

2<sup>nd</sup> speech by the head of delegation, Deputy  
Prime minister Bülent Arınc

## İKİNCİ ARA KONUŞMA GAYRI RESMİ TERCÜME

(27 OCAK 2015, CENEVRE)

Honorable President, Esteemed Ambassadors and Distinguished Participants,

I would like to thank the States who took the floor during the second round. In this speech, I would like to give information on the current status and the latest developments in Turkey about the freedom of expression, the freedom of the press, the right to liberty and security, combating torture and ill-treatment and freedom of assembly and association and address some of the questions asked.

In Turkey, **freedom of expression and media freedom** are considered an indispensable part of democratic order and efforts are continuously made for their improvement. Thanks to the recent reforms we have realized, many issues which have been regarded sensitive are now being openly discussed by our people.

By an amendment made to Article 301 of the Turkish Penal Code in 2008, investigations to be made on any offence related to this Article are now subject to authorization by the Minister of Justice. This has brought a dramatic reduction in the number of cases based on this article; during the six-year period since the amendment, a total of 2,792 files have been submitted to the Ministry of Justice and 93% of those that have been reviewed were rejected.

The third and fourth Judicial Reform Packages, adopted in 2012 and 2013 respectively, introduced significant improvements to the Penal Code, the Anti-Terror Law and the Press Law with the aim of extending the scope of the freedom of expression and media and ensuring the compatibility of domestic laws with the European Court of Human Rights standards and universal norms. As a result of the legal amendments which have been mentioned in detail in our national report, a number of improvements have been realized, such as the suspension of proceedings and penalties relating to offences committed through the press and media which brought about the release of many detainees. The offence of "praising crime and criminals" was amended and "making propaganda of terrorist organizations" has been redefined and amended to reflect more concrete criteria for conviction.

A Working Group has been set up in the Ministry of Justice for the identification of legal provisions which may cause restrictions to the freedom of expression. A number of articles of the Penal Code and other laws, which have been raised in the advance written questions relating to the freedom of expression may be considered within the scope of this Working Group's activities.

**In response to the advance written questions by Norway, Germany and Sweden,** a complete pluralism exists in Turkey in respect of media organizations. There are many newspapers and TV channels where journalists are able to work independently and freely. Turkish media sector is growing day by day with a wide variety of media institutions, some of which are supportive of the Government while others are not. According to the data of the Radio and Television Higher Board (RTÜK), there are, in addition to the national channels, a total of 221 private television channels of which 16 are regional and 205 local. According to the data by the General Directorate of Press and Information, there are 4074 newspapers in total of which 66 are national, 68 regional and 3940 local.

The reasons for detention of persons who are referred to as “**detained journalists**” are not related to their journalistic activities. As of 23 January 2015, there are a total of 31 persons, 29 of whom are convicted with the remaining 2 being held on remand on charges such as being a member of an armed terrorist organization, attempting to overthrow the constitutional order, voluntary manslaughter and embezzlement, none of which are related to journalistic activities.

Meanwhile, I would like to stress once again that the investigation which was launched on 14 December 2014 by the İstanbul Chief Public Prosecutor upon individual criminal complaints and the relevant custody and detentions are not related to the profession of journalism or its activities. It is clear that this is an ongoing judicial process and that, pursuant to the separation of powers, the legislative and executive branches are not part of this process.

**In response to advance written questions by the Czech Republic, Slovenia and Belgium, amendment to the Internet Law** was aimed at two main goals. First is the promotion and strengthening of internet freedom while the second is a more prompt and effective protection of personal rights and privacy. The Telecommunications Authority may issue an order preventing access for the protection of the privacy of personal life in cases where delay might cause harm, but such decisions must be referred to court for an approval within 24 hours to ensure judicial safeguard. Internet traffic data can only be obtained from providers by a court decision in case of a pending investigation or prosecution.

In the context of **restricting access to Twitter and YouTube**, contacts were made previously with the aforementioned companies for them to remove unlawful content through a notice and take-down method, but despite our good will, these companies disregarded relevant court decisions and did not remove content and abide by court decisions. As a last resort, the measure to ban access was implemented. On the other hand, this measure was later lifted upon the decisions of the Constitutional Court.

**In response to the advance written question by the Czech Republic;** the Republic of Turkey is governed by the rule of law, as laid down in Article 2 of the Constitution. Separation of powers and the independence of judiciary are under Constitutional safeguards. In Turkey, the judiciary is independent from the legislative and executive powers. No organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of judicial power or make recommendations or suggestions. With the introduction of the individual application mechanism to the Constitutional Court, the recent judgments of the Court demonstrates the independent role of the judiciary in terms of the protection of rights and freedoms. In Turkey, the rule of law is effective with all institutions, rules and processes.

