**PEN Norway Turkey Indictment Project**

**Turkey’s National Alliance – how do they stand on freedom of expression?**

**PEN Norway and Seyhan Avşar ask representatives from each party in Turkey’s new National Alliance where they stand on the rule of law and freedom of expression**

PEN Norway & Seyhan Avşar

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**About the Authors**

## ***PEN Norway*** is an independent and non-profit membership organisation, dedicated to defending freedom of expression and supporting writers at risk and writers in prison. PEN Norway’s goal is that everyone should have the right to express themselves freely. PEN Norway is the Norwegian branch of PEN International – the world’s largest writer and freedom of expression organisation, established in 1921.

## ***Seyhan Avşar*** is a journalist working for Turkey’s Cumhuriyet newspaper. To date, her articles have won awards from the Journalists’ Association of Turkey, Istanbul Journalists’ Association, and the Association of Progressive Journalists. She has also won the Metin Göktepe prize for journalism.

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Expected to take place sometime around 2023, the elections in Turkey have become one of the highly topical issues of the day. Current electoral law stipulates that the elections must take place on June 2023 at the latest. The current political atmosphere in Turkey, however, does not allow anyone to make an accurate prediction about when they will take place. In other words, the deferral of the elections for various reasons is no less possible than an early election that will be held before 18 June 2023. One thing that’s sure with the elections is, as a consequence of the Constitutional changes of 2017, they will function as both general elections, i.e. parliamentary elections and Presidential elections.

Quite a significant number of political parties and independent candidates contest in the elections in Turkey. However, the parliament itself falls short of manifesting this pluralistic structure of participants. The electoral threshold, which was lowered from 10% to 7% as a result of a legal amendment in March 2022, still remains quite high considering Turkey's population and the consequent number of voters. This high electoral threshold may result in recurrent alliances traditionally formed between the political parties of Turkey.

Turkey’s parliamentary structure, as formed during and after the 2018 elections, points toward a political landscape marked by three separate focal points. Currently in power, the People’s Alliance by the Justice and Development Party (AKP) and the Nationalist Movement Party (MHP) tend to be the most predominant one. The MHP having received 11.7% of the votes in the last elections. The Peoples' Democratic Party (HDP) is another focus within the parliament and represents the unity of the left opposition. The Nation Alliance (Milli İttifakı), which received 22.65% of the votes in the last elections as the third distinct focus, is considered to be the leading main opposition since its establishment in May 2018.

The Nation Alliance was established by the Republican People's Party (CHP), the Good Party (İyi Parti), the Felicity Party (Saadet Partisi) and the Democrat Party (DP). The structure of the Nation Alliance reflects its composition as an alliance between the CHP, which represents a large segment of the social democratic tendency, and the other centre-right political parties that do not follow the AKP-MHP line.

Taking as its central concern the grievances about the current political atmosphere within the country, the Nation Alliance issued a Joint Declaration to Return to A Strengthened Parliamentary System on 28 February 2022, which confirmed that this alliance would continue to exist through the elections expected to be held by 2023. That this declaration was co-signed by the Democracy and Progress Party (DEVA) and the Future Party (Gelecek Parti) -two splinter parties of the AKP- affirmed that the Nation Alliance would now cover those 6 political parties.

As PEN Norway, we have been working for many years to defend fundamental rights in the field of freedom of expression and press freedom in Turkey. For this reason, we wanted to take a closer look at the aforementioned declaration which functions as a general framework of the election promises of the Nation Alliance.

### **What are the promises of the Joint Declaration to Return to the Strengthened Parliamentary System?**

First of all, it should be noted that the declaration in question mainly focuses on the form of government in Turkey. A great bulk of the text is devoted to the framework through which the transformation from a presidential system to a strengthened parliamentary system would take place. It seems, on the other hand, that the text covers a wide range of issues such as human rights, freedom of expression, the independence of the judiciary, removing obstacles in front of civil society, freedom of religion and conscience, and strengthening social rights.

