

Reporters Without Borders

<http://www.rsf.org/turkey-anti-terrorism-legislation-13-02-2013,44072.html>

Europe/Ex-USSR - Turkey

High expectations

Anti-terrorism legislation – announced reforms must not stop halfway

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Reporters Without Borders hails the government's declared intention of amending Turkey's anti-terrorism legislation and encourages it to do this in a comprehensive manner.

The law currently being drafted, which will amend articles in the criminal code, the anti-terrorism law and the media law, could be a major step in the right direction. But, to represent a real watershed, it will need to be extensive and detailed for the judicial system to implement it properly.

And it will need to be quickly followed by repeal of all of the many legislative provisions that violate freedom of expression ([see RWB's recommendations](#)).

"We have for years been repeating that the anti-terrorism legislation is archaic and repressive and is one of the leading obstacles hampering the activities of journalists and civil society in Turkey," Reporters Without Borders secretary-general Christophe Deloire said.

"The European Court of Human Rights is right to cite Turkey's anti-terrorism legislation as the No. 1 reason for its critical rulings. Reforming it is essential if freedom of information and other freedoms are to progress in this country. If the bill's approach is to henceforth apply terrorism charges solely to the perpetration of acts of violence, and no longer to the expression of dissident views, it is a move in the right direction. But that is just the first stage.

"As well as the anti-terrorism legislation, this new 'reform package' is finally tackling some of the criminal code's repressive articles. But it must not stop halfway. What about articles 125, 299, 300 and 305 criminalizing criticism of state institutions? What about Law No. 5816 penalizing criticism of the Turkish republic's founder, Mustafa Kemal Atatürk? What about Law No. 5651 on the Internet, which permits extensive use of cyber-censorship and the blocking of websites without reference to any court?

"Everything will depend on the extent of the proposed reforms and, of course, the way they are implemented by the courts. The extent of [the last package of judicial reforms](#), adopted in July 2012, [proved to be quite limited](#). Despite some progress it did not stop dozens of journalists from remaining in detention and did not stop many new media prosecutions."

Deloire added: "Most of the journalists currently detained in Turkey are accused without any solid evidence of membership of a terrorist organization. When will the judicial authorities be forced to provide more substantial justification for accusations and pre-trial detention? The new legislation must be precise in order to leave prosecutors and judges as little leeway as possible in its interpretation."

Announced months ago, the "fourth judicial reform package" was unveiled by justice minister Sadullah Ergin at a seminar yesterday and is supposed to be finalized quickly for submission to parliament. It is intended to help facilitate the resumed negotiations between the government and the PKK Kurdish rebels aimed at ending 20 years of armed conflict.

The bill reportedly aims to distinguish between support for an illegal organization, inciting violence and the perpetration of acts of terrorism. Under one of the provisions being considered, those who allegedly assist an illegal organization, "commit crimes on its behalf" or

disseminate its propaganda would no longer be automatically treated as "members of a terrorist organization."

Article 215 of the criminal code ("justifying a crime or a criminal"), currently punishable by three years in prison, is to be relaxed. As it stands, referring to the head of the outlawed PKK as "Mr. Öcalan" is regarded as a sign of respect and therefore treated as "justifying a criminal."

The penalty of six months to two years in prison applicable under article 318 of the criminal code to those who "discourage members of public from doing their military service" is reportedly to be replaced by a fine that can be imposed without reference to the courts. Using the media to discourage military service will no longer double the penalty imposed.

Torture would no longer be subject to any statute of limitations, while defendants would be able to appeal against pre-trial detention orders and the judicial system would be encouraged to take more account of the rulings issued by the European Court of Human Rights.

Turkish NGOs, including the human rights group [IHD](#), have criticized the lack of government consultation with civil society during the drafting of the law.

"KCK Media Committee" case – 26 still held

A total of 26 executives and employees of pro-Kurdish news media continue to be held on suspicion of being members of an alleged "media committee" created by the outlawed Union of Communities in Kurdistan (KCK), regarded as the PKK's urban wing. Seven others were released conditionally after the last hearing in this case before an Istanbul court on 8 February.

The seven who were released are **Ismail Yildiz**, a reporter for the *Euphrates News Agency* (ANF), **Pervin Yerlikaya**, an accountant with the *Diha* (Tiger) news agency, **Zuhal Tekiner**, co-owner of *Diha*, **Ziya Çiçekçi**, co-owner of the daily *Özgür Gündem* (Open Agenda), **Cagdas Kaplan**, an Istanbul-based reporter for *Diha*, **Ömer Ciftçi**, co-owner of the weekly *Demokratik Modernite*, and **Saffet Orman**, a *Demokratik Modernite* employee.

Held since 21 December 2011, they were freed on the grounds of the time already spent in detention and the level of evidence against them. They are now forbidden to leave the country. The other 26 will continue to be held until the next hearing, scheduled to begin 22 April. The court is expected to again consider the possibility of releasing them on 26 April, the last day of the next five-day hearing.

Explaining its decision not to release them on 8 February, the court said their "preventive detention for the moment respects the norms established by the European Court of Human Right, as there are still plausible suspicions against them and the alternative of judicial control would be insufficient."

By the next hearing, the court is supposed to verify the foreign travel dates of those accused of attending KCK meetings in northern Iraq. The defendants have not yet been allowed to use Kurdish in court but this will reportedly be permitted once the final indictment has been read out.

Finally, at the prosecution's request, the jury has filed a complaint against the defence lawyers, who criticized the indictment, describing it as "defamatory," "absurd" and "comic" and claiming that it would result in a "captive" press.

Seventeen different "PKK propaganda" charges have meanwhile been brought against **Ibrahim Güvenç**, the editor of the only Kurdish-language daily, *Azadiya Welat* (Free Country), in connection with articles and columns published between 10 June and 4 November 2012. Like his predecessors as editors – [Vedat Kursun](#) and [Ozan Kilinc](#) – Güvenç is now threatened with imprisonment because of the newspaper's coverage of the Kurdish issue.

MEP – "Encourage legislative reforms and dialogue on Kurdish issue"

Reporters Without Borders opened its 2013 series of monthly radio interviews in the European Parliament on 24 January with an interview on the subject of freedom of information in Turkey. The interviewee was French MEP Hélène Flautre of the Greens, who is a member of the Foreign Affairs Committee and head of its [delegation to the EU-Turkey mixed parliamentary commission](#).

Newly returned from a visit to Turkey, Flautre stressed the need to overhaul the anti-terrorism law and judicial procedures, and the importance of the ongoing peace talks. She also urged the European Union to demonstrate sincerity in its membership negotiations with Turkey, and encouraged Turkey to press ahead with democratization.

Listen to the interview (in French):

(Photo : RSF)

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