

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
Selahattin Demirtaş, imprisoned former co-chair
of the Peoples' Democratic Party (HDP)**

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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 Özalatay, 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 Selahattin Demirtaş, imprisoned former co-chair of the Peoples' Democratic Party (HDP)

While our observations on the current state of freedom of expression and freedom of the press in Turkey are deeply concerning, we believe that as a politician and a lawyer who has been maintaining regular communication with the outside world, it is important to hear your opinion on the situation. Would you say that the right to freedom of expression exists in Turkey today?

All fundamental rights have been suspended in Turkey for many years now. This has happened to such an extent that even the right to life cannot be guaranteed. Every day, an average of two women are killed in Turkey. Police impunity concerning civilian deaths only serves to embolden the perpetrators.

Whilst government supporters enjoy their freedom of expression to the fullest, opponents of the government face media harassment and can be imprisoned for a mere tweet, article, press release or a speech. Hundreds of thousands of people are penalised for allegedly insulting the President. Any exercise of the right to criticise ends up being treated as a "terrorism" case, even by the judiciary. In this respect, Turkey is going through the worst period in its history.

I am currently responding to this written interview from a high-security prison where I have been held for six and a half years simply for exercising my right to freedom of expression. That's where we are now.

Since 2020 PEN Norway has been conducting the Turkey Indictment Project in which we have fully analysed and reported on 25 indictments written after 2016 with a particular focus on freedom of expression. We found the outcome alarming. All of the indictments were in opposition to the principles of Turkey's domestic law and the provisions of the European Convention on Human Rights. Can you share with us your thoughts on this repressive tendency, which has deepened further with the introduction of the state of emergency and has continued to this day? How do you perceive the reasons behind this trend?

Since 2016, Erdoğan's government has taken full control of the judiciary and manipulated it to repress the opposition.

This has been done to such an extent that Erdoğan does not shy away from giving directives to the judiciary from his political rallies, and behaves with open recklessness. Acting on Erdoğan's explicit directives, the judiciary naturally observes neither domestic law nor any international conventions such as the European Convention on Human Rights.



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It's almost as if the laws in Turkey were replaced by Erdoğan's wishes and orders. Judges eagerly suppress dissent because they enjoy the privileges granted by Erdoğan's government. That is to say most of them are willingly compliant.

Although you have been under arrest for years, you are actively using social media. What is the function of social media in Turkey?

Although social media currently offers a relatively free space, it is faced with occasional restrictions there as well. However, I can say that social media is still the most important channel of propaganda, organisation and information and plays a major role. Due to the fact the exercising of human rights such as protests and marches is never allowed, the only remaining space is social media. Most of the TV channels in Turkey are also under the control of the government.

We observe that individuals are prosecuted for their critical statements due to certain provisions in the Turkish Penal Code. How would you suggest defining the legal boundaries that differentiate between defamation, critical thinking, and hate speech?

The distinction between defamation and criticism is a controversial issue in law. Despite the availability of numerous guiding judgments by the European Court of Human Rights on this issue, each individual act must be assessed based on its unique circumstances before arriving at a decision. The main point of contention is whether criticism directed towards state and government officials in particular, can be considered as defamation or not. The European Court of Human Rights is of the opinion that the limits of criticism should be interpreted as broadly as possible, which I agree with.

Those who are authorised to make decisions affecting the life and future of society or of individuals are obliged to tolerate even the harshest and rudest criticism. If a politician or a minister faces the harshest criticism because of a decision, a policy or a speech, she or he must tolerate this kind of criticism more than anyone else. In fact, politicians or government ministers are seen to have implicitly agreed to a contract that entails their tolerance in the face of such harsh and rude criticisms before entering office.

Criticism or harsh criticism is one of the ways in which governments can be monitored or put under pressure by the public; democracy entails that those in power must be monitored under all circumstances. Criticism is therefore one of the elements of a democratic society. Countries such as Turkey, where this right is denied, and their leaders are, of course, anti-democratic.

As one of its main areas of concern, PEN Norway is also focused on language rights and linguistic pluralism. We have conducted research on the current state of the right to defence in Kurdish in Turkey, and interviewed over 200 Kurds who have been investigated or tried. We will soon publish a report on the current state of the right to defence in Kurdish in Turkey, including the results of this research. We would like to hear your opinion as well. What is the status of Kurdish language in Turkey today? In Turkey, can we talk about freedom of expression in the mother tongue? Can the right to defence in Kurdish be exercised?

The right to defence in Kurdish language does not face any

Selahattin Demirtaş

Selahattin Demirtaş is a lawyer, writer and politician. He served as Istanbul's MP in the 26th term of the Turkish Grand National Assembly. Until 11 February 2018, he served as the co-chairman of the Peoples' Democratic Party.

A graduate of Ankara University Faculty of Law, Demirtaş worked as a lawyer and executive at the Diyarbakır branch of the Human Rights Association (IHD) before entering politics. He is one of the founders of the Diyarbakır branch of Amnesty International and the Human Rights Foundation of Turkey.

After serving as deputy group chairman of the Democratic Society Party (DTP) in 2007, he joined the newly established Peace and Democracy Party (BDP) and was elected chairman. When the BDP joined with the People's Democratic Party (HDP) Demirtaş was elected co-chair of the HDP together with Figen Yüksekdağ.

On 4 November 2016, he was detained along with with HDP Co-Chair Figen Yüksekdağ and nine HDP MPs on charges of "establishing an organisation with the aim of committing a crime", "being a member of a terrorist organisation", "being a member of an armed terrorist organisation", "committing a crime on behalf of an organisation" according to the Turkish Constitution and was arrested and taken to Edirne's F Type Prison. Today, despite there being a judgement for his release by the European Court of Human Rights, he is still detained in the same prison.

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official obstacles; there are, however, practical issues such as the inadequate recruitment of Kurdish interpreters and their availability.

The main restriction on the use of Kurdish is that it remains officially unrecognized as a language for education, training, and public life. The mother tongue of more than 20 million Kurdish citizens of Turkey is still not legally recognised or remains banned. Operated under the Erdoğan administration, The TRT Kurdî channel does not have its dedicated legislation and is constantly broadcasting pro-Erdoğan propaganda.

The threat of oppression, assimilation, and extinction will persist until the Kurdish language is officially recognized.