

TURKEY: Freedom of expression on trial

PEN Canada is watching with growing concern the proliferation of judicial hearings being brought against writers and publishers under a penal code that had been amended earlier in 2005 with the aim of bringing it into harmonization with European Union human rights standards.

Fatih Tas

Hopes that the amendments would lead to a reduction in the numbers of court cases brought against writers and journalists have been confounded. On November 17, the owner of the Aram Publishing House, Fatih Tas, was brought before the Istanbul Court of First Instance, which considered a request that he be charged under Article



Fatih Tas, publisher also of Noam Chomsky (right).

301 of the Penal Code for "insult to the state and to the army". The action stems from Aram's publication earlier this year of a Turkish edition of the book by the American academic, John Tirman (currently Executive Director of MIT's Center for International Studies) *Spoils of War: the Human Cost of America's Arms Trade*. First published in the USA in 1997, the book refers to the transfer of weapons, military, political and economic support by the US to Turkey, weapons that Tirman accused the Turkish army of having used against Kurdish civilians as well as the rebel group, the Kurdish Workers' Party (PKK). In a press release protesting the trial, Tirman describes his book as "highly critical of the Turkish military, various government ministers, nationalism, and Atatürk, the founder of the Turkish Republic."

The indictment against Tas refers to the accusations of human rights violations, as well as references to Kemal Ataturk's nationalism as being "fascism", and suggestions that the policy in the Kurdish south east in the early 1990s amounted to a "genocide". Tas argues that the book is legitimate criticism. Article 301 of the Penal Code provides sentences of six months to three years in prison.

Ragip Zarakolu

The news that the trials against publisher Ragip Zarakolu will drag on for at least another three months has been met with increasing alarm that, far from improving, the state of free expression in Turkey is taking a steep downward curve. A leading light in the struggle for the right to publish on human rights abuses and an open debate on issues such as the Armenian "genocide" of the early 1900s, Ragip Zarakolu faces up to six years in prison – and that in just one case against him. There are also two other trials under way. PEN has been standing beside Zarakolu for over a decade as he has appeared before court after court. In some instances he has been imprisoned, in others fined and, occasionally, he has been acquitted. His is the most acute case of continuous repression of the right to publish in Turkey.



International PEN Board member Eugene Schougin was among the observers, including representatives from PEN centres, the International Publishers' Association and other non-governmental organisations, who were present at the trials held on November 22 in Istanbul. They witnessed both courts' decision to adjourn the two trials to February 15, 2006. The next day, a court hearing on a third case against Zarakolu was adjourned to an unspecified date.

Zarakolu, co-founder and owner of Belge Publishing, is charged with "insulting and undermining the State" under Article 301 of the new Penal Code. These charges stem from the publication of a book by Dora Sakayan, *Garabet Hacheryan's Izmir Journal: An Armenian Doctor's Experiences*, and George Jerjian's book, *History Will Free Us All - Turkish-Armenian Conciliation*. In the Jerjian case, a new experts' committee was appointed to assess whether the book is insulting or not. In the Sakayan case, the prosecutor made his final statement, demanding a six-year prison sentence for Zarakolu for having "insulted the Army" and "Turkishness" by publishing this book.

Article 301 Turkish Penal Code:

- (1) A person who explicitly insults being a Turk, the Republic or Turkish Grand National Assembly, shall be imposed a penalty of imprisonment for a term of six months to three years.
- (2) A person who explicitly insults the Government of the Republic of Turkey, the judicial bodies of the State, the military or security organisation shall be imposed a penalty of imprisonment for a term of six months to two years.
- (3) Where insulting being a Turk is committed by a Turkish citizen in a foreign country, the penalty to be imposed shall be increased by one third.
- (4) Expression of opinions with the purpose of criticism does not require penalties.

Fatih Tas and Ragip Zarakolu are among around 50 people known to be before the courts in Turkey for their publications and writings. Most are accused of "insult" to Turkish officials, the military and the State. Perhaps the most well known is that of the eminent author, [Orhan Pamuk](#), who comes before a court in Istanbul on December 16 for his comments on the killings of Armenians and Kurds by Turkish forces in the last century. Pamuk too is being tried under Article 301 of the new Penal Code.

Shortly after receiving the Frankfurt Peace Prize in October, Pamuk told the *London Observer*, 'That law [Article 301] and another law about "general national interests" were put into the new penal code as secret guns. They were not displayed to the international community but nicely kept in a drawer, ready for action in case they decided to hit someone in the head. These laws should be changed, and changed fast, before the EU and the international community puts pressure on Turkey to do so. We have to learn to reform before others warn us.'

PEN Canada views with growing alarm the rising numbers of writers, journalists and publishers being brought before the Turkish Courts under Penal Code Article 301, on charges that are a blatant contravention of the international human rights standards to which Turkey is committed. That even eminent authors are not immune from prosecution further undermines the Turkish government's efforts to bring the country into conformity with these standards. It calls for there to be a halt to all trials against writers and journalists, and for further review of Turkish legislation that allows for such prosecutions to proceed.

Please send appeals to:

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