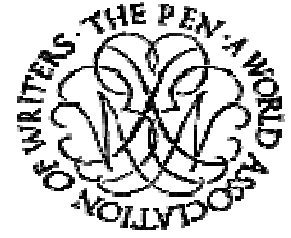


UNION INTERNATIONALE DES EDITEURS  
INTERNATIONALE VERLEGER - UNION  
INTERNATIONAL PUBLISHERS ASSOCIATION



President A Gül  
President of the Republic of Turkey  
Cumhurbaşkanlığı Kosku  
00380 Cankaya  
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Fax: 00 90 312 427 1330

**Re: Abolition of Article 301 of TPC and improvements of freedom of expression in general in Turkey**

*Geneva, London, 10 September 2007*

Dear Mr President,

Let us take this opportunity to congratulate you on your election of 28 August 2007.

ARTICLE 19, International PEN, and the International Publishers Association (IPA) are writing to you with regard to Article 301 of the Turkish Penal Code (TPC), and in particular to call for its abolition. As organisations concerned with the promotion of freedom of expression, we are deeply concerned about Article 301's impact on the practice of this right in Turkey and, consequently, its inconsistency with international law. This letter also calls for improvements we believe can be made for freedom of expression in general.

Our organisations have welcomed the changes to Turkish legislation since the mid-1990s. They have brought significant improvements from the era when scores of writers and journalists were detained solely for the expression of their views, many more were being tried than today, and, particularly distressing, numbers were killed. Until the appalling murder of Hrant Dink in January this year, there had been no such killing for almost a decade. Suggestions in late 2006 that the government would consider abolition, or at the very least amendment, of Article 301 were a

source of optimism that there would be further amendments to the Penal Code along the lines of the Harmonization Packages that had brought so many improvements.

Unfortunately, in the six months since the assassination of Hrant Dink, trials continue and there has been no further official comment on the status of Article 301, under which Dink was facing trial at the time of his death and which is widely considered to have marked him out as a target for the fanatics who killed him.

As you are aware, Article 301 prohibits the public denigration of 'Turkishness'. However, the term 'Turkishness' is extremely vague and provides the opportunity for the arbitrary criminalization of criticism. It is used to prosecute individuals who express opinions which diverge from the official view regarding the history of the country and certain 'iconic' individuals and institutions.

Between April and July 2007 only, we have seen 18 trials against 24 people under Article 301, while a number of other cases were brought up under other articles that are in breach of the right to freedom of expression and Turkey's international obligations. Eren Keskin – journalist for the daily Birgun, a lawyer and former president of the Human Rights Association (Istanbul branch) – is accused of "insult to the armed forces" for an article on the murder of Hrant Dink. Other examples include the cases of Ragip Zarakolu, Atilla Tuygan, Emin Karaca, Ersen Korkmaz, Ahmet Sik and many others, all prosecuted under Article 301 of Turkish Penal Code.

As these records illustrate, Article 301 of the Turkish Penal Code is used to ban free discussion and debate. As such it is essentially illegitimate and constitutes an appalling suppression of freedom of expression, thus undermining the quality of the democratic system. The use of Article 301 to prosecute individuals can not be justified and is not in line with European or International standards.

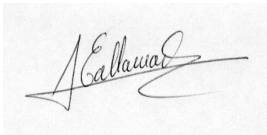
By its ratification of the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR), Turkey has an international legal obligation to respect and uphold the right to freedom of expression enshrined in both instruments. ARTICLE 19, International PEN, and the International Publishers Association therefore urge you to do all in your power to resume the process of bringing Turkey into compliance with its obligations by ensuring that the Turkish parliament

- Abolish Article 301 of the Turkish Penal Code entirely
- Ensure that Turkish law and practice are in line with Article 19 of the ICCPR and Article 10 of the ECHR


We would also like to refer to the a joint declaration of 41 international and national NGOs demanding a total abolishment of Article 301 and other articles violating freedom of expression issued on 14 February 2007. Attached, we are also sending the resolution on the same issue that was adopted by ARTICLE 19, International PEN and the International Publishers Association on 24 November 2006.

Our organisations enjoy strong relationships with governments all over the world and we would like to take this opportunity to offer our services should you wish to discuss further the measures necessary to ensure that the fundamental right to freedom of expression is enjoyed by everyone in Turkey

Yours sincerely,



Agnès Callamard  
Executive Director  
ARTICLE 19



Ana Maria Cabanellas  
President  
International Publishers  
Association



Eugene Schoulgin  
International Secretary  
International PEN

CC:

Prime Minister Recep Tayyip Erdoğan  
Foreign Minister Ali Babacan  
Prime Minister José Sócrates  
Foreign Minister Luís Amado  
EU Enlargement Commissioner Olli Rehn  
EP Foreign Affairs Commission President Elmar Brok

**Annexes: 14 February 2007 Declaration and joint IPA-PEN-ARTICLE 19 Resolution of 24 November 2006**

14 February 2007

**Declaration demanding abolishment of Article 301 of Turkish Penal Code**

**41 non-governmental organisations have released a joint declaration demanding a total abolishment of Article 301 of Turkish Penal Code and other articles violating freedom of expression.**

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In memory of Hrant Dink, 41 NGOs urge the Turkish authorities to abolish Article 301 TPC