Important work has been carried out over the last four years for a more effective protection of **the right to liberty and security**. In this context, a number of legal provisions have been put in force in favor of detained and convicted persons, aiming at shortening detention periods, ensuring diligent conduct by judicial authorities and introducing protective measures as an alternative to detention. In this way, detention on remand ceased to be a widely-used protective measure, **dramatically reducing the length of detentions and detention rates in prisons**. The ratio of remand prisoners in prisons which was 49.2% in 2006 was reduced to 14.1% as of December 2014. This rate is lower than that of many developed countries.

**In response to the advance written question by the Netherlands**, a recent legal amendment has introduced “**reasonable doubt**” instead of “**strong suspicion based on**

**concrete evidence**” as the criteria only for issuing search warrants. The “strong suspicion based on concrete evidence” criteria used for arrests and detentions remains in effect. This change is aimed at eliminating any difficulties that may arise in practice and strengthening the purpose and efficiency of the protective measure. In fact, this provision is in line with the relevant legislation of many Western countries.

**As to the power of the police to use force, referred to in the advance written question by Germany**, the bill known as the “Domestic Security Package” has not been enacted yet. The bill has been submitted to the Turkish Grand National Assembly (TGNA) on 24 November 2014 and is being debated in its entirety. The draft law is aimed at the clarification of the circumstances where the police are empowered to use force and firearms. It is emphasized that this power be employed in accordance with the principles of proportionality. The aim is to provide a more effective protection of the life and property of our people.

As an indication of the policy of zero tolerance towards **torture and ill treatment**, we have realized comprehensive legal arrangements. In addition to the international monitoring mechanisms of the UN and the Council of Europe, internal monitoring mechanisms have been set up and much progress has been made in practice. By the Council of Ministers Decision published in the Official Gazette on 28 January 2014, the Turkish Human Rights Institution has been designated as the “national preventive mechanism” in charge of performing the duties and using the powers under the OPCAT. In a short while, the representative of the relevant institution shall provide information on the measures we have taken to fight torture.

**Freedom of peaceful assembly and association** is a democratic right safeguarded by law. Our nationals are able to exercise these rights freely. Within the context of the Democratization Package, the scope of the freedom of assembly and association has been extended. Accordingly, the Law on Assembly and Demonstration Marches has been rearranged to ensure participation in the determination of venues and routes for assemblies. The review of the said law within the framework of the case-law of the ECHR is among the short-term goals specified under purpose no. 12 of the Action Plan for the Prevention of European Convention on Human Rights Violations.

**In response to the written question by the United Kingdom**, teargas weapons are only used by certified personnel. Two Circulars were issued by the Ministry of the Interior in 2013 reminding the **rules to be followed by law enforcement officials in civil disorders** and the principles to be followed when **using teargas and other tear-inducing agents**. Visible numbers are inscribed on riot police helmets for the identification of officers using disproportionate force in such civil disturbances.

In the course of the events which are commonly referred to as **Gezi park protests**, law enforcement intervened in the events for the protection of public order within the bounds of the law and as necessary in a democratic society. **In response to the advance written question by Norway**, judicial and administrative investigations are carried out with diligence in respect of allegations of excessive use of force by law enforcement officials and those responsible are brought to justice. As a result of administrative investigations, a total of 149 personnel were sanctioned. As to judicial proceedings, a total of 329 investigations were launched in 13 provinces, 59 of which resulted in non-prosecution while a number of remaining files resulted in public prosecution. Recently, in the Ali İsmail Korkmaz case, two police officers were

sentenced to 10 years of imprisonment each by the decision of the Kayseri Second High Criminal Court on January 21, 2015. Other investigations are pending.

On the other hand, in response to **the written advance question by Switzerland**, a legislative bill is on the agenda of the TGNA for the establishment of a central record system and an independent **Law Enforcement Supervision Commission** which shall be in charge of examining all complaints relating to law enforcement officials. The new law enforcement complaint system will ensure an expedited and effective investigation, monitoring and conclusion of complaints about law enforcement.

Mr. President, now I would like leave the floor to the representative from the Ministry of Justice who will provide supplementary information on prison standards and juvenile justice and the representative from the Ministry of Interior who will provide supplementary information about fighting torture and use of force by the law enforcement. **(BURADA DIŞİŞLERİ'NİN SÖZ ALMASI GEREKEBİLİR. TAKİBİ GEREKECEKTİR.**