

Freedom of the Press in Turkey

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According to the 2017 World Press Freedom Index¹ of the “Reporters Without Borders” (RSF), Turkey ranked 157 out of 180 countries. The 2018 Index² showed that Turkey fell 58 points within the last years.

As RSF stated in Oslo, Norway, during the launch event of the Index on April 25, 2018, political leaders’ hostility towards the mass media is no longer limited to authoritarian countries such as Turkey, “where ‘media-phobia’ is now so pronounced that journalists are routinely accused of terrorism and all those who don’t offer loyalty are arbitrarily imprisoned.”³

“Turkey is again the world’s biggest prison for professional journalists...”⁴ RSF also noted on Turkey, clarifying that members of the Press⁵ spend over a year in prison before trial and long jail sentences are becoming the new norm. “A state of emergency has allowed authorities to eliminate dozens of media outlets with the stroke of a pen, reducing pluralism to a handful of low-circulated and targeted publications”⁶ the same note added.

“Freedom House”, which declares that works not only to defend human rights, but also to promote democratic change, acting as a catalyst for freedom, said that the Press Freedom Status of Turkey is “not free.” As it explained, under the state of emergency, media outlets were accused of terrorism connections with the attempted military coup, authorities seized control of media outlets or even, closed them down, and journalists have been detained. Regarding the “counterinsurgency campaign against Kurdish separatist fighters”, it stressed that journalists in the Kurdish southeast faced, amongst others, criminal investigations, threats, physical violence and even, death; it highlighted that media, facing terrorism charges, have been excluded from state advertising.⁷

According to the non-profit organization promoting Press Freedom worldwide, “The Committee to Protect Journalists” (CPJ), “Turkey has been the world's leading jailer of journalists”⁸ during 2016-2017, despite the fact that some journalists were released in 2017.⁹

As CPJ wrote on its annual prison census,¹⁰ from the 262 jailed journalists in 2017, 73 of them were imprisoned by the Turkish government. 81 journalists were jailed in Turkey in 2016, according to CPJ; apart from trials for anti-state and terror-related allegations, the country's authorities regularly make new arrests and close down media organizations. It has been widely argued that suppress of the Press in Turkey has been increased, after the unsuccessful coup in 2016.¹¹

The CPJ Europe and Central Asia program coordinator, Gulnoza Said, mentioned to “The Voice of America” (VOA) that “The press freedom environment in Turkey has been very dire for several years now and, unfortunately, it is not getting any better. Turkey is the leading jailer of journalists in the world.”

To be noted that it has been mainly referred that the terror allegations are primarily related to the Fethullah Gülen movement.¹² As BBC reported,¹³ the Turkish President, Recep Tayyip Erdogan, blames US-based cleric, Fethullah Gülen, for July 15, 2016, attempted coup and declared on July 20, 2016 Turkey, under a state of emergency.¹⁴

According to a report by the state-run Anadolu Agency, Turkey lifted a state of emergency two years later, “To enact a state of emergency, the government must foresee serious indications of widespread violence which may interfere with the democratic environment or basic constitutional rights and freedoms of its citizens.”¹⁵ CNN reported that after the coup attempt about 290 people died and over 1,400 injured.¹⁶

Amnesty International's deputy Europe director, Fotis Filippou, said that the lifting of the emergency order was a “step in the right direction”, but “What is needed is systematic action to restore respect for human rights, allow civil society to flourish again and lift the suffocating climate of fear that has engulfed the country.”¹⁷

The Legal Framework

Prior to the analysis, the International and European law, as well as Turkey's domestic law, including the Constitution of the Republic of Turkey, the Turkish Penal Code (with an emphasis on the Articles 125, 301, and 314), and the Anti-terrorism regulations, are presented in relation to the freedom of the press in Turkey.

As noted on the Venice Commission at its 107th Plenary Session (June 10-11, 2016) by the European Commission for Democracy, “Turkey is a State to all major international human rights instruments, including the international Convent on Civil and Political Rights (hereinafter, “ICCPR”) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter, “ECHR”).”¹⁸

To be more specific, freedom of the expression is guaranteed by the Article 10 of the ECHR, the Article 19 of the ICCPR, and the Article 19 of the Universal Declaration of Human Rights. Regarding the European law, the Article 10 of the ECHR stated:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.¹⁹

As far as the International law, the Article 19 ICCPR noted the following:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it[s] special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.²⁰

Thus, according to the Article 19 of the Universal Declaration of Human Rights, “Everyone has the right to freedom of opinion and expression; this right includes

freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”²¹

The draft opinion on Articles 216, 299, 301, and 314 of the Penal Code of Turkey (Opinion No. 831/2015) mentioned, amongst others, that the Parliamentary Assembly of the Council of Europe has adopted instruments, concerning defamation, including Recommendation 1805 (2007) of June 29, 2007, on blasphemy, religious insults and hate speech against persons on grounds of their religion; and Resolution 1577 (2007) and Recommendation 1814 (2007) of October 4, 2007 “Towards Decriminalisation of Defamation”. The same source highlighted that it has also dealt with the protection of journalists; in Resolution 1438 (2005) and Recommendation 1702 (2005) of 28 April 2005, “Freedom of the press and the working conditions of journalists in conflict zones”; Resolution 1535 (2007) of 27 January 2007, “Threats to the lives and freedom of expression of journalists”; and Resolution 2035 (2015) and Recommendation 2062 (2015) of 29 January 2015, “Protection of safety of journalists and of media freedom in Europe” – to name a few.²²

Regarding Turkey’s domestic law, the Associate Professor of Constitutional Law at Istanbul Bilgi University, Serap Yazıcı, argued on her article, “A Guide to the Turkish Public Law Order and Legal Research” that the first constitutionalist movements began during the Ottoman Empire period (19th Century). However, as she explained, the history of Turkey’s legal system roots back to the early Republican period (1923-1930) and was maintained like that, even after the transition to a multi-party system and the constitutions adoption (1961, 1982).²³

On “Equality before the law”, the Article 10 of the Constitution of the Republic of Turkey noted the following:

Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds. (Paragraph added on May 7, 2004; Act No. 5170)

Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice. (Sentence added on September 12, 2010; Act No. 5982) Measures taken for this purpose shall not be interpreted as contrary to the principle of equality. (Paragraph added on September 12, 2010; Act No. 5982) Measures to be taken for children, the elderly, disabled people, widows and orphans of martyrs as well as for the invalid and veterans shall not be considered as violation of the principle of equality. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities are obliged to act in

compliance with the principle of equality before the law in all their proceedings.²⁴

Regarding “Freedom of the press”, Article 28 of the Constitution of the Republic of Turkey stated:

