

**UPR Pre-session: Presentation on Freedom of Expression in Turkey
Geneva, 12 December 2019**

To be delivered by Andrew Finkel, P24

My name is Andrew Finkel; I am one of the founders of P24, a Turkish registered association intended to support media independence and to defend Turkish journalism from the collusion of government and the non-press commercial instincts of media proprietors.

Since that founding in 2013 and since the 2nd UPR cycle, our mission has become even more grim as we find ourselves trying to protect not just journalism but individual journalists from intimidation and from politicised judicial pressure that has taken the form of arbitrary arrest. Our current reckoning, based on open sources, is that there are some 116 journalists and press workers under lock and key in Turkey. This more than suggests that the law is being abused to stifle fair debate and to staunch the flow of uncomfortable truths. Through our project "Expression Interrupted", P24 monitors journalists' trials and keeps track of journalists in detention, providing information on hearing dates and outcomes. At international level, P24 also works in partnership with a working group that includes Article19, Pen International, IPI, the European Centre for Press and Media Freedom, English Pen and Reporters without Borders to raise awareness of these cases.

Since the last UPR, restrictions on social and on-line media become more restrictive at a real social cost. What hope is there for Turkey to take its place in a knowledge based economy when even access to Wikipedia is blocked - since April 2017, allegedly for having published articles on Turkish military operations in Syria in 2016. The mechanisms used to punish dissent and deter criticism in Turkey are well rehearsed and include dismissals, travel bans, civil deaths, legal harassment and detentions.

I draw your attention to the case of Ahmet Altan, a former editor in chief but also novelist and essay writer and the winner of this year's Prix Andre Malraux as well as the Geschwister Scholl Prize awarded in Munich in memory of those who fought against fascism. He had been sentenced in February 2018 by a Turkish court to life imprisonment without parole, on a case built around television interviews he gave and columns which he wrote. A court finally freed him on remand at the beginning of November this year only for a sister court – the judge of which was appointed only one day before - to rule for his rearrested one week later in a procedure which his lawyers argue is unlawful. Altan, as we speak today, is entering his fourth year in prison.

Yet, journalists are not the only, nor even the largest professional body, to pay a heavy price for attempting to exercise freedom of expression. We point to the dismissal of academics and even judges or to the legal investigation into tens of thousands of individuals on account of social media posts as well as to the detention of civil society activists. In the past year, the government has even charged 16 leading civil society figures who participated in the peaceful 2013 Gezi Park protests with attempting to overthrow the government. Osman Kavala is in his 27th month of pre-trial detention, in a flagrant violation of his fair trial rights.

We emphasise in particular the increasing absence of artistic freedom either through censorship or prosecution- leading inevitably to self-censorship.

Zehra Doğan who dared cross the line between politics and art, was convicted of terrorist propaganda and imprisoned for 2 years and 10 months. Her crime was to re-interpret with paint a much circulated photo of the bombardment of the town of Nusaybin in South-East of Turkey, an area of Kurdish majority.

There are many examples of the abuse of Anti-Terror laws, but we would like to cite the case of Ertuğrul Maviöğlü and Çayan Demirel, directors of the documentary "Bakur" (North) made about the Kurdistan Workers' Party (PKK). Last July, they were sentenced to 4 years and 6 months in prison each for screening their film in the city of Batman in 2015, a time when the government was itself trying to resolve its Kurdish question through openness and negotiation.

We therefore call for changes in ambiguous anti-terror legislation which has been frequently used to mete out punishment at the point of first judicial contact through pre-trial detention. The wilful confusion of critical reporting or the equation of unsettling artistic production with acts of terror is responsible for much legal abuse. Acts of terrorism must be narrowly defined and expression should be restricted under such laws only when it meets the requirements set by international legal standards.

We ask for changes to Article 7(2) of the Anti-Terrorism Act and Article 220(8) of the Turkish Penal Code to focus only on cases incitement to terrorist acts which cross the threshold prescribed by international human rights law, and reforming provisions on membership in a terrorist organisation (contained in Articles 314 and 220(7)) so they do not target the legitimate right to free of expression.

We also point to the absurd use of anti-defamation legislation. Is Turkish officialdom so thin skinned that it need protecting from the slings and arrows fired by school children on Twitter?

Between 2010 and 2017, 12,893 cases were filed under Article 299 which forbids insulting the president. The bulk – some 12,305 cases were filed during the Erdoğan presidency. In 2017, 20,539 investigations and 6,033 criminal cases were opened under this charge.

In July 2016, Turkish democracy was threatened with an attempted coup d'état. P24 like so many other civil society organisations watched in horror as militants tried to use force to bring about change. Yet we watched with equal dismay as measures to restrict and control which might have been justified in the first heat of the emergency became codified well after that emergency had passed.

P24, ARTICLE19, IPI, RSF, ECPMF, PEN International, English PEN and Freemuse would like to make the following recommendations to the upcoming Universal Periodic Review of Turkey:

- To align counter-terrorism laws with international and European human rights standards;
- To end the arbitrary arrest and detention of journalists, human rights defenders, academics; immediately release those in detention on the basis of supposed connections to proscribed

organisations; and bring the anti-terror laws on which their detention is based in line with international standards.

- To take all necessary steps to guarantee freedom of expression and information online, including and to cease harassment of individuals exercising online their right to freedom of expression.

P24 and Freemuse would also like to add the following recommendations:

- To acknowledge that anti-terror legislation should not be applied against artistic and creative works that clearly have no connection with nor propagate violence. Public officials should desist from issuing statements which ally artists with terrorism, and hence turn artists into targets for harassment, intimidation and attack.
- To take serious steps to abolish discretionary powers by non-elected officials who regularly rely on Laws no. 2911 and Provincial Administration Law No. 5442 to curtail peaceful meetings and arts events as guaranteed under the Turkish Constitution and international agreements.

The full set of our recommendations and proposals are set out in our UPR reports and briefings available on our website; some copies are also available in this room. The key point however is that the obstacle to free expression in Turkey is far greater than the sum of regressive legislation and of measures in need of reform. The problem is in the direction of travel.

Only by embracing full public scrutiny of its actions and respecting the rights of other to say things it might not want to hear will Turkey be able to guarantee the protection, promotion and fulfilment of human rights for everyone, the happiness and prosperity of its citizens and promote peace beyond its borders.