



Case study report

Does media policy promote media freedom and independence?
The case of Turkey

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Project profile

MEDIADEM is a European research project which seeks to understand and explain the factors that promote or conversely prevent the development of policies supporting free and independent media. The project combines a country-based study in Belgium, Bulgaria, Croatia, Denmark, Estonia, Finland, Germany, Greece, Italy, Romania, Slovakia, Spain, Turkey and the UK with a comparative analysis across media sectors and various types of media services. It investigates the configuration of media policies in the aforementioned countries and examines the opportunities and challenges generated by new media services for media freedom and independence. Moreover, external pressures on the design and implementation of state media policies, stemming from the European Union and the Council of Europe, are thoroughly discussed and analysed.

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Executive Summary

Media policy in Turkey has shaped the media-state relationship since the establishment of the first newspaper in the late Ottoman period. While regulations were often employed as an effective disciplinary tool against the press in processes of state formation and modernization, opponent journalists have constantly been suppressed by state and non-state actors who claimed to act in the name of ‘state interests’.

The coup d’état in 1980 and the concomitant economic liberalisation changed the ownership structure of the media sector with the entry of new investors. Following the abolishment of state monopoly on broadcasting in the 1990s, big conglomerates expanding through vertical and horizontal mergers have dominated all fields of the media. The high concentrated market structure in the media was made possible due to the inadequacy of legal barriers to cross-mergers, as well as the lack of measures that would prevent media conglomerates from participating in public tenders in other sectors of the economy. The shortcomings of the regulatory framework to promote press freedom and diversity in the media has encouraged big corporations to regard themselves as legitimate political actors that can bargain with the government.

Media ownership was restructured following the economic crisis in 2001. Big media groups, which had investments in the financial and banking sectors, were particularly affected by the crisis; some being completely wiped out of the market, while others were seized by the state. Shortly after the Justice and Development Party (*Adalet ve Kalkınma Partisi- AK Parti*) came to power in 2002, the mainstream media was reconfigured ideologically as either ‘opponent’ or ‘proponent’ to the government.

Notwithstanding the limited positive effects of the EU accession process on media freedom, there are dozens of ECtHR judgments regarding freedom of expression and freedom of the press waiting to be executed by the Turkish state. Journalists who are powerless vis-à-vis the owners and political power are particularly affected by the political polarisation in the media. The structural obstacles to unionization and the lack of solidarity in the profession lead to labour exploitation, low quality content and violations of media ethics.

The lack of a strong pro-democracy social movement; the ideological conservatism of the judiciary; the institutional weakness of the parliament; and the lack of democracy within political parties render the government – and future governments – too powerful vis-à-vis the society and the media. On a positive note, however, there is a growing awareness on the need for social monitoring of the media. In the absence of a widely accepted and established self-regulatory framework, various non-governmental organizations and activist groups started to watch the media in order to expand the culture of diversity and to reduce discrimination, racism and hate speech.

1. Introduction

The media in Turkey has been in the limelight in recent years. Though historically the media has never been immune to the influence of political power and internal ideological polarization, the sharp divisions and extreme politicization of the Turkish media over the last decade is unprecedented. The media once again proved to be a critical actor at a time when the country was undergoing a historic process of political and social transition, and was acutely divided based on the political power struggle between the military and the government. The side various media organs chose to align with in this conflict was not simply a matter of political preference; it was a reflection of the deep social, economic and political transition taking place in the country since the 1980s. The consecutive and at times simultaneous processes of economic liberalisation, globalization and democratization produced various outcomes for the media sector, which has undergone a significant structural, technological and ideological change itself. On the other hand, the current state of affairs in the media and its interdependent relationship with the state cannot solely be explained by the developments of the past three decades. The political economy and ownership structure of the media, the vulnerability of journalists vis-à-vis their bosses and the absence of a motive for an independent media in pursuit of the truth can only be explained and understood with a due account of the historical origins of the media in Turkey.