The press is free, and shall not be censored. The establishment of a printing house shall not be subject to prior permission or the deposit of a financial guarantee. (Repealed on October 3, 2001; Act No. 4709) The State shall take the necessary measures to ensure freedom of the press and information. In the limitation of freedom of the press, the provisions of articles 26 and 27 of the Constitution shall apply. Anyone who writes any news or articles which threaten the internal or external security of the State or the indivisible integrity of the State with its territory and nation, which tend to incite offence, riot or insurrection, or which refer to classified state secrets or has them printed, and anyone who prints or transmits such news or articles to others for the purposes above, shall be held responsible under the law relevant to these offences. Distribution may be prevented as a precautionary measure by the decision of a judge, or in case delay is deemed prejudicial, by the competent authority explicitly designated by law. The authority preventing the distribution shall notify a competent judge of its decision within twenty-four hours at the latest. The order preventing distribution shall become null and void unless upheld by a competent judge within forty-eight hours at the latest. No ban shall be placed on the reporting of events, except by the decision of judge issued within the limits specified by law, to ensure proper functioning of the judiciary. Periodical and non-periodical publications may be seized by a decision of a judge in cases of ongoing investigation or prosecution of crimes specified by law; or by order of the competent authority explicitly designated by law, in situations where delay may constitute a prejudice with respect to the protection of the indivisible integrity of the State with its territory and nation, national security, public order or public morals and for the prevention of crime. The competent authority issuing the order to seize shall notify a competent judge of its decision within twenty-four hours at the latest; the order to seize shall become null and void unless upheld by a judge within forty-eight hours at the latest. General provisions shall apply when seizing and confiscating periodicals and non- periodicals for reasons of criminal investigation and prosecution. Periodicals published in Turkey may be temporarily suspended by court ruling if found to contain material which contravenes

the indivisible integrity of the State with its territory and nation, the fundamental principles of the Republic, national security and public morals. Any publication which clearly bears the characteristics of being a continuation of a suspended periodical is prohibited; and shall be seized by decision of a judge.²⁵

On the “Ratification of international treaties”, the Article 90 of the Constitution of the Republic of Turkey, mentioned:

The ratification of treaties concluded with foreign states and international organisations on behalf of the Republic of Turkey shall be subject to adoption by the Grand National Assembly of Turkey by a law approving the ratification. Agreements regulating economic, commercial or technical relations, and covering a period of no more than one year, may be put into effect through promulgation, provided they do not entail any financial commitment by the State, and provided they do not interfere with the status of individuals or with the property rights of Turks abroad. In such cases, these agreements shall be brought to the knowledge of the Grand National Assembly of Turkey within two months of their promulgation. Implementation agreements based on an international treaty, and economic, commercial, technical, or administrative agreements, which are concluded depending on the authorization as stated in the law, shall not require approval of the Grand National Assembly of Turkey. However, economic, commercial agreements or agreements relating to the rights of individuals concluded under the provision of this paragraph shall not be put into effect unless promulgated. Agreements resulting in amendments to Turkish laws shall be subject to the provisions of the first paragraph. International agreements duly put into effect have the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. (Sentence added on May 7, 2004; Act No. 5170) In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.²⁶

Regarding the “Offences against Dignity” regards, and especially on the “Insult”, the Article 125 of the Penal Code of Turkey stated:

(1) Any person who attributes an act, or fact, to a person in a manner that may impugn that person’s honour, dignity or prestige, or attacks someone’s honour, dignity or prestige by swearing shall be sentenced to a

penalty of imprisonment for a term of three months to two years or a judicial fine. To be culpable for an insult made in the absence of the victim, the act should be committed in the presence of at least three further people.

(2) Where the act is committed by means of an oral, written or visual medium message, addressing the victim, the penalty stated in the above paragraph shall be imposed.

(3) Where the insult is committed: a) against a public officer due to the performance of his public duty; b) because of declaring, altering or disseminating, his religious, political, social or philosophical beliefs, thoughts, or convictions, or practising in accordance with the requirements and prohibitions of a religion he belongs to; or c) where the subject matter is deemed sacred to the religion the person belongs to the penalty to be imposed shall not be less than one year.

(4) (Amended on 29 June 2005 – By Article 15 of the Law no. 5377) Where the insult is committed in public, the penalty to be imposed shall be increased by one sixth.

(5) (Amended on 29 June 2005 – By Article 15 of the Law no. 5377) Where an insult is made which arises from the duties of public officials who are working as a committee, the offence shall be deemed to have been committed against the all members of that committee. In these circumstances the provisions of the article concerning successive offences shall be applied.²⁷

On “Provoking the Public to Hatred, Hostility or Degrading”, the Article 216 of the Penal Code of Turkey, declared:

1) A person who publicly provokes hatred or hostility in one section of the public against another section which has a different characteristic based on social class, race, religion, sect or regional difference, which creates an explicit and imminent danger to public security shall be sentenced to a penalty of imprisonment for a term of one to three years.

(2) A person who publicly degrades a section of the public on grounds of social class, race, religion, sect, gender or regional differences shall be sentenced to a penalty of imprisonment for a term of six months to one year.

(3) A person who publicly degrades the religious values of a section of the public shall be sentenced to a penalty of imprisonment for a term of six months to one year, where the act is capable of disturbing public peace"²⁸

Regarding "Offences against the Symbols of State Sovereignty and the Reputation of its Organs" and specifically "Insulting the President of the Republic," the Article 299 of the Penal Code of Turkey, cited:

(1) Any person who insults the President of the Republic shall be sentenced to a penalty of imprisonment for a term of one to four years.

(2) (Amended on 29/6/2005 – By Article 35 of the Law no. 5377) Where the offence is committed in public, the sentence to be imposed shall be increased by one sixth.

(3) The initiation of a prosecution for such offence shall be subject to the permission of the Minister of Justice.²⁹

According to the Article 301 (Amended on 30/4/2008 – By Article 1 of the Law no. 5759) of the Penal Code of Turkey:

(1) A person who publicly degrades Turkish Nation, State of the Turkish Republic, Turkish Grand National Assembly, the Government of the Republic of Turkey and the judicial bodies of the State shall be sentenced a penalty of imprisonment for a term of six months to two years.

(2) A person who publicly degrades the military or security organisations shall be sentenced according to the provision set out in paragraph one.

(3) The expression of an opinion for the purpose of criticism does not constitute an offence.

(4) The conduct of an investigation into such an offence shall be subject to the permission of the Minister of Justice.³⁰

On the "Offences against the Government", the Article 312 of the Penal Code of Turkey stated:

(1) Any person attempting, by the use of force and violence, to abolish the government of the Republic of Turkey or to prevent it, in part or in full, from fulfilling its duties, shall be sentenced to a penalty of aggravated life imprisonment.

(2) Where any other offence is committed during the commission of this offence, an additional penalty shall be imposed according to the relevant provisions.³¹

Referring to an “Armed Organisation”, the Article 314 of the Penal Code of Turkey noted:

(1) Any person who establishes or commands an armed organisation with the purpose of committing the offences listed in parts four and five of this chapter, shall be sentenced to a penalty of imprisonment for a term of ten to fifteen years.

(2) Any person who becomes a member of the organisation defined in paragraph one shall be sentenced to a penalty of imprisonment for a term of five to ten years.

