

P E N N O R W A Y

Turkey Elections: What Does the Future Hold for Freedom of Speech?

**PEN Norway's Interview with Assoc. Prof. Dr.
M. Serhan Yücel, Secretary General of the
Democrat Party (DP)**

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Since 2020, as part of the Turkey Indictment Project, PEN Norway has examined 25 separate indictments focused on freedom of expression in Turkey and has produced reports on these indictments in cooperation with expert lawyers from different European countries. The PEN Norway Turkey Indictment Project reports of 2020 and 2021 revealed that every one of the 25 indictments in question failed to comply with Turkey's domestic legal provisions and also international provisions and contracts such as the European Convention on Human Rights and the UN Guidelines for prosecutors.

PEN Norway's in-person, recent, observations of such trials as the Gezi Park trial, the We Will Stop Femicide Platform case and trials of Turkey's chief physician Prof. Dr Şebnem Korur Fincancı, activist Pınar Selek and journalist Sedef Kabaş all demonstrate the lack of independence of the judiciary as well as serious fundamental flaws in the preparation of indictments.

Historic elections take place in Turkey on May 14th, 2023, in which the candidates for both the President and Turkey's Parliament will be determined. A month before the elections PEN Norway's Turkey Adviser travelled to Istanbul to interview representatives of the major political parties to question them about issues such as freedom of expression, the freedom of the press, the rule of law, and the right to a fair trial in Turkey.

As part of this interview series, we conducted face-to-face and written interviews with the following:

- Dr. Canan Kaftancıoğlu, the Istanbul Regional Chair of the Republican People's Party (CHP),
- Lawyer Züleyha Gülüm, Istanbul's MP for the People's Democratic Party (HDP),
- Former journalist and now MP for the Worker's Party (TİP) Ahmet Şık,
- Lawyer Bahadır Erdem, Vice Chair of the İyi Party,
- Bülent Turan, Vice Chair of the Justice and Development Party (AKP),
- Selahattin Demirtaş, imprisoned former co-chair of the People's Democratic Party (HDP),
- Serhan Yücel, Secretary-General of the Democrat Party,
- Mustafa Yeneroğlu, Justice and Legal Affairs Policy Chairman of the Democracy and Progress Party (DEVA),
- Muharrem Erkek, Vice President of the Republican People's Party (CHP)
- Zeynep Esmeray Ozalatay, candidate for MP from Turkey's Worker Party (TİP)
- Bülent Kaya, Legal Affairs Chairman of the Saadet Party.

None of the content of the interviews has been altered by PEN Norway, the views expressed are those of the individual politicians.

We hope that these historic elections in Turkey will be instrumental in strengthening fundamental rights and freedoms for all.

Caroline Stockford, Turkey Adviser, PEN Norway
Şerife Ceren Uysal, Legal Adviser on Turkey, PEN Norway

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Laws on social media such as the Disinformation Law have created a new realm where freedom of expression faces significant limitations. Likewise, trials against journalists have become systematic. How do you see the situation of freedom of expression and freedom of the press in Turkey?

According to the index published annually by the international Reporters Without Borders (RSF), in 2022, Turkey ranked 149th out of 180 countries. In 2002, Turkey ranked 96th according to the same index. Again unfortunately, Turkey's indicators in both the Freedom in the World reports and economic freedom reports are showing a negative trend. Even more critical than the findings of the indices and reports on the curtailment of freedoms is the fact that this has become visible, audible and palpable in daily life. For example, we know there are parents who are uncomfortable with the education their children receive, but are unable to voice their discomfort even to school administrations. Certain journalists who were broadcasting from the humanitarian disaster region of the earthquake were unwilling to publish or broadcast the cries of earthquake victims who were seeking help for their relatives or their own humanitarian needs. We see, meet and hear people who are afraid of complaining about the increase in the price of food sold in markets and bazaars, or of expressing their preferences in election polls for fear of getting into trouble.

This climate of fear, which limits freedom of the press and freedom of expression, was not cast overnight. One of the very first steps was to exert control over the conventional media. Masses of people were put in a constant state of anxiety after the detention of well-known public figures without any concrete charges, endorsement of these processes through the media, the systematic lynching, interrogations and arrests of social media influencers. However, if you are looking for the ground zero of such an environment, it is the deterioration of the climate of justice. The first of a series of padlocks that fastened the shackles attached on freedom of the press and freedom of expression were the tailor-made judgments by the courts to address the needs of the ruling party rather than of the law.

