

PEN NORWAY

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

PEN Norway's Interview with **Bülent Turan**,
Deputy Group Chairman of the Justice and
Development Party (AKP)

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

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 Özadikti, 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

PEN Norway's Interview with Bülent Turan, Deputy Group Chairman of the Justice and Development Party (AKP)

Your party is in power on the run up to elections in Turkey. As an organisation active in the field of freedom of expression, we would like to take this opportunity to discuss with you the current state of freedom of expression and freedom of the press in Turkey. At PEN Norway, we frequently observe the arrests of journalists and civil society actors in Turkey for exercising their right to freedom of expression, which is protected by the Constitution and the ECHR. What is your take on this issue? Do you think, in Turkey, the rights to freedom of the press and freedom of expression are sufficiently protected and freely exercised today?

Currently, in Turkey there are approximately 821 newspapers, 520 television channels, thousands of websites or new media platforms that offer varying ideological perspectives. Those media allow all kinds of dissenting voices to express their views. In fact, it can be clearly seen that at least half of the media world takes an anti-Erdoğan or opposition stance. Sometimes it is the case that certain media outlets criticise President Erdoğan in the most severe way or publish harshly critical cartoons. Considering the realities above, we believe that certain individuals, organisations and countries systematically misrepresent issues such as freedom of expression or freedom of the press for ideological or ulterior motives. Quite the contrary, for many years Turkey lacked a certain mindset that was willing to reflect the ideas of the majority of society. Media bosses endeavoured to impose their own design on politics. It has been only recently, however, that pluralistic approach became possible in the media when different communities began to establish their own outlets and people expressed themselves through social media. In other words, in Turkey there used to be an almost monolithic media, while now there is a pluralistic media that strengthens our democracy.

Which journalist, for example, has been arrested in Turkey solely for their journalistic work? In our country, people are tried for other offences they committed under the name of journalistic activity and are convicted if they are found guilty as a result of their trial. As it is the case in every country, it is an offence too, under the Turkish Penal Code, to disseminate propaganda in favour of a terrorist organisation and to be a member of such an organisation under the guise of journalistic activity. Our country has regulated its press law within the framework of EU harmonisation laws, leading to a significant achievement of freedom of expression that meets the world standards. Look, you yourself stated that you “observe the arrests ... for exercising their right to freedom of expression”. As has been explained before, this issue is being misrepresented because a small number of people currently in prison for wilful injury, fraud or for other reasons happened to be journalists. Isn't it quite natural that an offender is prosecuted regardless of her or his professional identity? As for the people in prison for offences related to their



“ Which journalist, for example, has been arrested in Turkey solely for their journalistic work? In our country, people are tried for other offences they committed under the name of journalistic activity and are convicted if they are found guilty as a result of their trial. ”

affiliations to the FETÖ or PKK affiliations or for disseminating propaganda in favour of a terrorist organisation, a misleading perception is constructed around them as if they are in prison for freedom of expression. There are teachers, prosecutors, and doctors in prison. It is not their profession, but the criminal act that matters.

Isn't it the same in Europe? A journalist named Bruno Schirra was arrested on the grounds that he wrote an article in the German political magazine Cicero referring to e-mails of the German secret service BND. The German judiciary detained 17 other journalists on the same grounds and kept them under pre-trial detention for 2 years. Two years ago in France, the photographs taken by a journalist filming the protests in Rennes were erased by the police. The very same demonstration saw the police manhandle a cameraman from France. Remember, in Sweden, the panel titled "15 July - Behind the Scenes of the Bloody Coup" was cancelled and Turkish journalists were not allowed to speak. These cases are not very old, it has been just 5-6 years. Today in a European country, can a person, say, who makes propaganda for the terrorist organisation DAESH avoid any punishment, just because he is a journalist? We believe that our country is being subjected to double standards by the European Union. Moreover, Turkey has made great efforts for its European Union membership process. Turkey has taken serious steps towards the EU and enacted EU harmonisation laws persistently. However, the EU failed to fulfil its obligations and left the issue of membership unresolved. Nevertheless, we have always seen the EU as a strategic partner. The EU is our largest trading partner. If Turkey is accused of sailing away from the shores of the EU, the Europe itself has to take the majority of the blame on the matter. Factors such as the EU's double standards in Cyprus, the licence given to the terrorist organisations such as PKK, YPG and the FETÖ to carry out all kinds of terrorist propaganda in most European countries have led us to this point. Turkey, however, is a powerful country. We would also like to maintain good relations with the EU. We are acting in accordance with the spirit of a NATO ally, for example. We think it is our right to expect the same from our interlocutors.

“ Pre-trial detention in our country used to last much longer. While in power, we made arrangements in accordance with the EU harmonisation laws thanks to which pre-trial detention is now no longer than one month. Our regulations now require the proceedings at the prosecution stage to be completed within 600 days, and the members of the judiciary who fail to deliver on time receive penalty points. ”

We observe that trials in Turkey take very long periods of time and that those on trial are held in pre-trial detention throughout these processes. Are there any plans to introduce further regulations on the issue?

Pre-trial detention in our country used to last much longer. While in power, we made arrangements in accordance with the EU harmonisation laws thanks to which pre-trial detention is now no longer than one month. Our regulations now require the proceedings at the prosecution stage to be completed within 600 days, and the members of the judiciary who fail to deliver on time receive penalty points. When they have the complete information and documents, the courts render their judgments in a short time. These regulations are the same in EU countries. Both our Constitution and the European Convention on Human Rights emphasize, as a fundamental principle, that the time spent in pre-trial detention must be reasonable. From time to time, pre-trial detention periods may be extended on legal grounds. We are undertaking a new study for this. Publicly known as the 7th Judicial Package, our proposal was recently enacted within the scope of the Judicial Reform Strategy Document. In our first judicial package, the aim was to set an

upper limit for the maximum period of pre-trial detention during the investigation phase, to shorten the detention periods for children, and thus to effectively protect fundamental rights and freedoms. Of course, what's essential is the examination to be carried out and judgment handed down as soon as possible and the trials be carried out without any pre-trial detention.