(3) Other provisions relating to the forming of an organisation in order to commit offences shall also be applicable to this offence.³²

According to the Article 1 of the Law on the Fight against Terrorism,³³ “The Definition of Terrorism” was the following:

Terrorism is any kind of act done by one or more persons belonging to an organization with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights and freedoms, or damaging the internal and external security of the State, public order or general health by means of pressure, force and violence, terror, intimidation, oppression or threat. An organization for the purposes of this Law is constituted by two or more persons coming together for a common purpose. The term "organization" also includes formations, associations, armed associations, gangs or armed gangs as described in the Turkish Penal Code and in the provisions of special laws.³⁴

Print Media

According to Media Ownership Monitor (MOM) 35 on Turkey, the Turkish Statistical Institute (TÜİK) showed that during 2015, 2.731 newspapers were published: 172 national, 112 regional, and 2.447 local newspapers. TÜİK also presented that in 2015, the total circulation of national daily newspapers, including local newspapers and free press, was about 4.591.784 copies per day - the lowest since 2006. According to data collected by the Media monitoring website, “Medyatava” on October 2016, the total circulation was about 3.300.000 - remarkably lower, as it was about 4% of the population.³⁶

The Media Ownership Monitor (MOM): Turkey³⁷ cited, the top media owners, “Doğan” and “Kalyon” Groups, have investments in all four media types (radio, television, newspapers and online websites) and share 10% and 7% of all media audience respectively, followed by “Demirören Group” (6%), “Ciner Group” (5%), “Doğuş Group” (4%), state owned “TRT” (3%), “Estetik Yayıncılık” (“Sözcü” daily and website - 3%), and “Hayat Görsel Yayıncılık” (Kanal 7, Radyo 7, haber7.com - 2%).

Regarding advertisement revenue, the MOM reported that television comes first, while newspapers come second. The Advertiser’s Association estimated that during the first six months of 2016, daily newspapers received 14.57% of advertisements out of all mass media; during the same period of time, “Hürriyet”, “Sabah” and “Posta” newspapers were the top ones, in terms of advertising revenue.³⁸

Another crucial source of revenue for newspapers, including the free press, derives from public announcements and advertising by the state-controlled Press Advertising Authority (BİK). MOM wrote that the exact amount of this revenue mainly depends on its circulation. MOM also explained that “BİK refused to answer a freedom of information request by MOM to disclose advertising handed out to newspapers in the past 12 months, claiming this information was a “trade secret.”³⁹

According to BİK,⁴⁰ the daily newspapers “Hürriyet”, “Sabah”, “Posta”, “Türkiye”, “Takvim”, “Sözcü”, “Habertürk”, “Milliyet”, “Yeni Şafak”, and “Güneş” were the most popular ones; two daily newspapers are owned by “Doğan” and “Kalyon” Groups, while each of the following one, own one newspaper: “İhlas Group”, the company “Estetik Yayıncılık”, “Ciner Group”, “Demirören Group”, “Albayrak Group”, and the Turkish businessman, Ethem Sancak.

MOM added that, “Except for Doğan's Hürriyet and Posta, and Burak Akbay's Sözcü, all newspapers in the top 10 list belong to groups known to be close to the ruling AK Party. All owners except for one (Burak Akbay) have major investments outside of media that depend on state contracts, such as in energy and construction.”⁴¹

A Shift Toward Authoritarianism

As the freelance journalist based in Turkey, Zia Weise wrote in *The Atlantic*, freedom of the press and media independence have always been an issue in the country.⁴²

Turkish journalist and political analyst, Uzey Bulut, who is currently based in Washington, D.C., said that today’s censorship and bans in Turkey have been “inspired by the “glorious” history of the Ottoman Empire, which in 1515 imposed the death penalty on anyone using a printing press to print books in Turkish or Arabic.” As he noted, the first books published in the Ottoman Empire were written in Hebrew.

Censorship and closure of the Turkish national and foreign press, including newspapers, journals and magazines with different political positions, was a “common practice” based on the Law on the Maintenance of Order in 1925 and the press law in 1931; according to Mustafa Yılmaz and Yasemin Doğaner’s book “Censor During the Republican Era (1923–1973)”, which was published in 2007, the first president of Turkey, Mustafa Kemal Atatürk, banned 130 newspapers, magazines, and books, while the second prime minister, Adnan Menderes, banned 161.⁴³

Şükrü Kaya,⁴⁴ who served amongst other government positions during 1924–1938, as the Minister of Interior, defined the “press policy” of the government as follows, “The press is to comply with the political regime of the place where it is based. Just as every regime seeks for a type of citizen suitable for itself; it also seeks for a type of press suitable for itself.”⁴⁵ To be noted that he had also served as the Director of the Settlement of Tribes and Migrants during the Armenian Genocide.⁴⁶

“It is not enough to say that there was no freedom of the press in that [one-party] era,” wrote the professor, Mete Tuncay⁴⁷: “In the Ottoman autocracy, too, the press was not able to write what the government did not want. In the one-party era [during the CHP administration of republican Turkey], however, the press could write only what the government wanted it to write.”⁴⁸

The Assimilation and Settlement Law (1934) highlighted “the need for measures to promote the use of Turkish by those who remained removed from ‘Turkish culture’”. Regarding that law, the then academic and politician, Sadri Maksudi⁴⁹ said that “Turkification of the language is among the greatest devices for assuring the future of the Turkish race and the living of Turk as Turk. This is our aim.”⁵⁰

The use of the term “race” in the law and political speeches was “inspired by the prevailing Turkish nationalist discourse which became increasingly characterized by open ethno-cultural references in the political context of the 1930s”.⁵¹ A circular of the General Directorate of Settlement on the application of Law 2510 stated that immigration eligibility was for “individuals of Turkish race or individuals connected to Turkish culture who speak Turkish and who do not know any other language.”⁵² To be noted is that 2011 Constitutional Amendment 2001 to the 1982 Constitution of Turkey stated the reference to “language forbidden by law” was removed from the text, regarding freedom of expression.⁵³

Similarly, the Turkish Minister of Justice, Mahmut Esat Bozkurt,⁵⁴ stated in public on September 19, 1930, “The master of this country [Turkey] is the Turk. Those who are not genuine Turks can have only one right in the Turkish fatherland, and that is to be a servant, to be a slave.”⁵⁵

Turkey officially recognizes the freedom of religion; however, the question is whether all minorities have been equally treated in Turkey. Dexter Filkins⁵⁶ reported in *The New Yorker* that the record of persecuting ethnic and religious minorities, including Kurds, Greeks, and Armenians, was more than a million and a half of whom were massacred in the early twentieth century. The German pastor J. Lepsius cited on January 31, 1917, that the expulsion of the Greeks and the Armenians was a program of two phases – the extinction of the Christian elements in Turkey.⁵⁷

According to the Platform of Solidarity with Arrested Journalists (TGDP),⁵⁸ in 103 years, 112 journalists and writers have been murdered in Turkey, stressing that most journalists were Armenians, especially during the 1915 Armenian Genocide or Kurds, mainly between 1990 and 1994, at the rise of the Turkey-PKK conflict.⁵⁹ To be noted that Turkey refuses to recognize the Armenian genocide.⁶⁰

State policies and expulsion operations of the Greeks from Turkey were undercover and intertemporal leading to the shrinking number of the Greeks living nowadays in Turkey.⁶¹ For instance, Greek churches, cemeteries, businesses, houses, schools, and the Greek press, including “Apoyevmatini”, “Tachydromos”, and “Embros” newspapers⁶², were attacked on September 6-7, 1955, in what became known as “Septemvriana” in Greek.