We, the undersigned,

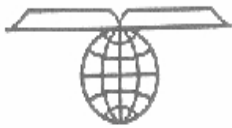
- Saddened by the assassination of Turkish-Armenian journalist and founder of the Agos" newspaper, Hrant Dink, on 19 January 2007;
- Recalling that Hrant Dink had been condemned to a six-month suspended sentence for having "insulted Turkishness" under Article 301 of the Turkish Penal Code;
- Considering that the criminalisation of insult and defamation is in conflict with international standards that guarantee the right to freedom of expression in that it discourages free debate on the function of official institutions, and that the term "insult" is too vague to have any standing as a legal charge, being too easily interpreted to meet the needs of those in authority and being potentially used as another means of preventing open discourse on sensitive issues;
- Therefore, observing that Article 301 of the Turkish Penal Code is used to suppress the right to freedom of expression as guaranteed in the UN International Covenant on Civil and Political Rights (ICCPR), and the European Convention on Human Rights (ECHR), to which Turkey is a party;
- Considering that defamation and/or insult laws cannot be justified if their purpose or effect is to protect the "reputations" of entities other than those that have the right to sue and to be sued;
- Supporting the ECHR case law according to which defamation laws cannot be justified if their effect or purpose is to prevent legitimate criticism of officials or the exposure of official wrongdoing or corruption;
- Pointing out that those charged for "insulting Turkishness" under Article 301 have become targets for extremists, many of whom have suffered verbal and physical attacks outside courtrooms, culminating in the tragic events of 19 January;
- Welcoming that the authorities have now offered police protection for others who have been charged under these laws;
- Believing that the discontinuance of the court hearings and the dropping of the offence of "insulting Turkishness" will serve to reduce the likelihood of any further tragedies;

**Urge the Turkish authorities to:**

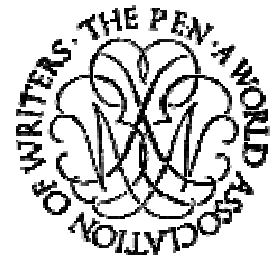
- Abolish Article 301 of the Penal Code entirely;
- Remove once and for all any articles that can be used to suppress the rights enshrined under Article 19 of the ICCPR and Article 10 of the ECHR (e.g. Law 5816).

**The following 41 non-governmental organisations have endorsed the above statement:**

1. International Publishers Association (IPA)
2. Federation of European Publishers (FEP)
3. International Federation of Scholarly Publishers (IFSP)
4. Association of American Publishers (AAP)
5. Association of American University Presses (AAUP)
6. Writers in Prison Committee (WiPC), International PEN
7. International Federation of Journalists (IFJ)
8. World Association of Newspapers (WAN)
9. World Press Freedom Committee (WPFC)
10. International Federation of Library Associations and Institutions (IFLA)
11. World Association of Community Radio Broadcasters (AMARC)
12. International Press Institute (IPI)
13. ARTICLE 19
14. Freemuse (Freedom of Musical Expression)
15. International Cities of Refuge Network (ICORN)
16. Freedom House
17. PEN American Center
18. PEN Canada
19. PEN Norway
20. PEN Sweden
21. PEN Netherlands
22. English PEN
23. PEN Flanders
24. San Miguel de Allende PEN (Mexico)
25. Russian PEN
26. Danish PEN
27. Index on Censorship
28. Hong Kong Journalists Association (HJKA)
29. Netherlands Association of Journalists (NVJ – Netherlands)
30. The Norwegian Bjørnstjerne Bjørnson Academy (Norway)
31. Media Watch (Bangladesh)
32. Observatoire pour la liberté de presse, d'édition et de création (OLPEC - Tunisia)
33. Center for Media Freedom & Responsibility (CMFR – The Philippines)
34. Centre for Human Rights and Democratic Studies (CEHURDES - Nepal)
35. Independent Journalism Center (Moldova)
36. Greek Helsinki Monitor
37. Greek Helsinki Group
38. BIANET (Turkey)
39. Initiative for Freedom of Expression (DSKG - Turkey)
40. Freedom of Expression Association (DUSUN - Turkey)
41. Association for Promotion and Education of Human Rights (IHTE - Turkey)



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*Geneva, London 24 November 2006*

- Observing that Article 301 of the new Turkish Penal Code is used to suppress the right to freedom of expression as spelled out in the UN International Covenant Civil and Political Rights (ICCPR), and the European Convention on Human Rights (ECHR), to which Turkey is a party.
- Considering that defamation and/or insult laws cannot be justified if their purpose or effect is to protect the “reputations” of entities other than those which have the right to sue and to be sued.
- Supporting the ECHR caselaw according to which defamation laws cannot be justified if their effect or purpose is to prevent legitimate criticism of officials or the exposure of official wrongdoing or corruption

IPA, ARTICLE 19, and International PEN urge the Turkish authorities to:

1. Abolish Article 301 of the Penal Code entirely;
2. Remove once and for all any articles that can be used to suppress the rights as enshrined under Article 19 of the ICCPR and Article 10 of the ECHR.

*This resolution was adopted by ARTICLE 19, International PEN and the International Publishers Association (IPA) on 24 November 2006.*

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