Research on media independence and freedom of press in any country, and particularly Turkey, requires more than an analysis of the regulatory framework. It is the political and ideological factors that lie behind the anti-democratic and repressive laws, rather than the content and implementation of these laws that can explain why and under which circumstances an independent and free media fails to emerge in a given country. This report is an attempt to understand the absence of media freedom and independence in Turkey through a historical lens for a critical analysis of the current state of the state-media relations.

The report aims to analyze and explain the actors and processes of media policy making in Turkey; the substance and implementation of such policies; the legal framework governing media content; the ownership structure of the media; the working conditions of journalists; and the emerging social efforts to combat discrimination and hate speech in the media. Part two of this report focuses on the actors and values that affect the media policies, highlighting the significant role of big corporations in shaping structural regulation and competition. In part three, the structure of the media market and the conduct of big players are examined from the perspective of democracy and diversity. Since the major problems facing the media in Turkey stem from the legal system, Part four discusses the ‘mentality’ that shapes content regulation as a significant obstacle to journalistic freedoms. The vulnerable position of journalists vis-à-vis media owners and the political power is also the result of a lack of horizontal solidarity in the profession. In Part five, the working conditions of journalists, journalistic standards and practices are reviewed. Finally, Part six looks at media literacy in Turkey. Considering the high access rate of television (98 per cent) and long watching hours, the media literacy education initiated in primary education deserves close scrutiny. Both the content and the teaching methodology of this class raise serious issues. Taking into account that media literacy is not only a matter of education, but also a political and ideological issue, this part discusses the opportunities created by campaigns of advocacy groups.

The report is based on a review of the relevant literature, legal research and discussions with the main media actors in Turkey. Six closed workshops¹ were organised as

¹ Workshops organized: ‘Media and democratisation’ (Istanbul, 8/10/2010); ‘Human resources problems and the future of the media sector’ (Ankara, 18/12/2010); ‘Labour relations and working conditions in the media sector’

part of the fieldwork, bringing together a total of 41 individuals from public and private media who are directly or indirectly concerned with media freedom and independence in Turkey. Additionally, we conducted one-on-one interviews with media professionals, journalists, representatives of regulatory agencies and policy makers.

(Ankara, 21/12/2010); ‘The new legislation on the structure and authority of the Radio and Television Supreme Council’ (Istanbul, 11/3/2011); ‘Investment and competition media sector relations: the present and the future of the sector’ (Istanbul, 21/4/2011); and ‘Media and regulatory high bodies: The status of legal and governance regulations’ (Ankara, 18/10/ 2011).

2. Actors and values of media policy

Turkey did not have a regulatory framework governing media content until the mid 1990s, owing to the domination of the state in all sectors of the economy, including the media. Until the mid 1980s, the state had direct control over the media. In 1983, the coming to power of the neoliberal Motherland Party (*Anavatan Partisi-ANAP*) following the end of the military rule marked a turning point in Turkey's economy. ANAP's leader Turgut Özal initiated a process of economic liberalization and adopted free-market reforms. The new government's support for private entrepreneurship encouraged big corporations to enter the media sector. Despite a constitutional ban on private broadcasting, Turkey's first private television station, *Magic Box*, was launched in 1990 via satellite from Europe. This resulted in the entry into the market of various other private broadcasters; radio and television stations were launched one after another in blatant disregard of the constitution (Elmas and Kurban, 2010).

The legal chaos ensuing from the rapid deregulation of the media and the 'emergence of cartels due to the low number of actors which entered the sector' gave rise to the need for a regulatory framework to govern the market.² This resulted in the adoption of the first broadcasting law, no. 3984,³ and the establishment of the Radio and Television Supreme Council (*Radyo ve Televizyon Üst Kurulu-RTÜK*) for 'regulating and inspecting the activities of radio and televisions.'⁴ The policymakers' main concern in adopting the law was to control the content of private audio-visual companies and to make sure that they complied with rules and regulations. In the past decade, the principal trigger behind policy making in the media has been the need to harmonize the laws with the EU's *acquis*. The most recent example of this phenomenon was the adoption of a new broadcasting law in accordance with the EU's Audiovisual Media Services Directive (hereon referred to as the Directive or the EU Directive) in 2011. The consideration of the commercial needs of private broadcasters amidst rapid technological improvements was also influential in the adoption of the law. At first glance, the new law is in compliance with the Directive. A careful read, however, shows that the law exceeds the scope of the Directive by introducing additional content and ownership restrictions.

