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Human rights situations that require the Council's attention

Joint written statement* submitted by International PEN, the International Press Institute, Reporters Sans Frontiers, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Turkey: Major deterioration of the human rights situation in the country

PEN International calls the attention of the Council to the dramatic deterioration of the human rights situation in Turkey. In recent months the already critical situation for freedom of expression and access to information in the country has suffered further major repression. Information blackouts have prevented the international community and civil society from verifying credible reports of major violations by the Turkish security forces during the prolonged total curfew in the southeast where conflict has escalated since mid-2015.

Across the country the authorities are increasingly intolerant of political opposition, public protest, and critical media, while government interference has undermined judicial independence and the rule of law. Media ownership has been transformed, leading to a dominance of pro-government media in the country; intimidation, firing of critical journalists and denial of accreditation to foreign reporters have further eroded independent reporting. Restrictive laws have been deployed to arrest and prosecute journalists, while media groups who criticise the government have been fined.

Freedom of expression – a right enshrined in Turkey’s constitution – is the cornerstone of a democratic and fair society. For a society to be open, free and diverse, individuals must be able to live without fear of reprisals or censorship for what they believe or express. Urgent measures are required to address and reverse the deterioration of the human rights situation in the country, with particular regard to freedom of expression.

Media blackout on the conflict in the south-east

The extended curfew – affecting an estimated 1.5 million people - and communications blackout imposed on many towns in the south-east of the country which began in mid-December has made it extremely difficult to access information concerning the situation of civilians. Independent investigators and civil society organisations have been prohibited from accessing the area to verify reports of torture, extra-judicial killings, disproportionate use of lethal force and arbitrary detention. There appears to have been massive, highly disproportionate destruction of property and key communal infrastructure.¹ Many towns sealed off for weeks on end are still difficult to access due to the heavy security presence. High Commissioner Zeid in his May statement highlighted that the lack of information concerning such a large and geographically accessible area is ‘both extraordinary and deeply worrying’.²

Three journalists have been killed since November 2015, reflecting the increasingly dangerous situation for reporters in the region. On 28 November, the President of the Diyarbakir Bar Association, Tahir Elçi, was killed on the street following a press conference in which he called for a peaceful solution of the conflict. No arrests or convictions have taken place. Over 1000 academics are under investigation for signing a petition calling for peace in the region while journalists trying to report from the area have been denied access and some have been arrested.

Judicial harassment and detention of journalists

The recent sentencing of Can Dündar and Erdem Gül, editor and Ankara bureau chief respectively of the Turkish daily newspaper *Cumhuriyet*, to prison on 6 May 2016 on charges of obtaining and revealing state secrets is just one of the latest examples of the government’s attempts to punish and suppress legitimate criticism and prevent the exposure of its abuses and corruption. The trial, in which President Erdoğan and Turkey’s National Intelligence Agency (MIT) were complainants, was conducted in a closed court indicating the increasingly compromised independence of the justice system.

Just before the verdict, a gunman shouted “traitor” at Dündar and fired two shots. While he escaped injury, a television reporter, Yağız Şenkal, was injured in the leg. The attempted shooting of an editor, along with the trumped up charges brought against him, is a sinister development reminiscent of the case of Hrant Dink and other journalists who have been killed in Turkey.

¹ In February 2016, the office of Kurdish PEN was destroyed in an apparent attack by Turkish security forces <http://www.pen-international.org/newsitems/pen-international-shocked-at-attack-on-the-offices-of-kurdish-pen-in-south-east-turkey/>

²<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19937&LangID=E>

At least 14 journalists are currently imprisoned or detained with local NGOs placing the figure over 30.³ In April, two journalists were sentenced to two years in prison on charges of inciting public hatred and insulting religious values for republishing a cartoon from the French satirical magazine Charlie Hebdo.⁴

In increasing numbers, foreign journalists have been prevented from entering the country, and others have been deported.

