



TURKEY

23 JANUARY 2006: PEN calls on Turkish authorities to end all trials against writers following decision to drop proceedings against Orhan Pamuk

The news that the court presiding over the case of the world-famous Turkish writer **Orhan Pamuk** will not proceed with the case is greeted with relief by PEN members world-wide. The decision came after the Ministry of Justice refused to take responsibility for the case. Yet it does little to assuage PEN's concerns that the right to freedom of expression in Turkey is severely curtailed by the existence of laws that penalise debate on "taboo" topics. During the past 12 months, PEN has monitored over 60 cases of writers, journalists and publishers who were brought before the courts or faced with prosecution for their writings. Around 15 of these are currently on trial on charges of "insult" under Article 301, similar charges to those levied against Pamuk. Some recent notable cases include: the editor of an Armenian magazine, **Hrant Dink**, accused of insult to the State; five journalists accused of "interfering" with the judiciary for their comments on attempts to ban a conference; and publisher **Abdullah Yilmaz**, who is to go on trial for a novel set in early part of the last century.

On February 9, there will be another in a series of hearings against Dink, editor of the Armenian-language *Agos* magazine, whose trial opened in April 2005. His "crime" was to make comments at a conference in which he expressed his belief that a phrase in the Turkish national anthem was discriminatory. Originally charged under the old penal code before it was amended in June 2005, the court decided to continue with his case, transferring it to the new penal code Article 301. Dink faces up to three years in prison. In another case that concluded in October, Dink was given a six-month suspended prison sentence for an article that discussed the impact on present-day Armenian diaspora of the killings of hundreds of thousands of Armenians by the Ottoman army in 1915-17. As a result, new charges were opened against Dink and three others writing for *Agos* in December 2005, for an article that challenged Dink's October conviction. The four are accused of attempting to "influence the judiciary" under Article 288 of the Penal Code.

Commentators are surprised to see the emergence of the application of Article 288 of the Penal Code that is designed to protect the courts from outside influence yet is now being used to penalise legitimate comment on the judicial process. A notable case is that of five journalists working for the mainstream press who will appear in a court in Istanbul on 7 February. All are accused for their articles on a conference of Turkish historians on the Armenian tragedy. The conference was postponed after it was banned by a court order, eventually taking place at the end of September. However **Ismet Berkan**, **Erol Katirciolgu**, **Murat Belge**, **Haluk Sahin** and **Hasan Cemal** will still be brought before a court in two weeks' time. Four of the five are additionally accused under Article 301 for "insult to the state" for the same articles – the same law under which Pamuk was charged.

In early April, the editor of the Literatür Publishing House, **Abdullah Yilmaz**, will be brought to trial under Article 301 for the book by Greek writer **Mara Meimaridi** titled *The Witches of Smyrna*. The book is a novel set in the last years of Ottoman rule in Izmir (known in Greek as Smyrna). Scenes in the book that describe some parts of the Turkish quarter of Izmir as dirty is seen to be "denigrating to Turkish national identity". What is surprising is that the book has already been in print for a year, selling 50,000 copies in Turkey, and 100,000 in Greece, with a film adaptation under way.

These are just some of the cases that are currently causing concern in Turkey. Although, to date, the trials have not ended with long prison terms, acquittals are not assured, and the result is often fines and suspended sentences. This is a great improvement to the situation in the 1990s when hundreds

of writers and journalists were sent to prison, often for many years. Yet, this does not lessen the impact of the present situation where judicial harassment is now used to silence criticism of the Turkish state. These trials take months to complete, involving many hearings, causing extensive disruption to the lives of the defendants, bearing with them emotional as well as financial stress. That eminent writers and publishers, as well as mainstream journalists, are not immune from prosecution serves to send a strong warning to anyone who dares to consider writing on issues considered "taboo". These include comments on the mass killings of the Armenian population in the early 20th Century that suggest that the Turkish state and army has carried out human rights abuses, or even simply reporting frankly on the outcome of trials.

While there are court cases against writers, journalists and publishers who challenge "taboos" and while there exist laws that enable them to be prosecuted, PEN will continue to call for an end to all trials of those accused solely for having practised their right to freedom of expression. It calls on the Turkish authorities to take note of the international indignation at the court hearings against Orhan Pamuk and to take the opportunity to review Turkish legislation with the aim of the possibility of future trials once and for all.

MAY 2006: Trials against writers, journalists and publishers continue under Article 301

Trials continue against writers, journalists and publishers who have been charged with "denigration of Turkishness" under Article 301 of the Turkish Penal Code. PEN is calling for an end to all trials against writers for the peaceful expression of their views, and for the repeal of Article 301 that is in direct contravention of international standards that guarantee the right to freedom of expression.

