

P E N N O R W A Y

Agents of Influence bill:

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The draft bill, commonly referred to as “agents of influence” in public discourse in Turkey, was proposed as an amendment to the Turkish Penal Code under Article 16 of the “Bill on Amendments to the Notary Law and Certain Other Laws.” After the approval by the Parliamentary Justice Commission, however, it was withdrawn in November 2024 before it was sent to the Plenary Session of the Grand National Assembly of Turkey (TBMM).

With this move, this controversial bill was shelved for the second time within the same year. While this marks an important success, the threat has not been entirely eliminated, as there remains a possibility that the draft will be revised and put on the national agenda once again. So, why is this bill considered a “threat”?

The provision in the draft bill states, “Those who commit crimes against the security or internal or external political interests of the state in line with the strategic interests or instructions of a foreign state or organization will face imprisonment of three to seven years.”

Controversial Regulation: How Big is the Threat?

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Ever since the provision was introduced, Turkey's civil society sector and press organisations have been persistently working to increase public awareness, prompting opposition parties to take action as well. Human rights advocates and legal experts particularly emphasize the draft law's vagueness and its susceptibility to arbitrary application.

Claiming that the bill is an instrument of oppression that ignores the most basic principles of law, the CHP's (Republican People's Party) Muğla MP Gizem Özcan, a member of the Justice Commission of the Grand National Assembly of Turkey, stated that the article is "vague" and open to "arbitrary" interpretations, and said, "It has been drafted under the assumption that merely being an opponent is sufficient, without any need to prove the link between the act and the perpetrator. The aim is to gag, intimidate and criminalise journalists, academics, civil society representatives and young people."

“Amnesty International's Turkey Country Director, Ruhat Sena Akşener, also highlights that the bill contains “extremely vague language” and emphasizes its potential for political or circumstantial misuse. She told PEN Norway, “This bill enables the arbitrary criminalization and punishment of human rights defenders, civil society activists, and journalists by misrepresenting lawful actions as offenses.” ”

Özcan points out that the phrase “against the security or political interests of the state,” as stated in the legal text, is a frequently used yet vague concept in the Turkish Penal Code. She adds that the lack of a clear and precise definition of the crime grants the judiciary unlimited discretionary power, paving the way for individuals to be sentenced based solely on suspicion, without the need for concrete evidence.

Criticism from the Human Rights Defenders and Legal Experts

Amnesty International's Turkey Country Director, Ruhat Sena Akşener, also highlights that the bill contains “extremely vague language” and emphasizes its potential for political or circumstantial misuse. She told PEN Norway, “This bill enables the arbitrary criminalization and punishment of human rights defenders, civil society activists, and journalists by misrepresenting lawful actions as offenses.”

Akşener argues that the draft bill contains overly broad and vague notions such as “strategic interest,” “instruction,” “organisation,” and “the internal or external political interests of the state,” without specifying how these terms will be identified, and that the meaning of “internal and external political interest” remains unclear and unpredictable... She stresses that should the bill be enacted, any undefined and vague “acts” carried out “against the security or internal or external political interests of the state in line with the strategic interests or instructions of a foreign state or organization” will be classified as criminal offences.

Akşener also points out that the draft law violates the “principle of legality in crime and punishment,” which includes the fundamental legal concept of foreseeability and that this situation contradicts international law as well as Turkey's constitution and domestic legal framework. Similarly, Gizem Özcan argues that the bill is in clear violation of the Constitution, and says “The vague nature of such a definition of an offence contradicts with the principles of the rule of law, as outlined in Article 7 of the European Convention on Human Rights and Article 15 of the International Covenant on Civil and Political Rights both of which Turkey is a signatory.”

Ruhat Sena Akşener argues that the “agents of influence” bill is a continuation of the longstanding pressures on civil society and the press in Turkey, following laws such as the “Disinformation Law” and the “Law on the Prevention of Financing of Proliferation of Weapons of Mass Destruction.”

Civil society and human rights organizations, which are already struggling to operate under existing restrictive and vague laws while carrying out advocacy, monitoring, and reporting efforts, will find it very difficult to determine what actions might classify them as ‘agents of influence’ under this bill.

