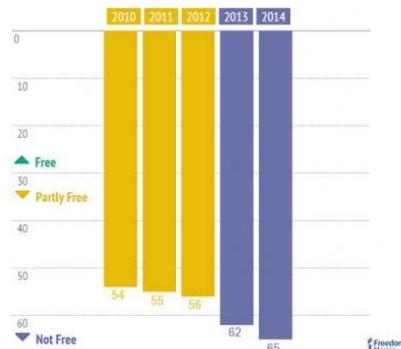


Turkey

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Turkey: 5-Year Decline in Press Freedom

Media freedom deteriorated as new laws increased the government's censorship power over websites and news media.



Türkiye

Conditions for media freedom in Turkey continued to deteriorate in 2014 after several years of decline. The government enacted new laws that expanded both the state's power to block websites and the surveillance capability of the National Intelligence Organization (MİT). Journalists faced unprecedented legal obstacles as the courts restricted reporting on corruption and national security issues. The authorities also continued to aggressively use the penal code, criminal defamation laws, and the antiterrorism law to crack down on journalists and

media outlets.

Verbal attacks on journalists by senior politicians—including Recep Tayyip Erdoğan, the incumbent prime minister who was elected president in August—were often followed by harassment and even death threats against the targeted journalists on social media. Meanwhile, the government continued to use the financial and other leverage it holds over media owners to influence coverage of politically sensitive issues. Several dozen journalists, including prominent columnists, lost their jobs as a result of such pressure during the year, and those who remained had to operate in a climate of increasing self-censorship and media polarization.

Legal Environment

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 constitutional protections are also subverted by hostile public rhetoric against critical journalists and outlets from Erdoğan and other government officials, which is often echoed in the progovernment press. Since the Gezi Park protests of 2013, Erdoğan has accused the foreign media and various outside interest groups of organizing and manipulating unrest in the country. He has also blamed foreign-based conspiracies for corruption allegations against his family and ministers. In August 2014, during a speech at a campaign rally just prior to the presidential election, Erdoğan denounced *Economist* correspondent Amberin Zaman as a “shameless militant” and told her to “know [her] place.” In the following months, Zaman was deluged with threats of violence on social media. In September, *New York Times* reporter Ceylan Yeğinsu suffered a similar verbal attack over a photograph caption that accompanied her piece on Islamic State recruiting in Turkey. Progovernment media

depicted her as a traitor. The U.S. State Department criticized Turkey for such attempts to intimidate and threaten her.

New laws and amendments that took effect in 2014 significantly eroded freedom of expression. In February, amendments to Law No. 5651, commonly known as the Internet Law of Turkey, expanded the power of the Telecommunication Authority (TİB) to order the blocking of websites, allowing it to do so on vaguely defined grounds related to the right to privacy, without prior court approval, though a court had to uphold the order within 48 hours for a block to remain in place. In September, Erdoğan approved another amendment to Law No. 5651 that would also allow the TİB to block sites if deemed necessary “for national security, the restoration of public order, and the prevention of crimes,” but in October the Constitutional Court overturned those conditions as valid grounds for blocking by the authority.

A measure adopted in April, the Law Amending the Law on State Intelligence Services and the National Intelligence Organization, granted the 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 MİT. Media workers faced up to nine years in prison for publishing information from leaked intelligence material.

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. According to the Committee to Protect Journalists (CPJ), there were seven journalists behind bars in Turkey as of December 1, 2014. Figures compiled by the independent Turkish press agency Bianet were higher, showing 22 journalists and 10 publishers in prison at the end of 2014; the majority were Kurds charged with associating with an illegal organization under either the penal code or the antiterrorism law.

Defamation remains a criminal offense and frequently results in fines and prison terms. According to a report by Bianet, 10 journalists were convicted of defamation, blasphemy, or inciting hatred in 2014. Among other cases during the year, Azerbaijani journalist and *Today's Zaman* columnist Mahir Zeynalov was deported in January after Erdoğan filed a criminal complaint against him for posting links on Twitter to articles on a corruption scandal that had surfaced in December 2013. In February, Erdoğan won compensation in a defamation suit against author İhsan Eliaçık for comments published on his Twitter account during the Gezi Park protests of 2013. In April, columnist Önder Aytaç was sentenced to 10 months in prison for “insulting public officials” in a tweet he wrote about Erdoğan. Aytaç said his message contained a typo and he did not intend to insult the government. In May, Erdoğan sued *Cumhuriyet* columnist Can Dündar for defaming him in an article published the previous month. In August, *Taraf* columnist Mehmet Baransu was arrested for defamation after criticizing the authorities. Although he was released the next day, Baransu faced the possibility of a lengthy prison term in a separate case for allegedly publishing classified documents from a National Security Council meeting in 2004. In September, writer, journalist, and publisher Erol Özkoray was given a suspended jail sentence of 11 months and 20 days for defaming Erdoğan in a book about the Gezi Park protests.

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 beginning in 1915, discuss the division of Cyprus, or criticize the security forces. 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, is also used against journalists and other commentators.