Speros Vryonis Jr. cited that 71 churches, 41 schools, 4,008 stores, and about 2,100 houses of the Greek community in Turkey, offices and printing presses of eight newspapers, were destroyed.⁶³ To be noted that *Septemvriana* were also named after “Crystal night” (*Kristallnacht*: in German), as the consequences of that operation, in terms of material damages and casualties, were similar to the pogrom against Jews in the Nazi Germany during November 9–10, 1938.⁶⁴

Another example presenting that freedom of the press has always been an issue in Turkey with an emphasis on the Kurdish minority for years (before and after the 2016 attempted coup) is the case of “Özgür Gündem” v. Turkey; the Application no. 23144/93⁶⁵ was referred to the European Court of Human Rights (Fourth Section) on March 8th, 1999 against the Republic of Turkey by three Turkish nationals related to the “Özgür Gündem” newspaper; the editor-in-chief, Gurbetelli Ersöz, the assistant editor-in-chief, Fahri Ferda Çetin, the newspaper’s owners Yaşar Kaya and Ülkem Basın ve Yayıncılık Sanayi Ticaret Limited, on December 9, 1993. The applicants’ allegations were “that Özgür Gündem was the subject of serious attacks and harassment which forced its eventual closure and for which the Turkish authorities are directly or indirectly responsible” and they said “that any expression of Kurdish identity was treated by the authorities as advocacy of separatism and PKK propaganda.”⁶⁶ As Barbara Mensah noted about the Özgür Gündem case in her *European Human Rights*

Case Summaries, the campaign against the newspaper involved killings, disappearances, harassment, arson, and intimidation of journalists, distributors and others related with the newspaper.⁶⁷

The European Court of Human Rights concluded that the Turkish State “failed to take adequate protective and investigative measures to protect *Özgür Gündem*'s exercise of its freedom of expression and that it has imposed measures on the newspaper, through the search-and-arrest operation of 10 December 1993 and through numerous prosecutions and convictions in respect of issues of the newspaper, which were disproportionate and unjustified in the pursuit of any legitimate aim. As a result of these cumulative factors, the newspaper ceased publication. Accordingly, there has been a breach of Article 10 of the Convention.”⁶⁸

One of the former editors-in-chief of *Özgür Gündem* newspaper, Ocak Isik Yurtcu, who was sentenced for 15 years, said in an interview from prison, “My problem is not unique.... What I'm going through can face all journalists out there. They can use laws to put you in prison just for mentioning the word 'PKK' in your news story. They take this as 'praising the terrorist organization.' How can you write about the Southeast without mentioning the PKK?”⁶⁹

Weise said that Turkey's road to authoritarianism did not happen overnight; there was a relatively short period of time in the 2000s that freedom of the press came to an end gradually through legislation by Erdoğan's government. As she explained, when Erdoğan's “Justice and Development Party” (AKP) won the 2002 general elections in Turkey, many changes took place, such as army's involvement both on politics and society was stopped, democratic reforms were implemented as Turkey has been a EU candidate country, and reconciliation with Turkey's Kurdish minority was achieved; the “golden years” of freedom of the press followed, through the liberalization of the press law, which included “greater protections against state interference, strengthening journalists' right to protect their sources, and largely replacing prison sentences for certain violations (ranging from “compromising the judicial process” to “encouraging sexual assault, murder or suicide”) with fines”, allowing newspapers cover issues, such as minority rights.⁷⁰ American Ambassador (2003-2005) Eric Edelman, told Filkins that “Erdoğan used the prospect of joining the European Union to dismantle the old order.”⁷¹

Until 2008, according to the Article 301 of the Turkish Penal Code, it was a crime to insult “Turkishness,” the republic and specific government bodies. Nevertheless, after the awarded author, Orhan Pamuk and the journalist, Hrant Dink, mentioned on their works on the Turkey's Armenians genocide, were, between others, who were “persecuted under this provision” for offending “Turkishness.” Dink was murdered in

2007.⁷² The European Human Rights Court described this as a “violation of the basic freedom of expression” and “condemned the Turkish government for its involvement in the death of Hrant Dink.” Due to the fact that Turkey is an EU candidate country, in order to align Turkish law with the EU principles in relation to freedom of the press and expression, Turkey replaced the terms “Turkishness” and “republic” with “Turkish nation” and “Republic of Turkey.”⁷³

Weise emphasized that Turkish media owners remained free to invest in other sectors, despite of conflicts of interest. At the same time, mainstream media remained in the hands of a few and most of them are owned by relatives or allies of Erdoğan, “often influencing the editorial line to their advantage.”⁷⁴ For instance, the RSF mentioned the case of Albayrak Yayın Holding, which runs the “Yeni Şafak” newspaper, seven magazines, and two TV channels, as a showcase of the politico-economic links with the media industry. Six members of the Albayrak family are shareholders of the company that has won public tenders, while the vehicle company “Tümosan” owned by the group was given a 190 million Euro tender to deliver tanks on behalf of the Turkish Ministry of National Defence (2015). At the same time, Albayrak group is involved with construction, waste management, ports, IT, textiles, advertising, and tourism sectors. It is acknowledged that there are close relations with AKP and Erdoğan, who participated in Albayrak's family members wedding as a witness (2002) and engagement ceremony (2012).⁷⁵

Weise explained that a great number of journalists self-censored themselves, as they were afraid of legal consequences; the new press law did not mark in practice any changes - in fact, court cases against journalists were not only increased, but also legislation continued to restrain them; self-censorship remained an issue, since the interpretation of laws was broad; the country's anti-terror law for “terror propaganda” was not clearly defined; the exercise of journalism was ultimately criminalized, through the country's constitution, arguing that it endangers national security; journalists continued to avoid writing about topics related to the president, the government, other state bodies and others, since “Insulting” “Turkishness” and “Republic” has been considered a crime since 1920s (despite the fact that terms were replaced with “Turkish nation” and “Republic of Turkey”); freedom of the Press existed in theory, but not in practice.⁷⁶

According to the “Updated List Of Imprisoned Journalists In Turkey Including Recent Releases - March 2014”, which was commissioned by the Office of the OSCE Representative on Freedom of the Media and prepared by Erol Önderoğlu from Reporters Sans Frontieres (RSF), Turkey, 22 out of 54 imprisoned journalists had been accused or sentenced based on Article 314 of the Turkish Penal Code.⁷⁷ According to the

statistics of “Detention and imprisonment of journalists” by the Council of Europe, since 2015, Turkey has the highest number of alerts in this category.⁷⁸

Bianet’s coordinator, Evren Gönül, said that “The way of economic and political streamlining we see in Turkey results inevitably in self-censorship by many journalists, who don’t want to lose their jobs. If you need to make a living in this profession these days, you cannot be critical. [So,] in most cases, the government does not even have to pull the leash any more. Economic pressure is much more efficient.”⁷⁹

AKP again won in the general elections. of 2007. Weise highlighted that Erdoğan, who was the prime minister of the country until 2014, managed to impose his choice of president, despite the disagreements of the secularist military on that issue. She said that the police came across with “an alleged coup plot” by a secret organization, named “Ergenekon”, which led to many “high-profile trials,” and in 2010, another coup-plot case, the “Sledgehammer,”⁸⁰ followed; hundreds of journalists, academics, military officers, and judges were found guilty of many accusations; especially on the Ergenekon case, it was argued that military officers and civilians “belonging to Turkey’s “deep state,” allegedly conspired to assassinate public figures and finance global terror groups with the sale of chemical weapons, among other nefarious plans.” However, she stressed the evidence was dubious and even the Turkish government rejected the trials. The television anchor, Nevşin Mengü, argued that, through Ergenekon, the government became stronger than the state and after 2007, reforms slowed down.⁸¹

