

Summary of Joint Stakeholder Submission Turkey: Freedom of Expression, Creativity and the Arts

Law suits, arrests, threats and banning orders, these are all dangers that artists in Turkey who touch on sensitive issues face today. Although at the First Cycle of the UPR of Turkey in May 2010, the Turkish government accepted recommendations to improve the state of free expression, the Anti Terror Law continues to be used against writers and artists to delegitimize their work. This particularly affects artists working in the Kurdish regions, or who are supportive of Kurdish rights. One such example is the band Grup Yorum whose members have over the years suffered repeated arrest and harassment. Officials have exacerbated the situation by publicly equating artists with terrorists.

Particularly problematic are Turkey's defamation laws, and a large number of cases have been taken out against works seen as being an insult to the prime minister. Paintings and cartoons have had to be withdrawn from exhibitions, cartoonists tried and political satirists penalised under Penal Code Article 125. The imprisonment on 12 June 2014 of cartoonist Mehmet Düzenli to serve three months for 'insulting' a controversial Muslim preacher is a case in point.

Freemuse, the Istanbul-based Siyah Bant and the Initiative for Freedom of Expression raise these and other in their joint submission UPR. Click here to open the submission in [PDF format](#).¹

Artistic rights in a perilous state

Our organisations describe freedom of expression and artistic rights as being in a perilous state in Turkey. Our focus is on the laws that are used to arrest and restrict individuals, and to ban their works, on the impunity granted to non-state actors who threaten artists, and of certification and funding as tools of censorship.

Artists who take part in public gatherings find themselves falling foul of the Law 2911 that restricts demonstrations, such as the Gezi musicians accused of keeping protestors 'dynamic' and 'motivated'.

Article 216/3 on 'insult to religion' has been applied against artists. A painting combining an image of a mosque and a play on words inspired by PM Erdoğan's statement that a controversial sculpture was a 'freak' led to the artist being brought to court is just one example.

Non-state actors also play their part. The state will frequently open investigations into events or art works on behalf of the "sensitive citizen". Yet, conversely, the state gives impunity to individuals who attack artists and creative works. Take for example actor Mehmet Ali Alabora, threatened with a hefty prison term for his contribution to the Gezi protests (thankfully charges were dropped) but no protection or condemnation against the wave of threats made against him in both print and social media.

Other modes of censorship include public officials removing artworks from galleries and forcing the closure of exhibitions. Film certification, aimed ostensibly at protecting children from harmful content has been used to delimit films that challenge political and societal norms.

¹ <http://freemuse.org/wp-content/uploads/2014/06/UPR-2014-Turkey.pdf>

Main recommendations

The joint submission recommends that the Turkish government stands by its commitments, both under international instruments and its own Constitution, to protect freedom of expression and artistic rights by:

- Stopping the abuse of laws in a way that leads to the punishment of artists whose works challenge authority but do not promote violence;
- Amending or revoking those laws to ensure that they cannot be used in a way that that curtails the rights to freedom of expression, notably the Anti Terror Law and Law on Meetings and Demonstrations;
- Decriminalising defamation and insult so that no person who criticises those in power is imprisoned;
- Ensuring that broadcast regulators, such as the film certification boards, are independent of government, and that decision making bodies that provide funding for public arts are similarly independent of political, religious and corporate influence.

Comments on Turkey's National Report to the UPR

The [National Report of Turkey](#)² on its compliance with the recommendations it received in the first cycle of the UPR in May 2010 states that it has '*strengthened the legal framework on various rights and freedoms, in particular freedom of expression and the media*'. (para. 10) It cites legislation reforms as having made '*major amendments expanding the scope of freedom of expression*' Terminology, it says, has been '*reformulated and narrowed*' so that acts seen to be promoting terrorism need to constitute a '*clear and imminent danger to the public*' or '*explicitly legitimise, praise or encourage the methods of terror organisation*'. (para. 63)

However, these amendments have done little to address our concerns. There remains ambiguity around the definition of terrorism and propaganda which are not ameliorated by the legislative reforms, and it remains a significant curtailment on freedom of expression. The fact that scores of writers, artists, journalists and publishers remain on trial, most under anti terror legislation for reasons connected only to the practice of their rights to freedom of expression and association is testament to the need for further reform.

Turkey's report also refers to legislative changes enacted in March 2014 that '*contains articles that expand the scope of assembly and association*' including amendment to Law 2911 (Law on Meetings and Demonstrations). (para. 73) This law has been used to prohibit festivals and their participants, and recently against musicians participating in the 2013 Gezi protests. These reforms were reversed by the introduction of a new security bill³ in December 2014 that, among other measures extends police powers to hold demonstrators for up to 48 hours without charge.

Our submission also refers to the cases of artists and caricaturists who have challenged or explored religious precepts, for which they have found themselves before the courts. Whereas the National Report of Turkey refers to measures taken to promote tolerance and understanding between faith groups (paras. 55-60), the continuing existence and application of Article 125 against those accused of denigration of religion remains a deterrent to those critical of or who question religious beliefs.

In conclusion, there remains the need for significant improvements in legislation and practice to ensure the full enjoyment of freedom of expression, creativity and arts in Turkey.

Contacts:

Freemuse

Ole Reitov Tel: +45 33 32 10 27 ole.reitov@freemuse.org

Sara Whyatt Tel: +44 7930 695 826 sarawhyatt@gn.apc.org

Siyah Bant

Pelin Başaran Tel: +44 7712 730 307 pbasaran@gmail.com

² http://www.mfa.gov.tr/site_media/html/UPR-National-Report.pdf

³ <http://www.hrw.org/news/2014/12/11/turkey-security-bill-undermines-rights>