CHP MP Özcan, on the other hand, points out that the offences similar to the one in the bill are usually punishable with aggravated life imprisonment. This is precisely why, she believes, the three to seven years’ imprisonment the bill prescribes for the “agents of influence” was deliberately chosen by the government. According to Özcan, should the bill enacted into a law, it will pave the way for a much broader segment of society to be easily criminalised. She told PEN Norway,

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Also a lawyer, Gizem Özcan considers the “agents of influence” bill as a “law of intimidation” and argues that the government seeks to create a climate of fear by undermining press freedom and freedom of expression.

Examples from Other Countries: Russia, Georgia, and Hungary

Turkey’s “agent of influence” bill has parallels in other parts of the world. Human rights defenders state that this bill mirrors the authoritarian wave that originated in Russia and expanded further, with similar laws being modelled after examples not only from Russia but also from Hungary and Georgia.

Dr. Sonja Schiffers, Director of the Heinrich Böll Stiftung Tbilisi Office, views Georgia’s “foreign agent” law, which came into effect last year, as evidence of “authoritarianism through legal means” and argues that the law was designed to provide legal legitimacy for the repression of civil society and independent online media. She points out that while there have been evaluations in Georgia indicating that the law contradicts both the constitution and international legal norms, the judiciary in the country is not independent.

“Human rights in Georgia are deteriorating,” Schiffers told PEN Norway, adding that although the ruling Georgian Dream Party has yet to enforce the “foreign agent” law passed in May 2024, the legislation has already caused concerns.

Similarly, in Turkey, the bill is yet to be enacted but it already had tangible effects. A striking example is the prosecution’s referral document of Ayşe Barım, a talent manager who was detained within

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About the author

Burcu Karakaş is an independent investigative journalist based in Istanbul, Turkey. Her reporting focuses on human rights, migration, free speech and gender issues. Over the years, she focused on the stories of ethnic, sexual and religious minority groups in Turkey. She is an award-winning reporter, including the European Union Investigative Journalist Prize for her work on suspicious deaths of women in southeastern Turkey. She is the author of four books on minority issues and media landscape in Turkey. She was a Logan Nonfiction Fellow at the Carey Institute of Global Good in 2019.

the scope of the Gezi Park investigation and arrested on January 27 on charges of “aiding an attempt to overthrow the government.” The referral document stated that actors represented by Barım’s management company had participated simultaneously in the “#HelpTurkey” campaign, which was launched in response to wildfires and earthquakes in Turkey, and that these social media posts allegedly portrayed Turkey as incapable in the eyes of the international community. For this reason, it was claimed that the activities of Barım’s company were outside the scope of its aims, “leaning towards acting as an agent of influence”.

Schiffers states that from the very beginning of the debates, the ruling Georgian Dream Party has attempted to deflect accusations that the draft law mirrors Russia’s “foreign agent law,” which was enacted in 2012, by portraying it instead as a replica of the U.S. “Foreign Agents Registration Act” (FARA). In Turkey, however, the Erdoğan government justifies the “agents of influence” bill as a measure to “combat new types of espionage activities.” The AKP government contends that the existing penal code’s definition of “espionage” is insufficient to combat crimes that can now be carried out through different techniques.

Turkey’s draft bill stipulates that “Where this act is committed during the war or jeopardised the State’s preparations for war, its effectiveness in war or its military movements, the offender shall be sentenced to a penalty of imprisonment for a term of eight to twelve years.” Additionally, if the crime is committed by individuals working in “institutions and organizations of strategic importance to national security,” the penalty is set to be doubled.” These expressions are also quite vague; it is unclear who falls under this category” says Özcan from the TBMM Justice Commission.

While other offences related to espionage and state secrets do not require prior authorization from the Ministry of Justice, prosecutors can directly initiate investigations into “agent of influence” offences, yet advancing to the trial stage necessitates ministerial approval. CHP MP Gizem Özcan claims that such an approval requirement could lead to the risk of political interference.

PEN Norway will continue to closely monitor this situation that threatens further the rights of freedom of expression, a free media and the work of NGOs in monitoring the continuing threats to the rule of law and practices of legal defence in Turkey at present.