Journalist, Ahmet Şık, was imprisoned for writing a book that was not yet published. “I was arrested before I had the chance to put something new in the book,” Şık stated to CPJ in 2011, as he was initially charged for contributing to the alleged Ergenekon anti-government conspiracy.⁸² “There would have been more documents in the book, but I was being followed, my news sources were being followed, were being bugged. ... So, because they didn’t want those documents in my book, I was arrested,” Şık added, “This is political score-settling. I believe that if there were an honest investigation in Ergenekon, it would lead to democratization, but that is not what is happening.”⁸³

Along with Şık, investigative journalist and author, Nedim Şener was also arrested and at first accused of participating in Ergenekon; Şener mentioned to CPJ that he thought he was accused of involvement in the conspiracy because of his investigations into the Dink murder. Regarding the other accusations that he helped both Şık and a police chief with their research, Şener stated, “For the first time I have been arrested for books that I neither wrote nor helped to write.”⁸⁴ CPJ mentioned that both Şık and Şener detentions caused uproar, not only within Turkey, but also and

abroad because they were seen as the government's growing hostility to the independent media.⁸⁵

Erdoğan became more and more authoritarian in 2013. A peaceful anti-government protest, throughout the country, was non-peacefully suppressed by the police and mainstream media self-censored, by presenting unrelated stories.⁸⁶ For instance, CNN Türk aired a documentary about penguins, during the Gezi protests.⁸⁷ Moreover, "Prosecutors accused members of Erdoğan's inner circle of bribery and money laundering" and leaked recordings, which is believed to have been released by Fethullah Gülen's followers to show the president, advising his son to hide money.⁸⁸

Weise highlighted that until 2013, journalists working for newspapers that supported Gülen, also supported the detention of other journalists, who criticized AKP government or Gülen's "secretive movement";⁸⁹ but, in 2014, they faced themselves the same problem not only by the police, but also by government trustees that took control over Gülenist media companies.⁹⁰ The Turkish government also discreetly took other measures in order to hush critical journalists; newspapers, which covered the corruption scandal. These included newspapers owned by "Doğan Media Group" that were fined and forced to be sold to pro-government companies. Those newspapers then became pro-government, and journalists who refused to follow the pro-government line were fired. Another way to change the media ownership was by accusing the previous ownership of fraud and seizing the media outlet. This happened to "Sabah" newspaper.⁹¹

The Fourth Judicial Package⁹², along with amendments, was passed in 2013, because of Turkey's EU candidacy. Kurdish peace process was reasserted, antiterrorism regulations were slightly modified. Turkey was still not considered as a country protecting human rights, according to the international standards, since Articles 125, 301, and 314 of the Turkish Penal Code remained intact.

Despite the fact that the Fifth Judicial Package⁹³ reduced from 10 to 5 the longest pretrial detention and therefore, some journalists were set free, Turkey was still considered problematic in terms of human rights. According to a 63-paged-report from the United States Department of State Bureau of Democracy, Human Rights, and Labor on "Turkey 2014 Human Rights Report," the judiciary and law enforcement agencies were politicized and biased. Articles from the Penal Code and Antiterror Law restrict, amongst others, freedom of expression and the press. Thus, the government failed to protect "vulnerable populations from societal abuse, discrimination, and violence" such as the Kurds, who continued to face restrictions on freedom of assembly.⁹⁴ Besides, Weise stressed, publicly, Erdoğan often characterizes journalists as "terrorists" and as a president "takes criticism personally", having sued about 2,000 people, since 2014.⁹⁵

Weise explained that after AKP lost its majority in the parliamentary elections of 2015 and the government stopped the Kurdish peace process, it regained control through nationalism, leaving the Turkish society polarized between “us” and “them” rhetoric; Evin, who was fired from “Milliyet” newspaper, for covering the military operation in Kurdish cities, stressed that journalists were pushed not to be “journalists” but “patriots.” Similarly, critical reporting on security matters was gradually prosecuted as terror propaganda and journalists faced more and more violence. An example was that in 2015, *Hürriyet*'s offices in Turkey faced a mob attack for “misquoting” Erdoğan, while terror attacks and characterizing the attempted coup in 2016 by the Gülenists as exaggerated nationalism.⁹⁶

On October 30, 2015, the journalist Raziye Akkoc⁹⁷ reported in the British *Daily Telegraph* that Western journalists have been deported from south-eastern Turkey, while “Vice News” journalist, Mohammed Ismael Rasool, was imprisoned without charge: “These arrests are accused of being politically motivated - to ensure coverage of the conflict in Turkey's south-east is restricted after the collapse of the ceasefire. [...] Now journalists in the region face difficulties, not just from dangerous situation [namely the PKK-Turkish state conflict], but also from authorities questioning their activities.”⁹⁸

The journalist, Cigdem Akyol,⁹⁹ wrote in her article published on the project “Qantara.de”¹⁰⁰ on November 21, 2016, that journalists in Turkey, including foreign correspondents, are monitored by the government, “Everything is read, watched and listened in on. [...] The government is increasingly selective about who is and is not allowed to report. Foreign correspondents are also under more pressure, facing difficulty entering the country, harried or denied press credentials from the responsible government authority. No work permit is issued without journalists obtaining a little yellow plastic accreditation card. The difficulty in obtaining this card, issued by the Turkish Directorate General of Press and Information, has meant that many foreign reporters have been forced to leave.”¹⁰¹

According to Human Rights Watch, the government has attempted to “silence” media criticism and has scrutiny government policy in many ways, including canceling press accreditation of critical journalists, threatening, physical attacking, prosecuting, and jailing them, seizing or closing down media companies.”¹⁰²

Weise writes that the attempted coup was used by the government to “legitimize” the removal or imprisoning anyone from state institutions and civil society suspected of being linked to “terror groups”; journalists were imprisoned for speaking to specific sources or being employed at Gülenist or Kurdish nationalist media; many media outlets were forced to close down.¹⁰³

Learning from the news that authorities issued arrest warrants for 42 journalists in Turkey, Amnesty International's Deputy Director for Europe, Gauri van Gulik, said, "By rounding up journalists the government is failing to make a distinction between criminal acts and legitimate criticism. Rather than stifling press freedom and intimidating journalists into silence it is vital that Turkish authorities allow the media to do their work and end this draconian clampdown on freedom of expression."¹⁰⁴ Euroactiv reported on July 1, 2016 that the United Nations Secretary-General, Ban Ki-moon, expressed his concern about the arrests of journalists in Turkey and had called for Erol Onderoglu of Reporters Without Borders (RSF) to be promptly freed.¹⁰⁵