People in Turkey use social media very widely. Recently, however, we have been following in the press that the spokespersons of your party raised certain criticisms against it. What do you think is the function of social media for Turkey? What kind of regulations in that regard does your party plan for the future?

Social media is a field that is growing day by day and is now named as the new media as opposed to mainstream media. As you said, it is very widely used in our country. Nearly 80 per cent of our country, approximately 70 million people, are social media users. Last year alone, about 9 million people began using social media. This is a higher rate than many European countries. In Germany, 45 per cent of the population, around 38 million people, use social media. We have undertaken some serious work for such an important field. The recent legal amendments aim both to protect individuals and to regulate the social media providers. The use of social media is important to us; however, we find it unacceptable for individuals to engage in an unrestricted violation of the personal rights of other individuals on social media. Just as it is a criminal offence for a person to insult or threaten someone in real life, shouldn't it also be a criminal offence for a person to do the same on social media? For this reason, we aimed to solve these problems with the regulation we enacted last year. Insults on social media were criminalised. To provide support to news websites, certain rules were established allowing for official announcements and advertisements to be published on these sites. Social networks were obliged to open an office and to assign representatives in Turkey. Many of these arrangements were not unlike those in European countries. For example, in Germany, the legal regulation known as NetzDG came into force at the beginning of 2018. This law regulates the technology companies that have more than two million registered users across the country. The Act obliges these companies to establish procedures for evaluating complaints about content on their platforms, to remove "clearly illegal" content within 24 hours and publish reports on dealing with illegal content every six months. Those who fail to comply with the regulations are subject to criminal sanctions. To the best of my information, recently the maximum fine for individuals was set at €5 million and for companies at €50 million. The first fine under the law was imposed on Facebook in July 2019. The government fined Facebook 2 million euros for under-reporting complaints about illegal content in Germany.

Of course, none of us knows for sure what the outcome will be after 14 May elections. Meanwhile, the potential impact of these outcomes on freedom of expression and the press, judicial independence, and the rule of law is a matter of concern for us all. If your party is re-elected in the upcoming elections, what kind of arrangements do you plan to make on these issues? Could you explain your party's vision on these fundamental rights and freedoms?

Since the day we were founded, we have been a reformist party that has made numerous arrangements for the protection and

Bülent Turan

Bülent Turan is a lawyer; graduated from Eastern Mediterranean University Faculty of Law. He completed his Master's degree at Çanakkale 18 Mart University, Institute of Social Sciences, Department of Labour Economics and Industrial Relations.

He was a member of the Board of Directors and Audit Board of the Lawyers Association. He worked in various non-governmental organisations. He published a book titled *Bir Mola (A Break)*, which consists of the photographs he took in Turkey and in different countries of the world and the stories of these photographs.

In the 24th term, he was elected as Istanbul MP and in the 25th and 26th terms as Çanakkale MP. In the 24th Term, he served as a member of the Justice Commission, Human Rights Investigation Commission and AK Party Group Executive Board. He is the Deputy Group Chairman of the AK Party.

“ Should we be elected, we will of course continue our reform packages extending from economy to judiciary. Freedom of expression and freedom of the press are issues we attach great importance to. ”

development of fundamental rights and freedoms. As a result of these arrangements, our party has been entrusted with the responsibility of being in the government for 20 years. During those terms, as the ruling party we made invaluable breakthroughs in democracy, human rights and freedom of expression in our country. We regarded our differences as our greatest richness. Different communities in Turkey are now able to express themselves better than they used to in the past. Today, we have reached a point where all social groups can express their opinions, start their NGOs and establish media organisations.

Once again, the elections of 14 May will represent a significant milestone for our democracy and the expression of the people’s will. As AK Party and as the People’s Alliance, we believe that we will receive the great favour and support of our nation in these elections. Should we be elected, we will of course continue our reform packages extending from economy to judiciary. Freedom of expression and freedom of the press are issues we attach great importance to. Should we become the ruling party once again after the elections, we will stand our ground in terms of freedom of expression. Freedom of expression is provided a constitutional guarantee in Article 26, paragraph 1 of our Constitution. Our work is aligned with those in the world and European countries. We closely follow the global developments on this matter. We have enacted 7 bills on judicial packages, and we intend to continue implementing new judicial packages in the future. Not only are we pleased to see fundamental rights being reinforced and the bar of democratic state of law raised higher, but we also take it as our responsibility to do so.

Let me ask: Today, who is exactly banned from expressing their opinion both in the mainstream media and in social media? Who is forced to restrain the harshest criticisms? I am sure you have seen yourselves the statements and posts containing insults, swearing and threats. Have a look at the headlines of the newspapers in Turkey and in Europe and make your own judgements about how they treat the leaders. Sometimes we observe instances of double standards in Europe regarding freedom of opinion and expression. In Denmark, those who burn our holy book, the Quran, are tolerated under the pretence of freedom of expression. Or certain illegal groups disseminate propaganda in favour of a terrorist organisation and they are tolerated in the name of freedom of opinion and expression. What does this do but harm world peace and tranquillity? As we continue to take constructive steps and act with common sense in these matters, we naturally expect the same understanding from the Europe itself.