The politically nationalist and culturally conservative values endorsed in the constitutional and legal framework have diffused into the media policy making process. Relevant ministries, agencies and institutions responsible for media regulation strictly adhere to these principles, while at the same time paying lip service to freedom of expression, freedom of the press and the right to privacy. Where the inherent tension between these goals comes to surface, policy makers make a clear choice on the side of the protection of the family, nation and the state over the individual.

As in all other areas, policy making in the media in Turkey is a centralized and bureaucratic process where values and priorities are set by the executive. Until recently, the principal executive organ in charge of the media was the Ministry of the State. An executive decree adopted on 17 August 2011, however, now authorizes the Ministry of the EU Affairs to monitor and inspect the activities and transactions of autonomous regulatory agencies – including those in charge of media regulation.⁵ While the implications of this change remain

² Erol Katircioğlu, professor of economics at Istanbul Bilgi University, minutes of the workshop on the topic of 'Media and regulatory high bodies: the status of legal and governance regulations', Ankara, 18/10/2011.

³ *Radyo ve Televizyonların Kuruluş ve Yayınları Hakkında Kanun* [Law on the Establishment of Radio and Television Enterprises and their Broadcasts], no. 3984, Official Gazette no. 21911, 20 April 1994. The law was repealed with the adoption of the new Broadcasting Law, no. 6112, on 15 February 2011.

⁴ Constitution Art. 133.

⁵ *Avrupa Birliği Bakanlığının Teşkilat ve Görevleri hakkında Kanun Hükmünde Kararname ile Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılmasına Dair Kanun Hükmünde Kararname* [Decree with

to be seen, the shift in authority ‘is perceived as an intervention to the autonomy of these agencies’⁶ and a ‘strategic policy change on the part of the government.’⁷

Again, generally speaking, the parliament has a very limited role in policy making in the media. In accordance with strict party discipline which dominates the political culture in Turkey, parliamentarians very often vote in line with party politics. Little discussion on substantive issues takes place in the parliament and, to the extent that it does, it remains extremely partisan. Opposition parties often express their opinions through accusations rather than constructive criticism whereas the government rarely takes into account their feedback. The reactive political culture of lawmaking and the legislative workload caused by the need to harmonize the national legal framework with the EU’s *acquis communautaire* prevent the parliament from timely responding to the unforeseen needs arising from the rapidly changing media sector.⁸ The parliament’s minimal role in lawmaking has been further restricted by the recent government strategy to make legislative amendments through executive decrees adopted by the cabinet, as opposed to laws enacted by the parliament. The most recent example of this strategy in the media is the adoption of the executive decree no. 649 mentioned above. During the lawmaking process, the government rarely consults civil society, and where it does, the input collected is often not reflected in the policy output.⁹ The regulatory agencies’ role in policy making is also quite limited; they are tasked with preparing drafts in accordance with the political priorities of the government, which then finalizes these before submission to the parliament.¹⁰

The independence and impartiality of bureaucratic regulatory agencies have been contested all along in Turkey: ‘The political branch replaces and reaffirms itself through these authorities.’¹¹ Undoubtedly, the agency whose impartiality and autonomy have been most fiercely contested is RTÜK. Tasked with allocating licences and permits for terrestrial, satellite and cable broadcasting; supervising broadcasting content; responding to audience complaints; and imposing sanctions in cases of non-compliance, RTÜK’s mandate extends to both radios and televisions. The decisions of the agency are open to judicial review.