German broadcaster *Deutsche Welle* complained "that Turkey had confiscated the recording of an interview with a minister at his office in Ankara." German Chancellor Angela Merkel's spokesman, Steffen Seibert, said that, "Press freedom is for us ... non-negotiable. We behave (according to this principle) at home and we represent it abroad."¹⁰⁶ On September 29, 2016, the international AEJ expressed its support to the statement and appeal, 'A Coup Against Journalists,' which was issued by the G-9 Platform of media and press freedom organizations in Turkey, condemning "the wholesale closures of media, detentions and sackings of journalists, and other oppressive measures taken under the post-coup state of emergency laws in Turkey."¹⁰⁷

The G-9 Platform Statement further noted, "Under conditions of no transparency and an absence of free and open communication journalists were targeted with baseless accusations and denunciations. In the name of fighting coup plotters and the so-called Fethullah Terror Organization (FETO), journalists who have devoted all their lives to resisting unconstitutional and undemocratic movements have been arbitrarily made into victims of actions by state agencies. The permanent press cards of 115 journalists and ordinary press cards of a further 660 journalists have been cancelled without warning. We do not claim that journalists are unprosecutable, but we do insist that journalism is not a crime. Silencing journalists, punishing journalism, shutting down TV channels only serves to weaken the efforts to investigate and thwart the real plotters of coups".¹⁰⁸

The British *Guardian* expressed its view on Turkish press freedom in its editorial on July 24, 2017, "Where media freedom is curtailed other freedoms invariably follow.... Freedom of the press is restricted wherever governments claim its exercise might run counter to political imperatives or what they define as national security. It is a freedom enshrined in UN texts, but it is far from universally recognised as a basic right. It might be tolerated, but only within boundaries subject to whim, in jeopardy whenever those in power feel their interests might be threatened."¹⁰⁹

The executive director of RSF Germany, Christian Mihr, observed, “Since the failed coup attempt, closures of news outlets and mass imprisonments of journalists have become the most visible side of the Turkish government’s long-running crackdown on media.... But there is a much deeper dimension of economic leverage, which allows for almost complete control of mass media in this country. It is very difficult to find any family of a Turkish media tycoon in which President Erdogan has not attended a wedding or served as a marriage witness.”¹¹⁰

As MOM¹¹¹ showed, the newspapers that were shut down are the following: *Adana Haber Gazetesi, Batman Postası Gazetesi, Adana Medya Gazetesi, Batman Doğuş Gazetesi, Akdeniz Türk Gazetesi, Bingöl Olay Gazetesi, Şuhut’un Sesi Gazetesi, İrade Gazetesi, Kurtuluş Gazetesi, İskenderun Olay Gazetesi, Lider Gazetesi, Ekonomi, “İscehisar Durum Gazetesi, Ege’de Son Söz Gazetesi, Türkeli Gazetesi, Demokrat Gebze Gazetesi, Antalya Gazetesi, Kocaeli Manşet, Yerel Bakış Gazetesi, Bizim Kocaeli, Nazar, Haber Kütahya Gazetesi, Batman Gazetesi, Gediz Gazetesi, Son Nokta Gazetesi, Zafer Gazetesi, Merkur Haber Gazetesi, Hisar Gazetesi, Millet Gazetesi, Turgutlu Havadis Gazetesi, Bugün Gazetesi, Milas Feza Gazetesi, Meydan Gazetesi, Türkiye’de Yeni Yıldız Gazetesi, Özgür Düşünce Gazetesi, Hakikat Gazetesi, Taraf Gazetesi, Urfa Haber Ajansı Gazetesi, Yarına Bakış Gazetesi, Ajans 11 Gazetesi, Yeni Hayat Gazetesi, Yeni Emek Gazetesi, Zaman Gazetesi, Banaz Postası Gazetesi, Today’s Zaman Gazetesi, Özgür Gündem Gazetesi, Batman Çağdaş Gazetesi, Azadiya Welat Gazetesi, Cizre Postası Gazetesi, Yüksekova Haber Gazetesi, Güney Express Gazetesi, İdil Haber Gazetesi, Kızıltepe’nin Sesi Gazetesi, Urfanatik Gazetesi, Prestij Haber Gazetesi, Express Gazetesi, Dağyeli Gazetesi, Türkiye Manşet, Akis Gazetesi, İpekyolu Gazetesi, Yedigün Gazetesi, and Son Dakika Gazetesi.*

MOM¹¹² highlighted that the magazines shut down included *Akademik Araştırmalar Dergisi, Aksiyon, Asya Pasifik (PASİAD), Dergisi, Bisiklet Çocuk Dergisi, Diyalog Avrasya Dergisi, Gül Yaprağı Dergisi, Nokta, Sızıntı, Ekolife Dergisi, Ekoloji Dergisi, Fountain Dergisi, Gonca Dergisi, Yağmur Dergisi, Yeni Ümit, Zirve Dergisi, Özgürlük Dünyası Dergisi, Tiroj Dergisi, Evrensel Kültür, and Haberexen Dergisi.* Similarly, MOM¹¹³ listed the following news agencies were shut down: *Cihan Haber Ajansı, Muhabir Haber Ajansı, SEM Haber Ajansı, Dicle Haber Ajansı, and Jin Haber Ajansı.*

MOM¹¹⁴ also referred to the publishing houses and distribution companies, which were shut down and more specifically: *Altın Burç Yayınları, Işık Akademi, Burak Basın Yayın Dağıtım, Işık Özel Eğitim Yayınları, Define Yayınları, Işık Yayınları, Dolunay Eğitim Yayın Dağıtım, İklim Basın Yayın Pazarlama, Giresun Basın Yayın Dağıtım, Kaydırak Yayınları, Gonca Yayınları, Kaynak Yayınları, Gülyurdu Yayınları, Kervan Basın Yayıncılık, GYV Yayınları, Kuşak Yayınları, Ufuk Basın Yayın Haber Ajans Pazarlama, Muştı Yayınları, Ufuk Yayınları, Nil Yayınları, Waşanxaneya Nil, Rehber Yayınları, Yay Basın Dağıtım Pazarlama-Reklamcılık, Sürat Basın Yayın*

Reklamcılık Ve Eğitim Araçları, Yeni Akademi Yayınları, Sütun Yayınları, Yitik Hazine Yayınları, Şahdamar Yayınları, and Zambak Basın Yayın Eğitim Turizm.

Human Rights Watch specified that limitations increased authoritarianism “Under the state of emergency, the president presides over the cabinet, which can pass decrees without parliamentary scrutiny or possibility of appeal to the constitutional court.”¹¹⁵ The Human Rights Watch underlined that “Turkey temporarily derogated from [...] many of the protections in the European Convention on Human Rights and International Covenant on Civil and Political Rights, although it is prohibited from derogating from core obligations.”¹¹⁶ “The EU has repeatedly stressed that Turkey, as (an EU) candidate country, needs to respect and promote high democratic standards and practices, including freedom of the media,” the EU’s diplomatic service stated.¹¹⁷

Besides, the freedom of press and human rights are just some of the issues that Turkey faces as an EU candidate country; since the aftermath of the attempted coup in Turkey, it has been estimated that more than 50,000 people have been imprisoned with their trials pending and about 150,000 have been fired or dismissed from their positions, not only in the military, but also in the public and the private sector.¹¹⁸ The British *Times* reported that “...the outlawed Gülen movement, which was blamed for the coup attempt in 2016 that left 250 people dead.”¹¹⁹ Decrees with measures, such as the reintroduction of incommunicado detention, conflict with the protection of basic human rights, were “increasing risks of ill-treatment, and Turkey’s obligations under international and domestic law.”¹²⁰