My party and I believe that even more dangerous than the negative trend in indices rankings or categorical classifications is the spread of this fear and anxiety, and the possibility that the public would internalize and get used to this situation.

This concern aside, we are hopeful thanks to the incredible efforts of the free press to create channels to express itself and its opinions while under constant pressure.

I must also state that such an effort and the free press itself are assets not only for the opposition but also for the ruling party in



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the first place. In my opinion, the press has a two-way function to fulfil between the society and its governments. The press informs society about the decisions and practices of governments while informing governments about the expectations and demands of society and its agenda. If you only allow the arterial vessels to work but block the venous vessels, a heart attack is inevitable. The economic and the administrative crises in Turkey and the organizational crisis in the earthquake zone is rooted in the media, which only reports pro-government positive news, and in the government's attempt to follow the agenda and the social trends only through them.

We will not fall into this trap after 14 May. We'll get both the arterial and venous vessels working. By re-establishing the climate of justice which is the ground zero of the problem, we will restore press freedom and freedom of expression.

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What do you think about the ongoing trials on freedom of expression and freedom of the press, the judgements of the ECtHR that have already been rendered but still remains unimplemented? What steps you think should be taken?

According to Article 46 of the European Convention on Human Rights, to which Turkey is a signatory, all states parties to the Convention are obliged to abide by the judgements of the ECtHR. As Turkey, we were aware of the implications when we signed this Convention and we are obliged to fulfil the requirements of our signature. This is the part that concerns international law. Our primary concern, however, is to create a climate of justice that will ensure that our country's name will no longer be synonymous with the cases before the European Court of Human Rights and to improve freedom of the press and freedom of expression.

Many provisions in Turkey's Criminal Code, such as the offence of insulting the President, pose a significant impediment to freedom of expression. What do you think should be done in this regard, what should change?

More than 160,000 people were investigated and more than 45,000 people were sued for insulting the President during Erdoğan's term under the Article 299 of Turkey's Criminal Code which prescribes the offence of insulting the President. 13,000 people were convicted. We are going through a dystopian patch where investigations are launched against even those who say that the government is responsible for the rising cost of living. This is a monstrous judicial climate where earthquake victims, in less than a week after the earthquake, are summoned to testify for complaining about the inactivity of the state. We will, however, wake up from this nightmare on the morning of 15 May.

“Security forces will by no means be able to knock on your door because of your tweets, they will know that there is freedom in this country. Your father and mother will not get anxious because of a tweet you posted, they will know that there is democracy in this country.” These are the words of Mr. Kılıçdaroğlu, the Presidential Candidate of our alliance, and they are a declaration that the dystopia will come to an end and the law will once again prevail.

The judiciary is supposed to act as one of the fundamental guarantees of freedom of expression. It is observed, however, that this is not the way it works in Turkey. Since 2020, we have been conducting the Turkey Indictment Project and as part of it we have analysed and drafted reports about 25 indictments where we found that in all of them the prosecutors failed to fulfil their obligation to protect freedom of expression. What are your projects in relation to the judiciary? Are there any plans to start a comprehensive in-house human rights training programme?

As the National Alliance, we are going to re-establish the climate of justice as the first thing to do in order to reduce and eliminate the threats, pressures and risks against the practice of freedom of expression. In this framework, at the top of our post-14 May agenda is the reorganisation of the High Council of Judges and Prosecutors with the aim of removing the influence and impact that politics has upon the judiciary. We will reorganise the Council into two independent bodies, the Council of Judges and the Council of Prosecutors. The composition of such state councils will be given democratic procedures that will not allow them to be dominated by politicians or their officials. The current formal layout that reinforces the authority of prosecutors within the courtroom will be revised and both the prosecution and defence will be given the same status. Institutions such as the Directorate of Communications, RTÜK and the Press Advertisement Institution (BIK) will be restructured through a radical reform, and we will introduce an all-embracing managerial understanding instead of their current schizophrenic approaches to freedoms.

