



**PERMANENT MISSION OF TURKEY
TO THE UNITED NATIONS
GENEVA**

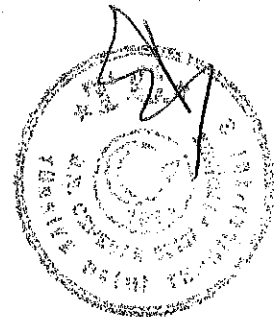
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The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the letter of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. David Kaye, dated 18 May 2015, has the honour to transmit the notes prepared by the relevant authorities of the Republic of Turkey, in reply to the information request of the Special Rapporteur.

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 16 July 2015

Encl: As stated



OHCHR REGISTRY

22 JUL 2015

Recipients : SPD
..... M. Dahan (Encl)
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Office of the High Commissioner for Human Rights
Palais des Nations
1211 Geneva 10

Article 25 titled "Freedom of thought and opinion" of the Constitution of the Republic of Turkey (no. 2709) provides as follows: "Everyone has the freedom of thought and opinion.

No one shall be compelled to reveal his/her thoughts and opinions for any reason or purpose; nor shall anyone be blamed or accused because of his/her thoughts and opinions."

Article 26 titled "Freedom of expression and dissemination of thought" provides that "Everyone has the right to express and disseminate his/her thoughts and opinions by speech, in writing or in pictures or through other media, individually or collectively. This freedom includes the liberty of receiving or imparting information or ideas without interference by official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, or similar means to a system of licensing.

The exercise of these freedoms may be restricted for the purposes of national security, public order, public safety, safeguarding the basic characteristics of the Republic and the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation or rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.

Regulatory provisions concerning the use of means to disseminate information and thoughts shall not be deemed as the restriction of freedom of expression and dissemination of thoughts as long as the transmission of information and thoughts is not prevented.

The formalities, conditions and procedures to be applied in exercising the freedom of expression and dissemination of thought shall be prescribed by law"

Article 27 titled "Freedom of science and the arts" provides that "Everyone has the right to study and teach, express, and disseminate science and the arts, and to carry out research in these fields freely.

The right to disseminate shall not be exercised for the purpose of changing the provisions of articles 1, 2 and 3 of the Constitution.

The provision of this article shall not preclude regulation by law of the entry and distribution of foreign publications in the country."

Article 28 titled "Freedom of the press" provides as follows "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.

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."

Article 30 titled "Protection of printing facilities" provides that "A printing house and its annexes, duly established as a press enterprise under law, and press equipment shall not be seized, confiscated, or barred from operation on the grounds of having been used in a crime."

Article 124 § 3 titled "Prevention of communication" of the Turkish Criminal Code (Law no. 5237) provides that "Where any kind of media broadcast or publication is illegally prevented, a penalty in accordance with the provision of section two shall be imposed."

Article 1 titled "Aim and scope" of the Law no 5187 on Press provides as follows "The aim of the Press Law is to arrange freedom of the press and the exercise of this freedom."

Article 3 titled "Freedom of the press" is as follows: The press is free. This freedom includes the right to acquire and disseminate information, and to criticize, interpret and create works.

The exercise of this freedom may be restricted in accordance with the requirements of a democratic society to protect the reputation and rights of others as well as public health and public morality, national security, and public order and public safety; to safeguard the indivisible integrity of its territory; to prevent crime; to

withhold information duly classified as state secrets; and to ensure the authority and impartial functioning of the judiciary."

Article 12 titled "News source" provides as follows "The owner of the periodical, responsible editor, and owner of the publication cannot be forced to either disclose their news sources or to legally testify on this issue."

As it is seen, the freedom of the press is guaranteed by the Constitution and in what circumstances this freedom may be restricted is regulated in the Constitution. Penal sanctions are prescribed in the Law no. 5187 in respect of the acts that illegally prevent any kind of media broadcast or publication.

On the other hand, the Law no. 5187 clearly provides that the press is free, the exercise of this freedom may be restricted in accordance with the requirements of a democratic society to protect the reputation and rights of others as well as public health and public morality, national security, and public order and public safety; to safeguard the indivisible integrity of its territory; to prevent crime; to withhold information duly classified as state secrets; and to ensure the authority and impartial functioning of the judiciary, and the owner of the periodical, responsible editor, and owner of the publication cannot be forced to either disclose their news sources or to legally testify on this issue.