According to MOM, *Millet* and *Bugün*, which were daily newspapers under Ipek-Koza Groups’ ownership, were seized by a Turkish court seized in October 2015, and in March 2016, *Zaman*, *Today’s Zaman*, and *Meydan* newspapers, which were under Feza Yayıncılık ownership, as well as Cih News Agency and *Aksiyon* magazine were also seized; the newspapers were shut down by the trustees that took them over.¹²¹

The British *Guardian* reported on November 28, 2018, that the judge, John Jani, rejected the Turkish government’s request to send the chairman of the Koza-İpek Group, Hamdi Akin İpek, from the U.K. back to Turkey for trial as “politically motivated.”¹²² The judge refused the extradition of Ipek and three other Turkish nationals “...on the grounds that extraditing Hamdi Akin İpek and three other Turkish nationals would put them at risk of serious mistreatment.”¹²³ Judge, Jani, clarified that, in case they were sent back to Turkey, there would be a risk of breaking the Article III of the European Convention of Human Rights.

Following the hearing, İpek said that the Turkish government has conducted a campaign of harassment and intimidation against him, his family, and his employees over the past three years, for no reason other than he is perceived as an opponent of the

Erdoğan regime. He added that “There are thousands of other businessmen, judges, civil servants and journalists who are unable to make their case due to the collapse of democracy and the rule of law in Turkey. The human rights abuses taking place are unacceptable for any civilised country and action must be taken urgently to end this.”¹²⁴

MOM¹²⁵ highlighted that following the coup attempt on July 15, 2016 in Turkey and due to decrees numbered 668 (July 27, 2016), 675 (October 29, 2016), and 677 (November 22, 2016), which were released under the state of emergency, 178 media companies were shut down. More specifically, MOM explained that through decrees 668, 675, and 677, at least 62 newspapers were shut down; 2 news agencies were also closed down through 675 decree, while 29 publishing houses and distribution companies were shut down through 668 decree. MOM said that all shutdowns were justified on the basis that there was a “connection and communication with the Gülenist Terror Organization (FETO/PYD) which has been established as a threat to national security; as well as terror organizations and structures and groups which have been declared as acting against the security of the state, by the National Security Council.”¹²⁶ MOM underlined through decrees, out of the newspapers’ shutdowns, six reopened: *Bingöl Olay*, *Kurtuluş*, *Lider*, *İscehisar*, *Ege’de Sonsöz*, and *Hakikat*.¹²⁷

On October 5, 2016, BİK introduced a new criterion to the regulation of official advertisement. According to the new regulation “Regulation Regarding Periodicals to Run Official Announcements and Advertisements”, “the right of a media outlet to publish official advertising is stopped, until the cases regarding “crimes against constitutional order” and/or “counter-terrorism against the grant holder, the individual proprietor or the legal entity, or representatives of the legal entity, major part of the partners or legal proprietors are closed”; under that specific regulation, “media outlets that do not dismiss employees that are standing trial based on the same allegations in five days, will also lose their right to publish official advertising.”¹²⁸

The representative of Turkey for “Reporters Without Borders”, Erol Önderoğlu, told Weise that, over 85% of the national mainstream media is under the government’s control, while according to the small independent newspaper, *Birgün*, media outlets supporting the government represent 90% of national press circulation.¹²⁹ Nowadays, Weise said that a small number of publications in Turkey strive to survive while exercising critical reporting, and risking losing advertising. She added that most critical journalists are jailed, fined, fired or have fled Turkey, while most of the mainstream media are owned by relatives or allies of Turkey’s president, Erdoğan.¹³⁰

Based on sources from “PEN International”, “Platform for Independent Journalism” (P24), “Stockholm Center for Freedom” (SCF), “Journalists’ Union of Turkey” (TGS), “Progressive Journalists Association” (ÇGD), and “Bianet” online news

portal, "Turkey Purge,"¹³¹ a campaign of political repression,¹³² published the whole list of 319 journalists, who have been arrested in Turkey after the coup attempt of July 15, 2016, explaining at the same time that "Some 180 of them are still kept under arrest with the remaining released pending trial or cleared of charges."¹³³

Accordingly, the IFJ president, Philippe Leruth, said that "Since the failed coup we have had to react even more against the media crackdown in Turkey. The new arrest warrants revealed today are aimed, one more time, at targeting journalists who are simply doing their jobs. Press freedom is an essential component of democracy. And clearly, it is even more at stake today."¹³⁴ EFJ president, Mogens Blicher Bjerregaard, added, "We call again on the NGOs and the international community to put pressure on the Turkish government to reinstate a rule of law. More and more journalists are facing intimidations, arrests or imprisonments and this purge must stop immediately. We stand in solidarity with our Turkish colleagues."¹³⁵

The Council of Europe Commissioner for Human Rights, Nils Muižnieks, visited Turkey twice in 2016 (between April 6-14 and between September 27-29), focusing mainly, on issues of human rights, freedom of expression and media freedom and the administration of justice. The Commissioner expressed his concerns about the "serious deterioration of media freedom and freedom of expression for journalists, media outlets, academics and the Turkish society as a whole, especially after the attempted coup of July 15, 2016, as well as under the state of emergency that followed."¹³⁶

Commissioner Muižnieks further expressed his concerns about that "since the violation of relevant international standards in the realm of freedom of expression and media freedom have created a distinct chilling effect, manifesting in self-censorship both in the media and among ordinary citizens."¹³⁷ Regarding the protection of journalists, he said that there is "an increase in police and security forces' violence against journalists" and "a judicial harassment restricting freedom of expression."¹³⁸ Commissioner Muižnieks concluded that "... the main obstacle to an improvement of the situation is the lack of political will both to acknowledge and to address the problems highlighted in the body of this memorandum."¹³⁹

In 2016, the European Parliament expressed concerns over Turkey's "backsliding" on democracy, the rule of law and human rights, emphasizing the rapid decline of the right to freedom of expression in the country; the annual United States Department of State Human Rights reports have acknowledged government intervention "with freedom of expression and press as one of the most pressing human rights violations in Turkey for five consecutive years."¹⁴⁰

Thus, the European Parliament published "Media freedom trends 2018: Turkey", expressing its concerns on media freedom environment in the country: "Over the last

two years, media freedom in Turkey has deteriorated rapidly. Although the EU expressed support for the government in the face of the failed military coup in July 2016, it is now concerned about respect for fundamental values in Turkey.”¹⁴¹

Human Rights Watch stated that “One of the essential pillars of a functioning democracy, free and independent media help promote the free flow of ideas, opinions and information necessary for political processes to function, and serve as a critical check on executive authorities and powerful actors linked to them.”¹⁴² The European Court of Human Rights (ECHR) acknowledges that defamation proceedings with freedom of expression may be compatible to protect the reputation of others, however ECHR noted that “defamation offences must be prescribed by law, necessary in a democratic society and proportionate, including the potential penalties.”¹⁴³ In 2018, the ECHR also “ruled that Turkey may not view criticism of the government or political leaders as terrorism or supporting terrorist groups.”¹⁴⁴