However, we are also aware that legal and administrative redesigns alone do not guarantee rights and freedoms. It is the implementation that determines the success of the design. Certain restrictive legal provisions in terms of freedom of the press and freedom of expression notwithstanding, the main cause of violations is the unlawfulness in actual practice and has something less to do with the design. Therefore, of course, human rights training will be provided to members of the judiciary and we will make an effort to ensure that they incorporate these principles into their practice. This alone, however, will not be enough. A dedicated effort is mandatory to change all public officials' currently paranoid behavioural patterns regarding the use of freedoms, especially of the officials who exercise administrative authority in terms of all freedoms, especially freedom of expression and freedom of the press.

After 14 May, provided that the National Alliance is successful, what impact do you think this will have on freedom of expression and freedom of the press?

To begin with, it is important to clarify that the National Alliance's perspective on freedoms is not confined solely to press freedom and freedom of expression. We take it to cover a wide range of freedoms, including freedom of religion and conscience and economic freedoms. This libertarian attitude is far from being a political one, but a sincere and indispensable need for the future of our country. Because a country without freedoms fails to retain both qualified labour force and capital. Our aim is to ensure that our country will never fail to benefit from the skills and knowledge of the young people of Turkey because of their beliefs or the way they live their lives. We are not after uniform citizens, therefore we are not interested in the headscarves, the hair colour, the length of the skirt,

Assoc. Prof. Dr. M. Serhan Yücel

Serhan Yücel is an academic, politician and author from Kütahya in Turkey. He graduated from the Department of Public Administration, the Faculty of Political Sciences, Ankara University and worked as a political consultant in the Head Office of Motherland Party between 1987-1991. From 1997, he acted as the Political History Counsellor to the Presidency. After entering politics in 2002, Yücel was elected to the General Administrative Board of True Path Party (DYP) and appointed to the position of Secretary General of DYP.

Yücel became Associate Professor in the History of Turkish Republic in 2018.

In March 2022, Yücel was elected to the General Administrative Board of the Democrat Party (DP) and appointed to the position of Secretary General.

Has continues to work in the Faculty of Economics and Administrative Sciences, at Bilecik Şeyh Edebali University.

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the shape of the moustache of any young people of this country. We are interested neither in the words that our citizens speak, their lifestyles nor the way they express their ideas. We are interested in what we can do to create a climate where our citizens can contribute to their country, where they will be happy to live in peace. We want a country where everyone lives freely as who they truly are. We think that our differences are our source of richness.

We know that technological development and capital accumulation cannot be achieved in a country where there is no freedom of expression, freedom of the press, freedom of religion and conscience, freedom of association and economic freedom. We know that this isn't the path to take if you want to see scientific development and production. The history of our country and the history of the world shows that development goes hand in hand with freedoms. Economic activities flourish hand in hand with freedoms. In this sense, we are clear.

Our blueprint is to start a new period after 14 May in which we will rapidly implement our approach on freedoms. The climate in Turkey will change as we begin the creation of a climate of justice and eliminate the legislation that curtailed freedom of the press and freedom of expression.

We are sure that those who will benefit the most from this changing climate will be the government-controlled press, which today opposes the opposition, the intellectuals, NGOs and opinion leaders who are aligned with the government, and our citizens who have to swallow their protests in the face of injustice, corruption and poverty due to various fears and concerns, despite the discomfort they have been feeling. There are intellectuals and journalists who do not hesitate to express their opinions and report their news despite the risk of criminal investigations, detentions and arrests; there are citizens, media organisations, journalists and NGOs who do not back down despite the risk of closures, bans and fines. For them, the only change after 14 May will be the elimination of the risks and threats against them. They will be able to enjoy the freedom of the press and freedom of expression, this time in a free environment. Then, real change will be experienced and freedoms will be enjoyed by those who are silent today or those who are forced to remain silent. The clear conscience of reporting real news instead of working as an armchair journalist or a spin doctor will be experienced by those who are silent today. They will not lose any sleep at night thanks to the peace of mind of being on the side of the truth. They will enjoy the pleasures of not having to silence citizens who want to say a couple of words into the microphone to express their problems and of voicing the word on the street to the public. They will enjoy the peace of reporting news without slandering anyone or fabricating false news. They will be free of their fears, their reservations, and they will liberate themselves from the dystopia to which they are currently enslaved. In short, after 14 May, a dystopian period will end in Turkey, and a climate of freedom will emerge where life will begin again for everyone. ■