of the government or potential advertisers. The quality of Turkish media is poor, with an emphasis on columns and opinion articles rather than pure news, but independent domestic and foreign print media are able to provide diverse views, including criticism of the government and its policies. In 2010, the government reportedly seized a total of 21 newspaper issues, 32 magazine issues, and 10 books.

An estimated 36.8 percent of the population accessed the internet in 2010. The video-sharing website YouTube was blocked beginning in May 2008 for airing videos that were deemed insulting to the founder of the Turkish republic, Mustafa Kemal Atatürk. The ban was finally lifted in November 2010 after the videos were removed. The Organization for Security and Cooperation in Europe (OSCE) representative on freedom of the media, Dunja Mijatović, reported in June 2010 that more than 5,000 websites had been blocked over the past two years. Law No. 5651 on the internet allows prosecutors to block sites that offend "Turkishness," attack Atatürk, or carry content that "incites suicide, pedophilia, drug abuse, obscenity, or prostitution." In June, the government ordered the blocking of 44 internet-protocol (IP) addresses, including that of Google Maps.