Article 314 of the penal code, with its broad definition of terrorism and membership in an armed organization, continued to be invoked against journalists, especially Kurds and those associated with the political left. According to statistics compiled for the Organization for Security and Co-operation in Europe (OSCE) and published in June 2014, the majority of the 22 journalists in prison in Turkey at the time had been charged or found guilty under Article 314. Many of those incarcerated or detained under Article 314 face 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 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 April 2013. It was generally regarded as falling short of international human rights standards regarding freedom of expression. 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. Nevertheless, the reform package did not alter problematic penal code provisions such as Articles 125 (on criminal defamation), 301, and 314. A Fifth Judicial Reform package was passed in February 2014; in one of its most important provisions, it reduced the maximum period of pretrial detention from 10 to 5 years. This resulted in a number of journalists being released from jail pending trial.

However, amendments to the penal and criminal procedure codes passed by the parliament in December 2014 lowered the threshold of evidence required for searches of people or premises to “reasonable suspicion,” from “strong suspicion based on concrete evidence.” Even before the amendments had been approved, police reportedly used these grounds to raid the home of a journalist in October. Aytekin Gezici, a press adviser for the city of Adana, was detained, his computer examined, and his house searched after he criticized the government on Twitter.

Media outlets were raided and journalists detained in 2014 as part of an ongoing crackdown on supporters of exiled cleric Fethullah Gülen. On December 14, security forces conducted raids across the country against outlets suspected of affiliation with the Gülen movement, such as the newspaper *Zaman*. Several media workers and journalists were arrested, including Ekrem Dumanlı, *Zaman*'s editor in chief, under suspicion of “establishing and managing an armed terror organization” with the intent of seizing state power. Dumanlı and the majority of the other detainees were later released pending trial, but Hidayet Karaca, general manager of the Samanyolu Broadcasting Group, was still in jail at the end of the year.

The government in 2014 continued to prosecute individuals suspected of having links to the Union of Communities in Kurdistan (KCK), the alleged urban branch of the separatist Kurdistan Workers' Party (PKK) militant group. A 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; nearly all have been released pending trial. The owner of Belge Publishing House, Ragıp Zarakolu, and his son Deniz, an editor at Belge, were arrested in the 2011 crackdown; Ragıp was released pending trial in April 2012, and Deniz was released in March 2014, while awaiting the continuation of his trial.

In November 2013, three journalists were sentenced to life in prison 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 was Füsün Erdoğan, founder of Özgür Radio. The three had been arrested in 2006 and held in pretrial detention, but they were released in May 2014 under the reduced legal limit set by the Fifth Judicial Reform; an appeal was still pending in the case, meaning the sentences had not yet taken effect.

Throughout 2014, the courts' actions on media-related cases—especially those linked to the corruption scandal surrounding Erdoğan and his associates—cast further doubt on the independence and impartiality of the judiciary. In December, the Turkish Journalists' Association and the Turkish Journalists' Union estimated that 60 journalists were prosecuted over the past year for reporting on corruption allegations, and that the number of lawsuits topped 100, in addition to a large number of orders to newspapers to publish corrections or denials.

Moreover, Turkish courts and regulators issued several reporting bans on issues of public interest. In February, a ban on allegations of MİT involvement in weapons shipments to Syria was imposed. In March, a gag order was issued concerning the leaked audio recordings of a national security meeting at the Foreign Ministry. In May, following a mining disaster near the town of Soma, the Supreme Council of Radio and Television (RTÜK), Turkey's broadcast regulator, warned broadcasters to refrain from showing material that may be “disrespectful to feelings of the families of victims.” Progovernment media followed the instruction to the extent that the country's worst mining disaster—which caused 301 deaths and raised serious questions about the industry's safety record—was absent from most mainstream outlets. In June, an Ankara court imposed a ban on reporting about the kidnapping of 49 Turkish citizens from the Turkish consulate in Mosul, Iraq. Another court in

the capital issued an unprecedented reporting ban on a parliamentary inquiry into corruption allegations concerning four former ministers in November.

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 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 affiliated with the ruling Justice and Development Party (AKP). According to Bianet, RTÜK in 2014 issued 78 warnings and 254 fines to television channels, and 12 warnings and 7 fines to radio stations. Print outlets can be closed if they violate laws restricting media freedom.

Political Environment

In addition to punitive measures applied by law, systematic political pressure from the executive branch in 2014 led to the firing of journalists and media workers for critical reporting on the Erdoğan government. According to Bianet, 339 journalists, columnists, and media workers were laid off or forced to quit during the year, often due to government pressure on state-run outlets or private media owners. In August, the editor in chief of *Hürriyet* newspaper, Enis Berberoğlu, resigned just prior to the presidential election. According to some media reports, Berberoğlu was forced to resign after clashing with the paper’s parent company, Doğan Holding, over a number of issues, including election coverage and the editor’s refusal to fire a *Hürriyet* columnist. Erdoğan had publicly criticized the Doğan group the day before Berberoğlu’s resignation. However, *Hürriyet* denied that the move was a result of Erdoğan’s criticism and said Berberoğlu had left of his own accord.

