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Special Rapporteur on the promotion of the right to freedom of opinion and expression

Follow-up Report on Country Visits

Call for Submissions

Turkey

The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression will present a follow-up report pursuant to country visits conducted under the auspices of the mandate. He will examine the impact of country visits on the promotion, protection, fulfilment and overall enjoyment of the right in five selected countries. He will analyse the level of implementation of recommendations made following the visits, and consider any other developments impacting upon the rights which may have occurred since the visit was completed. The findings will be presented as a supplementary report to the 41st session of the Human Rights Council in June 2019. For more information, please see the concept note attached.

In order to facilitate the preparation of the report the Special Rapporteur would welcome information from States and relevant stakeholders in response to the questions below, based primarily on recommendations made in the country visit report.

Please provide responses in the table below. We hope to receive your submission no later than 22 February 2019 to freedex@ohchr.org with "Submission to the follow-up study on country visits of the Special Rapporteur on the right to freedom of opinion and expression" as the title of the email. Submissions will be posted on the OHCHR website at the time of the publication of the report, except for submissions from non-state actors explicitly stating their wish to remain anonymous.

On the implementation of recommendations made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression following the visit of the Mandate Holder to Turkey

What efforts have been made by the State to ensure that no persons are held in detention, investigated or prosecuted for sharing opinions that do not constitute an incitement to hatred or violence consistent with article 19(3) and 20 of the International Covenant on Civil and Political Rights? Have any journalists, writers, judges or academics detained on such basis been released?

(See: A/HRC/35/22/Add.3 para 77)

IPI has not observed any improvement in media freedom in Turkey since the lifting of the state of emergency in July 2018. The state of emergency had, despite the warnings of the Venice Commission in 2017, been used to thoroughly clamp down on all critical journalism, leaving only four independent daily print newspapers functioning. One of these, Cumhuriyet, was taken over by a more conservative management following elections at the foundation in 2018 and the court case against its board and staff that ended in harsh sentences despite the complete absence of concrete evidence in the case against them

Constitutional changes were implemented following the Presidential election of June 2018¹, dismantling the Prime Ministry and consolidating decision making power with the President. The impartiality and independence of the judiciary in the high criminal courts became rarely evident with all appointments to the (High) Council of Judges and Prosecutors being made by the President (due to the fact that he is also chair of the majority party in parliament). The passing of emergency decree laws shuttering newspapers, seizing their assets and giving them no right to appeal essentially wiped out independent daily newspapers in Turkey barring four or five remaining stalwarts. The fate of independent journalism in Turkey was sealed when said emergency decrees, instead of being lifted along with the end of the state of emergency (as recommended by the Venice Commission²) were passed into law in 2018.

Limit: 750 words

Have measures been adopted by the State to ensure that the press, other media, and all individuals are able to comment on public issues and to inform public opinion without facing censorship or constraint?

(See: A/HRC/35/22/Add.3 para 78)

No Measures have been adopted by Turkey to ensure press freedom, on the contrary the State has stifled media freedom and independent media organisations.

The few remaining newspapers continue to be denied public advertising revenue by the state's Public Advertising Association - Basın İlan Kurumu and are subjected to continual court cases for insulting the President and/or government officials.

Newspapers are frequently requested to take articles down from the internet.

The shuttering of 53 newspapers between 2016-2018 and the closure of over 170 media organisations has effectively prevented independent and critical reporting from reaching the people of Turkey at present.

The fact that no normalization of conditions in Turkey and no let-up in the crackdown on the media is evident to IPI post-state of emergency, coupled with the lasting effects on the judiciary and media wrought by wholesale constitutional change and the ratification of temporary emergency decrees leads us to believe that there will be no significant room for improvement in terms of the plurality of the media and reopening of independent newspapers in Turkey. Furthermore, we are now witnessing the upholding of the sentences passed down to journalists in freedom of expression trials as the appeals process for many is nearing its completion. The Turkish government is showing no sign of providing a reprieve for independent newspapers and media organisations. Journalists who have dared to speak out against the high handed approach of the government have been targeted by politicians including the President.

¹ <http://www.mondaq.com/turkey/x/729820/Constitutional+Administrative+Law/Election+Terms>

² [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad\(2017\)005-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad(2017)005-e)

Limit: 750 words

Have steps been taken to reverse closures of media outlets, including Internet media? If so, which outlets have been granted permission to re-open? Have measures been put in place to ensure that media outlets are only suspended in exceptional circumstances prescribed by law and subject to judicial review?

(See: A/HRC/35/22/Add.3 para 79)

No steps have been taken to reverse closure of media outlets in Turkey. The incessant persecution of the media and journalists in Turkey continued in 2018. 70 newspapers were shuttered by emergency decree between July 2016-July 2018. 17 of these were permitted to reopen. In total, over 170 media organisations including television stations, online platforms, magazines, newspapers and radio stations were shuttered by the government under the state of emergency powers.

Limit: 750 words

Has Law no. 5652 – the Internet Law – been reviewed? If so, what changes have been made to it?

(See: A/HRC/35/22/Add.3 para 80)

Limit: 500 words

Have any measures been taken to ensure requests for takedowns of online content are consistent with the requirements of articles 19(3) and 20 of the International Covenant on Civil and Political Rights? Has the Government refrained from excessive blocking and filtering of content?

(A/HRC/35/22/Add.3 para 80)

Limit: 500 words

Have emergency decrees remaining in place subsequent to the state of emergency been reviewed and revised to ensure their consistency with international human rights standards? In particular, has a process been put in place enabling persons deprived of their liberty pursuant to emergency decrees to initiate challenges to the lawfulness of their detention before a court?

(See A/HRC/35/22/Add.3 para 82)

The shuttering by emergency decree denies the newspaper or media organisation the right to appeal, since, on paper they no longer exist. Emergency decrees cannot be appealed by these organisations and many of the emergency decrees that the Venice Commission recommended in 2017 be lifted along with the state of emergency, have passed into law, permanently decimating the independent media landscape in Turkey.

Venice Commission report: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdlad\(2017\)005-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdlad(2017)005-e)

The recent decision to call for Turkey's suspension from the EU accession process by MEPs was partly fuelled by Turkey's failure to follow any of the recommendations in the Venice Commission report of 2017.

Limit: 750 words

Have steps been taken to ensure the right to review and remedy for victims of unlawful arrest, detention or dismissal?

(See: A/HRC/35/22/Add.3 para 83)

Limit: 500 words

What has been done to grant persons dismissed from their employment pursuant to emergency decrees access to appropriate and independent judicial and administrative mechanisms to challenge the lawfulness of such decisions?

(See: A/HRC/35/22/Add.3 para 83)

Limit: 500 words

Has a process been initiated to review Law no. 3713 - the antiterrorism law – and ensure that counterterrorism measures are compatible with article 19 (3) of the International Covenant on Civil and Political Rights? If the law has been reviewed, what changes have been brought about?

(See: A/HRC/35/22/Add.3 para 84)



Limit: 500 words

Have steps been taken towards the repeal of articles 125(3) and 299 of the Penal Code? If so, at what stage is this process and what are its effects?

(See: A/HRC/35/22/Add.3 para 85)

Limit: 500 words

Have any further laws, regulations, policies, administrative decisions or other measures affecting the right to freedom of opinion and expression been implemented following the Special Rapporteur's visit?

Limit: 1,000 words

Is there any relevant additional information you would wish to add?

Limit: 500 words