On 1 May, **Hrant Dink**, editor of an Armenian-language newspaper, *Agos*, who was found guilty of insulting Turkishness and given a six-month suspended prison term in October 2005, had his appeal against his conviction overturned. Dink had been accused for an article in his newspaper on the relations between Armenians and Turks that included a phrase that the court said suggested that Turkish blood was "dirty". Dink has repeatedly stated that his article had been misconstrued and that his aim is to improve relations between Armenians and Turks. Dink launched an appeal against his sentence and, in February, the Chief Prosecutor told the Appeals Court that the phrase under scrutiny could not be considered insulting. In light of this, the Court's decision to uphold the case is particularly surprising.

Ten days earlier, on 20 April, another of a series of trial hearings took place against publisher and PEN Canada Honorary Member **Ragip Zarakolu**. He is accused under Article 301 for publishing two books. The first, George Jerjian's *The Truth Will Set us Free /Turkish-Armenian Re-Conciliation*, refers to the mass deportations of Armenians in 1915. If convicted, Zarakolu faces up to seven and a half years in prison. For the second book, Dora Sakayan's *An Armenian Doctor in Turkey: Garabed Hatcherian's Izmir Journal*, Zarakolu could receive a six-year sentence. Although the trials have already dragged on for over a year, the hearings were adjourned further to 21 June 2006.

There was disappointment for **Murat Belge**, a columnist for *Radikal* who was among five mainstream journalists who went on trial in February 2006 for "attempting to influence the outcome of a trial" in articles that criticized a court's decision to ban an academic conference on Armenia in November 2005. The conference was eventually able to take place. Belge's colleagues had the charges against them dropped on April 11, 2006, when it was deemed that the trial was subject to a statute of limitation due to the length of time between the alleged offence and the charges. However, in Belge's case, it was deemed that the statute of limitation did not apply, so his case will continue on June 8. Nevertheless, on 28 April, the Bagiclar prosecutor's office issued an appeal against the decision to discontinue the trial against Belge's four co-defendants, and there is a possibility that the proceedings against them may restart.

These are just some of the more well known of the writers, journalists and publishers who are on trial in Turkey today for their writings. PEN has long campaigned - and will continue to campaign - against the use of the courts to stifle freedom of expression in Turkey. It calls on the Turkish government once again to review its legislation, with the aim of removing all remaining laws that allow for the

prosecution of those who practise their right to write and publish freely. By so doing, the Turkish government can stand by its commitment to the right to freedom of expression as guaranteed under Article 10 of the European Convention on Human Rights, and Article 19 of the International Covenant on Civil and Political Rights.

24 JULY 2006: President Necdet Sezer approves amendments to the anti terror law

On 17 July 2006, President Necdet Sezer approved amendments to the Turkish Anti Terror Law despite widespread concern that this would lead to a steep downturn in the state of freedom of expression in Turkey. In a statement dated 14 July, International PEN wrote that the outcome would be the broadening of "the definition of terrorism and brings with it the possibility of many more prosecutions of writers and journalists for writings that cannot be construed as supporting or advocating violence." It added "International PEN fears that the effect of passing this law would be to reverse the many positive legislative changes of recent years that have led to improvements in the state of freedom of expression."

On the same day he had approved the amendments, President Sezer announced that he would be applying to the Constitutional Court for the annulment of a number of Anti-Terror Law articles. Full details of this are not yet available. International PEN's Writers in Prison Committee calls on the President to ensure that the articles recommended to be removed from the law include those that suppress the right to freedom of expression as defined in international human rights instruments to which Turkey is committed, such as the International Covenant on Civil and Political Rights, and the European Convention on Human Rights. It also calls on the Turkish authorities to consider a review of the Penal Code under which many writers and journalists have been tried, and that includes articles providing heavy penalties for the expression of opinions that are otherwise internationally guaranteed.

For further details of the law and the campaign by Turkish NGOs against its implementation go to www.antenna-tr.org.

SEPTEMBER 2006: Arrests and trials against writers and journalists escalate

On news of the acquittal on 21 September 2006, of writer **Elif Shafak** of charges of "insult" for comments made by fictitious characters in a novel, International PEN Writers in Prison Committee Programme Director, Sara Whyatt, stated "We are delighted for Elif Shafak, but we are not celebrating". She, together with Eugene Schoulgin, Board Member of International PEN, Muge Sokmen and Vecdi Sayar of Turkish PEN, around 50 Turkish writers and many more supporters, had been present at the trial. (Please visit <http://www.pencanada.ca/Shafak.wmv> to see a video interview with Elif Shafak.)

