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STATEMENT

Turkey: ARTICLE 19 Concerned about Continuous Threats to Freedom of Expression in Turkey

Article 301 of the Turkish Criminal Code remains a dangerous tool to silence critical voices in Turkey, despite being amended in April 2008 and official reports that charges under this article have decreased this year.

ARTICLE 19 believes that the risk of prosecutions under Article 301 continues to pose a significant threat to freedom of expression in Turkey.

Article 301 makes it a crime to insult “Turkishness” as well as the Turkish Republic and its institutions, carrying sentences of up to four years. Since it came into force in 2005, more than 60 charges have been brought against journalists, intellectuals, academics and publishers. Some of these charges relate to published or spoken opinions questioning the official version of sensitive issues, such as the reality of the Armenian genocide during and after the First World War, or human rights abuses against Kurds in Turkey.

There have also been several high-profile prosecutions under this provision. The writer and Nobel laureate, Orhan Pamuk, was charged in 2005 after he made a statement to a Swiss magazine about the killings of Armenians and Kurds. Although the charges were later dropped, the case generated an international outcry, as well as rallies in Turkey to burn Pamuk’s books.

The journalist Hrant Dink was also prosecuted under Article 301 in 2006 and he received a six-month suspended sentence. Dink was later assassinated and his sentence was posthumously overturned in 2007 by the Appeal Court.

In April 2008, Article 301 was amended, following widespread national and international criticism. The amendment made it obligatory for the Minister of Justice to approve the filing of cases under Article 301.

At a Conference on Freedom of Expression held last week in Ankara, the Turkish authorities reported a significant decrease in prosecutions under Article 301 and attributed the drop to the 2008 legislative reform. According to statistics, the Minister of Justice allowed only eight cases to be filed (out of 523 requests) in 2009.

ARTICLE 19 strongly believes that, despite this decrease in prosecutions, the new Article 301 remains a serious threat for freedom of expression in Turkey. First, we note that the

number of requests for prosecutions has not diminished. Prosecutors in Turkey continue to take prompt action against people who are critical of the government or question official versions of historical events and personalities. Second, the number of investigations for denigration of “Turkishness” and the Turkish Republic has decreased only because the current Minister of Justice wants to avoid further scandals concerning charges under Article 301. It is therefore likely that the number of prosecutions may increase if the next minister has a different attitude.

ARTICLE 19 calls on the Turkish authorities to protect of the right to freedom of expression, as required by international law, by abolishing Article 301 altogether for the following reasons:

- It is inherently illegitimate for the State to impose a blanket ban on the discussion of historical matters, or individuals and institutions.
- In violation of international law Article 301 is used to prosecute individuals who express opinions which diverge from official dogma regarding the history of the country.
- The term “Turkishness” is vague and gives opportunity for the arbitrary criminalisation of criticism.
- The provision is unnecessary in a democratic society since generic hate speech laws already prohibit incitement to hatred.
- It is unreasonable to spend taxpayers’ money for the preparation of numerous requests for prosecutions under Article 301 which are later rejected by the Minister of Justice.

FURTHER INFORMATION:

- For more information please contact: Boyko Boev, ARTICLE 19 Legal Officer, boyko@article19.org or +44 20 7324 2500.
- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.