On June 20, 2018, nineteen international freedom of expression organizations¹⁴⁵ sent a common letter, demanding how to safeguard and strengthen media freedom and independent journalism in Turkey, to all candidates in the then presidential elections.¹⁴⁶ Regarding the arrests of independent journalists and shutdowns of media, both the United Nations Special Rapporteur on the right to freedom of opinion and expression, David Kaye, and the OSCE Representative on Freedom of the Media, Dunja Mijatović, expressed concerns about the measures adopted after the attempted coup by the Turkish authorities, “We strongly urge the Turkish authorities to reconsider these decisions and confirm their obligations to media freedom.”¹⁴⁷

The case of the Saudi *Washington Post* journalist, Jamal Khashoggi, who was killed in the Saudi Consulate in Constantinople, Turkey on October 2, 2018, has raised many questions about whether double standards are at play since the Turkish government requested an international investigation about that case while Turkish prisons are full of journalists.¹⁴⁸

Despite the recommendations made by international and European bodies and independent institutions, as well as by countries, including the USA¹⁴⁹ and the EU, it depends on Turkey what path it will follow. Will Turkey, for example, decide to democratize the country in real political terms and not just due to its EU candidacy? To that extent will it protect human rights, freedom of expression and media freedom, in accordance to international standards? Another issue that arises is what kind of strategy Turkey will follow and whether the country will act unilaterally at international and regional levels - including Turkey’s relations with neighboring countries- especially with Greece and Cyprus. Yet another issue that emerges is what kind of financial

relations Turkey will develop at the international level to support its political choices and how will it handle its sense of the balance of power in its international relations.

¹RSF. (2018a). *2018 World Press Freedom Index | Reporters Without Borders*. [online] Available at: <https://rsf.org/en/ranking#> [Accessed Nov. 19, 2018].

²*Hürriyet Daily News*. (2018). *Turkey ranks 157 in RSF's Press Freedom Index, down two places from last year - World News*. [online] Available at: <http://www.hurriyetdailynews.com/turkey-ranks-157-in-rsfs-press-freedom-index-down-two-places-from-last-year-130898> [Accessed Nov. 19, 2018].

³Ibid.

⁴Ibid.

⁵To be noted that this paper focuses on the freedom of the Press in Turkey (as entitled). The rest of the media, namely the Television, the Radio, and the Internet, have also encountered issues on the freedom of Expression and Speech.

⁶*Hürriyet Daily News* (2018).

⁷"Turkey". 2018. *Freedomhouse.Org*. <https://freedomhouse.org/report/freedom-press/2017/turkey>. To be noted that especially for the Press, the state advertising is considered as an important source of income.

⁸Breuninger, Kevin. (2018). *Turkey slams Saudi Arabia for Jamal Khashoggi's death despite its own dismal record on free press*. [online] CNBC. Available at: <https://www.cnn.com/2018/10/22/turkey-slams-saudis-for-khashoggi-death-but-has-dismal-record-on-press.html> [Accessed Nov. 19, 2018].

⁹Beiser, Elana. (2018). *Record number of journalists jailed as Turkey, China, Egypt pay scant price for repression*. [online] Cpj.org. Available at: <https://cpj.org/reports/2017/12/journalists-prison-jail-record-number-turkey-china-egypt.php> [Accessed Nov. 19, 2018].

¹⁰Breuninger (2018).

¹¹(www.dw.com). (2018). *Press freedom index: Turkey remains world's worst jailer of journalists | DW | 13.12.2017*. [online] DW.com. Available at: <https://www.dw.com/en/press-freedom-index-turkey-remains-worlds-worst-jailer-of-journalists/a-41769715> [Accessed Nov. 19, 2018].

¹²For more information about the Gülen movement, please visit BBC's official website: BBC News. (2018). *What is Turkey's Gulen movement?* [online] Available at: <https://www.bbc.com/news/world-europe-36855846> [Accessed Nov. 19, 2018].

¹³Ibid.

¹⁴Beiser (2018).

¹⁵Natalie Gallón, CNN. 2018. "Turkey Lifts State of Emergency, Two Years After Coup Almost Toppled Erdogan". *CNN*. <https://edition.cnn.com/2018/07/18/europe/turkey-state-of-emergency-intl/index.html>.

¹⁶Ibid.

¹⁷Ibid.

¹⁸"European Commission for Democracy Through Law". 2018. *Venice.Coe.Int*. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)011-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)011-e).

¹⁹"European Convention on Human Rights". 2018. *Echr.Coe.Int*. https://www.echr.coe.int/Documents/Convention_ENG.pdf.

²⁰"OHCHR | International Covenant on Civil and Political Rights". 2018. *Ohchr.Org*. <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

²¹"Universal Declaration of Human Rights". 2018. *Un.Org*. <http://www.un.org/en/universal-declaration-human-rights/>.

- ²² Ab.gov.tr. (2018). Draft Opinion on Articles 216, 299, 301 and 314 of the Penal Code of Turkey. [online] Available at: https://www.ab.gov.tr/65_en.html [Accessed 29 Nov. 2018].
- ²³For more background information about Turkey's legal system, see "A Guide to the Turkish Public Law Order and Legal Research" by the Associate Professor of Constitutional Law at Istanbul Bilgi University, Serap Yazıcı: Yazıcı, Serap. 2018. "A Guide to The Turkish Public Law Order and Legal Research - Globalex". *Nyulawglobal.Org*. <http://www.nyulawglobal.org/globalex/Turkey1.html>.
- ²⁴"Constitution of The Republic of Turkey". 2018. *Global.Tbmm.Gov.Tr*. https://global.tbmm.gov.tr/docs/constitution_en.pdf.
- ²⁵Ibid.
- ²⁶Ibid.
- ²⁷"European Commission for Democracy Through Law (Venice Commission)". 2018. *Legislationline.Org*. file:///C:/Users/nat/Downloads/Turkey_CC_2004_am2016_en%20(4).pdf.
- ²⁸ Ibid.
- ²⁹ Ibid.
- ³⁰ Ibid.
- ³¹ Ibid.
- ³²Ibid.
- ³³*Turkey: Law No. 3713 of 1991, Law to Fight Terrorism* [Turkey], April 12, 1991, available at: <https://www.refworld.org/docid/4c4477652.html> [accessed 23 November 2018]
- ³⁴*Turkey: Law No. 3713 of 1991, Law to Fight Terrorism* [Turkey], April 12, 1991, available at: <https://www.refworld.org/docid/4c4477652.html> [Accessed November 23, 2018]
- ³⁵"Print". 2018. *Media Ownership Monitor*. <http://turkey.mom-rsf.org/en/media/print/>.
- ³⁶Ibid.
- ³⁷"Media". 2018. *Media Ownership Monitor*. <http://turkey.mom-rsf.org/en/media/>.
- ³⁸"Print" (2018).
- ³⁹Ibid.
- ⁴⁰Ibid.
- ⁴¹Ibid.
- ⁴²Weise, Zia. 2018. "How Did Things Get So Bad for Turkey's Journalists?". *The Atlantic*. <https://www.theatlantic.com/international/archive/2018/08/destroying-free-press-erdogan-turkey/568402/>.
- ⁴³ Ibid.
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