Hundreds of journalists are currently facing charges and investigations. The Turkish Penal Code (TCK) currently criminalises defamation. Defaming the President or a public official for the commission of their duty carries a higher minimum sentence or fine than for defamation of ordinary citizens. According to the Turkish justice minister almost 2,000 people had been prosecuted for "insulting" President Erdoğan since the former premier became president in August 2014.⁵

Worryingly, the international community is failing to hold Turkey to international human rights standards. Germany capitulated to President Erdoğan's request that German satirist, Jan Böhmermann, could be prosecuted for his satirical poem about the leader, under a law which criminalises insulting a foreign leader but only with the consent of the German government.

Government closure of opposition media

On 4 March 2016 court-appointed trustees took over the management of Feza Media Group, which includes the opposition *Zaman* and *Today's Zaman* daily papers as well as the Cihan news agency. The appointment of trustees is the latest in a string of measures initiated by the authorities to intimidate media in Turkey and further threatens media pluralism in the country.

Legislative restrictions to freedom of expression

In the last two years, half of all freedom of expression related cases brought before the European Court of Human Rights concern Turkey. These cases stem from major legislative restrictions on freedom of expression and widespread misuse of laws to target journalists and block legitimate channels of expression. Despite some positive revisions in recent years, the Anti-Terror Law (TMK) and organised crime provisions within the Penal Code have been widely misused to punish journalists and critics of the government.

Recent legislative changes have further restricted free speech including amendments to the Internal Security Law giving police powers to conduct surveillance without a warrant, and the wide use of the Internet Law (Law 5651) to block websites in the country including the repeated blocking of Twitter, Facebook and YouTube, and the shutting down of left-wing and Kurdish websites. Blocking websites is a highly disproportionate measure. It impedes the public's right to access information on the Internet and negatively impacts media pluralism and free expression.⁶

Conclusion and recommendations:

³ <https://www.cpj.org/imprisoned/2015.php>

⁴ <http://www.pen-international.org/newsitems/turkey-journalists-sentenced-to-two-years-imprisonment-for-republishing-hebdo-cartoon/>

⁵ <http://www.theguardian.com/world/2016/mar/02/turkeys-justice-minister-defends-allowing-1845-insult-cases-to-go-ahead>

⁶ <http://www.osce.org/fom/233926>

Given the gravity of the situation, we urge Member States to convene a Special Session of the Human Rights Council in order to assess and address the tragic situation of the civilians under curfew and to take all necessary steps to halt violations against civilians including by establishing an International Commission of Inquiry or an International Fact Finding Mission.

We also urge the United Nations Human Rights Council to press the government of Turkey to:

- Release all writers, journalists and translators imprisoned or detained in Turkey solely for their work or peaceful exercise of free speech;
- Overturn sentences and/or drop charges against any journalists imposed for their legitimate reporting including *Cumhuriyet* journalists Can Dündar and Erdem Gül;
- Conduct prompt, thorough and transparent investigations into violent attacks on journalists and media outlets and to ensure that impunity for violent attacks on journalists is not allowed to flourish;
- Guarantee the safety of journalists and media workers by adopting legislative and policy measures to prevent all attacks against journalists and eradicate impunity in episodes of violence and intimidation;
- Amend or repeal all legislation which unduly restricts freedom of expression including the Anti-Terror law and criminal defamation, religious insult and insult to the nation provisions in the Penal Code;
- Amend Law 5651 to protect freedom of expression online, and ensure that any blocking of websites, IP addresses, ports, network protocols or types of use (e.g. social networking) is justified in accordance with international standards;
- Repeal the National Intelligence Agency Law (No. 6532), and ensure adequate judicial and political oversight for the security services to ensure that any of their actions affecting freedom of expression are proportionate and necessary in a democratic society;
- Remove any restrictions or regulations that might place the media under political influence or compromise the vital role of the media as public watchdog;
- Abide by Turkey's obligations under the International Covenant on Civil and Political Rights (ICCPR) to protect the rights to freedom of expression, association and assembly.

Danish PEN, German PEN, PEN Eritrea-in-Exile, PEN Zimbabwe, and WAN-IFRA, NGOs without consultative status, also share the views expressed in this statement.