Not celebrating, because scores more writers, journalists and publishers are on trial in Turkey. Yet another court case has been instigated against **Hrant Dink**, the editor of *Agos*, an Armenian-language newspaper. He is to be tried for a quote from an interview he gave to the Reuters news-agency that was published in *Agos*, in which he stated that the Turkish army had carried out genocide against Armenians in the early 1900s. He is charged with "insulting Turkishness" under Article 301 of the Turkish Penal Code, which carries a maximum sentence of three years in prison. He was recently convicted under the same code to six months in prison suspended. Should Dink be found guilty of the new offence, he will be required to serve both sentences.

At least 18 other writers, publishers and journalists are on trial in Turkey on charges of "insult", and many more under other laws that have been used to stifle legitimate comment in Turkey. For example, on 5 October, **Ipek Çalıs lar**, the author of *Latife Hanım (Lady Latife)*, will go on trial for a biography of the first wife of Mustafa Kemal Atatürk. She could be sentenced to up to 4 ½ years for "insult" to the memory of Atatürk, under Law 5816. On the same day publisher and PEN Canada Honorary Member **Ragıp Zarakolu** will also be before the courts for further hearings of long-standing trials against him for publishing two books, both under Article 301 and both referring to the murders of Armenians at the turn of the last century. That day will be a particularly busy one for the courts, with five other journalists and writers standing in courts around Istanbul.

Other laws are also being applied against an estimated further 60 writers and journalists in denial of their right to freedom of expression. The Turkish Human Rights Association has pointed to 14 articles of the Turkish Penal Code that are being used to suppress free expression and is calling that they be abolished or revised. There are also concerns that anti-terror legislation is being misused against radical newspapers. In recent days, there have been raids against a number of leftist publications in Istanbul and several of their journalists and staffers arrested under the Anti Terror Law. PEN is currently seeking more information on these events which are described by some as a further attempt to quash free speech.

The continuance of attacks on free expression flies in the face of Prime Minister Recep Tayyip Erdogan's comments following the acquittal of Elif Shafak, a decision that he described as being "very pleasing". He also suggested that the government should consider the amendment of Article 301 and that there should be talks with the opposition and non-governmental organizations to that effect.

PEN Canada is deeply alarmed by the continued and growing number of writers, journalists and publishers who are before the courts for reasons that are in breach of international human rights conventions. It calls for an end to these trials and for a thorough review of the legislation that penalize freedom of expression as guaranteed under Article 19 of the International Covenant on Civil and Political Rights, and Article 10 of the European Convention on Human Right, to which Turkey has stated its commitment.

JANUARY 2007: Journalist Hrant Dink gunned down; murder underscores severity of threats to free expression in country

PEN Canada has reacted with horror at news of the murder of respected journalist **Hrant Dink**.

Dink, an Armenian-Turkish newspaper editor, was shot in the head on 19 January outside the Istanbul office of his *Agos* newspaper. He was assassinated by a gunman or gunmen who fled the scene.

"This murder comes as a shock to PEN Canada, as threats to free expression in Turkey in recent years had been legislative and judicial," said Writers in Prison Committee Chair Alan Cumyn. "However, Hrant Dink's killing tragically underscores the risks that writers and editors run in a country where comment on politically sensitive topics can have even fatal results."

Shortly before his death, Dink, 52, had complained of death threats he was receiving. "My computer is laden with lines filled with angry threats," Dink wrote in a 10 January article for *Agos*.

Dink, on whose behalf PEN Canada had advocated in the past, received a sixth-month suspended prison term in October 2005 for "insulting Turkishness", for an article he wrote during that year about the massacre of Armenians by Turks during World War I. The charges were laid under the notorious Article 301 of the country's penal code, which has frequently been used to stifle free expression in Turkey.

The 2006 Nobel Laureate for Literature and Honorary member of PEN Canada, **Orhan Pamuk**, also faced charges of "insulting Turkishness" that were subsequently dropped in January 2006. He was put on trial after his remarks to a Swiss newspaper that "30,000 Kurds and one million Armenians were killed in these lands, and nobody but me dares talk about it".

Nationalists who strongly oppose Turkey's bid to join the European Union have been outraged by assertions that the killings of the Armenians constituted genocide.

Turkish Prime Minister Recep Tayyip Erdogan condemned the murder as an attack against the "Turkish nation's togetherness and peace and Turkey's stability."

Cumyn said he hoped the Turkish authorities would carry out a thorough investigation leading to the conviction of those behind the murder so that a climate of impunity does not prevail in the case.

"In too many countries, writers and journalists pay the ultimate price for peacefully expressing thoughts and opinions, and no one is brought to justice for their murders," Cumyn said.

"At times like these, one thinks of Anna Politkovskaya of Russia, murdered last October, and Zahra Kazemi, killed in Iran in 2003. Every time a crime like this goes unsolved, it makes it more likely that more writers will be killed."