Leaked documents and wiretaps, particularly in 2013 and 2014, have revealed the extent of government efforts to create a loyal media. Many of Erdoğan’s leaked conversations with journalists, media executives, and owners, in which he is heard giving instructions or admonishments for undesirable content, were not denied by either side. Leaks have also revealed managers of corporations being pressured by cabinet-level officials to pool capital for the purpose of buying major media outlets in exchange for the chance to win lucrative government contracts.

The state broadcaster, Turkish Radio and Television Broadcasting Company (TRT), and the semiofficial news agency, Anadolu Ajansı, experienced tighter government control during 2014, and several private television outlets exercised self-censorship in response to direct political pressure. Biased coverage by progovernment media was evident during the March local elections and the August presidential election. RTÜK issued warnings to TRT for disproportionate coverage of the AKP during the local elections, and the Supreme Board of Elections fined the broadcaster for allocating coverage to Erdoğan’s campaign while not

reporting at all on other presidential candidates between August 6 and 8. International observers from the Council of Europe and the OSCE also raised concerns about the media advantage enjoyed by Erdoğan ahead of the election.

Media outlets are sometimes denied access to events and information for political reasons. In December 2013, after law enforcement agencies unveiled the political corruption case implicating 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. Discriminatory accreditation policies against independent media worsened in 2014. Critical outlets were denied access to the AKP's party congress and meetings, and the government prevented certain journalists from attending official news conferences and visits abroad. Foreign dignitaries were forced to hold separate news conferences in order to include unaccredited media.

Censorship of content occurs both offline and online. Sensitive topics include Kurdish issues, the Armenian genocide, and subjects deemed offensive to Islam or the Turkish state. Enforcement of the relevant laws is arbitrary and unpredictable, and many publications on such subjects are available. As part of the Third Judicial Reform package in 2012, 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. In September 2014, police raided the offices of online newspapers *Gri Hat* and *Karşı Gazete*, which had published reports about the political corruption scandal. Despite having a court order only to search the premises, the police demanded the removal of news items about the allegations.

Law No. 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. Over 60,000 websites are blocked in Turkey, and the TİB reportedly blocked 22,645 websites without prior court approval during 2014. In March, access to Twitter was blocked for two weeks before a court ruling lifted the ban. Similarly, a ban on YouTube was lifted by court order after it was blocked for more than two months starting in March. In addition to wholesale blocking, 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. 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 ongoing mass firings 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.

Harassment and intimidation of journalists and disruption of their work in the field were more common than retaliatory violence in 2014, as in previous years. According to Bianet, more than 140 journalists were subjected to some form of attack in 2014. Many reporters faced obstructions, tear-gas injuries, and direct physical assaults by police in Istanbul while covering a demonstration against internet censorship in February, attempts by labor activists to mark May Day, and demonstrations surrounding the first anniversary of the Gezi Park protests later in May. CNN International's Istanbul correspondent Ivan Watson was briefly detained and roughed up while reporting live about the Gezi anniversary. In October, Turkish security forces fired tear gas at journalists working near the border adjacent to the besieged Syrian Kurdish town of Kobane.

In an apparent case of arbitrary detention and deportation, Rauf Mirkadirov, an Ankara-based correspondent for the Azerbaijani newspapers *Ayna* and *Zerkalo*, was seized by Turkish authorities and put on a plane to Baku without access to a lawyer. Upon arriving in Azerbaijan, he was remanded to three months in pretrial custody, pending an investigation on espionage charges. Mirkadirov had written articles critical of both governments.

According to CPJ, there was one media-related killing in 2014. In October, Kadir Bağdu was shot and killed while delivering the pro-Kurdish daily *Azadiya Welat* in the southern city of Adana. In other apparent cases of targeted violence, Mustafa Kuleli, the general secretary of the Turkish Journalists' Union, and journalist Hasan Cömert were attacked in February by unidentified perpetrators and had to seek medical treatment. Another journalist, Mithat Fabian Sözmen, was reportedly hospitalized after a similar assault in March.

Economic Environment

According to government data, there are approximately 3,100 newspapers operating in Turkey, including some 180 national papers; however, only about 15 percent of these are published daily, and many have small circulations. Independent domestic and foreign print media are able to carry diverse views, including criticism of the government and its policies, though Turkish print outlets contain a high proportion of columns and opinion articles as opposed to pure news.

The country's broadcast media are also numerous, with hundreds of private television channels, including those available via cable and satellite, and more than 1,200 commercial radio stations. State television and radio outlets provide some content in minority languages, with several local radio and television stations broadcasting 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 tightly restricted and their quality is poor. An Armenian-language radio outlet, Nor Radio, began broadcasting over the internet in 2009.

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. 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.

Media ownership remains concentrated in the hands of a few large, private holding companies that earn the majority of their revenue from nonmedia assets. 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 multibillion-dollar contract to build Istanbul's third airport. The Savings Deposit and Insurance Fund (TMSF) has also been used to transfer media assets to supportive businessmen, as in November 2013, when Ethem Sancak, a Turkish businessman with close ties to Erdoğan, bought three media outlets previously owned by the Çukurova Group from TMSF.