The introduction part of the declaration makes the following promising remark:

It is crucial to reinforce the notion of “us” with all our differences, and to build a democratic Turkey where fundamental rights and freedoms are guaranteed within the framework of the Council of Europe and European Union norms, and where individuals can freely express their thoughts and live their lives according to their beliefs, as equal and free citizens.

The text also states that the Nation Alliance’s goal will be to make the pluralist and liberal understanding of democracy as its basic premise in Turkey. The text claims that the constitutional and legal guarantees regarding fundamental rights and freedoms will be provided, and the practices that adversely affect the exercise of rights and freedoms will be eliminated. It is also stated that the legislation suppressing or limiting the freedoms of thought, expression, assembly, demonstration and the freedom of association and the internet legislation will also be rearranged. The subchapter of the declaration which is about the parties’ promises on freedom of expression is crucial. There, the declaration states that:

Legislation that impedes or excessively restricts the freedom of thought and expression, assembly and demonstration, and association will be amended, and all kinds of pressures on these freedoms will be eliminated in accordance with the requirements of a democratic society.

In accordance with the established jurisprudence of the Constitutional Court and the European Court of Human Rights, it will become impossible to restrict freedom of expression except in cases of incitement to violence, hate speech or attacks on personal rights.

Internet legislation will be amended in a way that does not restrict freedom of expression and does not violate personal rights in accordance with international standards.

The legislation on the right to assembly and demonstration will be rearranged in the light of the case-law of the Constitutional Court and the European Court of Human Rights, and the arbitrary use of notification practice by the administration will be prevented.

Although as PEN Norway, we agree with the findings in the section quoted above, we think, in the light of Turkey’s problematic record, that there is an ongoing need to discuss about the concrete solutions to the serious problems that still persist in the field of freedom of expression and freedom of press. This is because freedom of expression in Turkey has been almost completely stifled. Mobilized as a tool against freedom of expression, the Anti-Terror Law is used to convict journalists, academics, writers and even social media users, of terrorism because of their speeches or the content they produce, write and draw.

People are not even allowed make a press statement on the streets and the statistics paint a grim picture of the current state of freedom of expression. According to the M4D Annual Media Monitoring Report prepared by the Journalists Association of Turkey, in 2021 241 journalists were put on trial, 73 journalists were detained, a radio presenter was killed, and 115 journalists suffered physical assaults.

Turkey ranked second after China as the country that imprisoned the highest number of journalists in the world. Recently, the scope of the arrests has been expanded to cover other sections of the society. Politicians, academics, students and workers who shared their thoughts on social media or on the street for a Youtube channel took their share of the suppression of freedom of expression.

Besides, as another big blow to the freedom of expression, there was a significant rise in the number of decisions to block access to websites. According to the report by Prof. Dr. Yaman Akdeniz, a lecturer in Law Faculty of Istanbul Bilgi University and by Ozan Güven, an expert researcher, as of the end of 2020, access to 467,011 websites from Turkey was banned by various state institutions (courts and administrative institutions) through 408.808 different decisions. Moreover, access to 150,000 URL addresses, 7,500 Twitter accounts, 50,000 tweets, 12,000 YouTube videos, 8,000 Facebook contents, and 6,800 Instagram contents were blocked in accordance with Law No. 5651 and other relevant provisions.

Faced with such a gloomy picture of Turkey, we wanted to understand the potential role the promises of the joint declaration could play in the solution of the aforementioned problems, and therefore we interviewed the representatives of the political parties that drafted the text, on topics such as the freedom of expression and others mentioned in the document.

## **‘Can we talk about democracy where there is no freedom of expression?’**

Muharrem Erkek, the Deputy Chairman of the Republican People's Party (CHP), says that freedom of expression was fundamentally harmed once the democracy was suspended in Turkey, and adds:

*“On April 16, 2017, during the state of emergency, an abusive constitutional amendment was introduced, and the government, using the Constitution as a tool, led the country to a one-man system that destroyed the democratic rule of law. Therefore, freedom of thought and expression, freedom of the press, freedom of assembly and demonstration, which are indispensable for democracy, were arbitrarily and unlawfully restricted. We will definitely guarantee freedom of expression. We will remove all barriers to freedom of expression. We will overcome our problems once we establish the separation of powers and ensure that all rights and freedoms are guaranteed by the constitutional state of law in a way that will not harm their essence. Isn't it the struggle for democracy that is taking place in our country right now? ‘Can we talk about democracy in a society where there is no freedom of expression?’ Today, there are people in prison and on trial for the mere fact that they used their freedom of expression, criticized the rulers harshly, and showed an oppositional stance. We will definitely change this. Together, we will establish a strengthened parliamentary system, an independent and impartial judiciary to attain a democratic state of law.”*

### **'A fundamental change is necessary to achieve freedom of expression'**

Bülent Kaya, Head of Election Affairs of the Felicity Party, says that the drafted text is only the beginning of a series of steps to be taken in the field of freedom of expression in Turkey.

*“The study was mainly about the legislative, executive and judicial branches,” he says. “However, we wanted to emphasize the current problems of Turkey as well. Among them, freedom of expression has a very important place. The space devoted to this topic in our text is hardly sufficient. Freedom of expression is a problematic area, especially for the individuals who do not necessarily share the opinions of the ruling party or agree with some of the dominant views within country. A fundamental change is necessary to achieve freedom of expression. And this will be introduced once a constitutional amendment is underway.”*

### **‘We founded a political party and shots were fired at our house’**

Ayhan Sefer Üstün, Head of Election and Legal Affairs of the Future Party, states that the text’s chapters on freedom of expression signal the changes they will introduce, and adds,

*“Wider studies on freedom of expression in Turkey are necessary, and every issue warrants to be tackled individually. The standards of freedom of expression have been shaped by the rulings of the European Court of Human Rights and the Constitutional Court. Freedom of expression cannot, however, be exercised despite the fact that it is recognized and guaranteed by our laws. See, for example, in the last 4 years, the right to assembly and demonstration cannot be exercised in the country. This right right is curtailed and the military coup attempt or pandemic is used to justify it. The same is true for freedom of association. People cannot form associations or establish political parties either. We founded a political party, and shots were fired at our house; we were publicly beaten and there are daily controls by the office of finance. Nobody can say that there is freedom of expression in Turkey at the moment. The freedom of pro-government journalists, on the other hand, is unlimited.”*

### **20-year-old arrested for posting a tweet**

Bahadır Erdem, the Deputy Chairman of the Good Party (İyi Parti), points out that no text could do justice to freedom of expression and says,

*“The need to express oneself is a fundamental feature of being human and comes right after a human being’s most basic needs. The ECtHR and domestic law guarantee and regulate this. In that text, we have revealed our intention about freedom of expression. And once we amend the constitution in the future, this is our promise to our people that we will defend and protect the freedom of expression until the end. There is no such thing as freedom of expression in Turkey at the moment. People know that they will be arrested in case they post a tweet. 20-year-old Alp Emeç was arrested on the charge of "insulting the president" because he liked that social media post by Sedef Kabaş which caused her to be imprisoned and this was even though she deleted it 15 minutes later. What more can be said?”*

## **Conclusion and aspirations**

The above-mentioned statements of the representatives of the political parties that co-signed the joint declaration reveal the extent of the problem of freedom of expression in Turkey. On the other hand, it also shows that to establish, protect and strengthen the freedom of expression there is a basic need to take concrete steps that go beyond the intentions and aspirations announced by the declaration.

The overall awareness of some parts of the opposition about the need for radical changes that a democratic reconstruction would require is demonstrated by the joint emphasis that the parties place on the need to introduce a constitutional amendment and to re-establish an independent and impartial judiciary.

All the aspirations voiced in the document are promising for the future. However, it is very clear that in Turkey the society needs something that goes beyond hopeful yet abstract aspirations, that is, an environment of freedom based on judicial mechanisms that allow them to speak without feeling threatened.

Events in Turkey indicate a surging trend of governmental policies that will aim to stifle the freedom of expression further. As PEN Norway, we will continue to focus on human rights violations in Turkey in this particular field over the next few months. However, we believe that the promises of the opposition groups should also be closely followed. Because democracy and any other fundamental rights and freedoms lose their meaning without freedom of thought and freedom of expression.