Though defined in the constitution and its founding law as an autonomous public legal entity, RTÜK lacks the mandate to develop its own principles and the power to regulate.¹² Instead, it is expected to operate within the substantive boundaries drawn by the parliament and its powers are limited to sanctioning the media (as discussed in section 4.1.). The agency’s efforts to introduce new norms can be prevented by courts, even if it is in the name of protecting rights and freedoms and furthering public interest. A recent example was RTÜK’s failed attempt to sanction broadcasts displaying violence against animals. Though

Force of Law Concerning Amendments to the Decree with Force of Law Concerning the Organization and Powers of the Ministry of European Union Affairs and to Certain Laws and Decrees Having the Force of Law] no. 649, Official Gazette, no. 28028, 17 August 2011, Article 45.

⁶ An official at a media regulatory agency, minutes of the workshop on the topic of ‘Media and regulatory high bodies: The status of legal and governance regulations’, Ankara, 18/10/2011.

⁷ Katircioğlu, ‘Media and regulatory high bodies: The status of legal and governance regulations’ Workshop.

⁸ An official at a media regulatory agency, ‘Media and regulatory high bodies: The status of legal and governance regulations’ Workshop.

⁹ Özden Cankaya, professor of communications, Galatasaray University, minutes of the workshop on the topic of ‘the new legislation on the structure and authority of the Radio and Television Supreme Council’, Istanbul, 11/03/2011.

¹⁰ An official at a media regulatory agency, minutes of the workshop on the topic of ‘the new legislation on the structure and authority of the Radio and Television Supreme Council’, Istanbul, 11/03/2011.

¹¹ Katircioğlu, ‘Media and regulatory high bodies: The status of legal and governance regulations’ Workshop.

¹² An official at a media regulatory agency, ‘Media and regulatory high bodies: The status of legal and governance regulations’ Workshop.

both the law and the agency's executive regulation prohibit broadcasts encouraging harmful actions against animals,¹³ the sanctions it attempted to impose against a broadcaster were stayed by a court on the ground that the law did not grant the agency such powers.¹⁴

RTÜK's independence has also been a matter of contention for a long time due to its political composition. The agency has nine members elected by the parliament for a period of six years from a pool of candidates nominated by political parties. The number of nominees proposed by each party is dependent on the number of members it has at the parliament.

Other relevant authoritative bodies include the Information and Communication Technologies Authority (*Bilgi Teknolojileri ve İletişim Kurumu-BTK*), which is tasked with the supervision and sanctioning of the Internet. It enjoys administrative and financial autonomy. The parliament does not have a role in the process of the selection of its (seven) members, who are appointed by the cabinet. The parliament also lacks powers to oversee the agency, which reports solely to the government. The Telecommunications Communication Presidency (*Telekomünikasyon İletişim Başkanlığı-TİB*) is a part of BTK. It was founded pursuant to a 2005 amendment in the Police Law¹⁵ for the specific purpose of law enforcement in the telecommunications sector. Among the members of the agency are the representatives of the National Intelligence Agency, the Directorate General of the Police and the Gendarmerie Central Command. Tasked with the centralized administration of telecommunication wiretapping in Turkey, TİB is required to share the information it gathers with the intelligence, the police and the gendarmerie and, upon request, with the courts and prosecutors.

The Competition Authority (*Rekabet Kurumu*) is an autonomous regulatory body tasked with enforcing competition rules in all sectors of the economy, including the media. The authority's broad mandate and the high number of complaints it receives from all sectors create a heavy workload. The agency has been able to examine only 10 per cent of the applications it has received so far, confirming the need for developing specific competition rules for the media and more effective mechanisms for supervision.¹⁶

The Directorate General of Press Advertisement (*Basın İlan Kurumu-BİK*) is tasked with allocating official advertisements and announcements to the print media. The legitimacy, function, and lack of autonomy of the agency have been contested issues ever since it was founded. The fact that BİK has the powers to prohibit advertisements to any publication it deems to have violated media ethics as a sanction can create a censorship effect due to the state-dependent structure of the agency. Nevertheless, in recent years, BİK has allocated a significant portion of its activities to strengthening the local press. It has come to an agreement with RTÜK on using the 3 per cent contribution the latter collects from television channels to strengthen the local media. This has been evaluated as a positive development in terms of the promotion of the local media, the better representation of geographical diversity of society and the improvement of the quality of local journalism.

¹³ Yayın Hizmeti Usul ve Esasları Hakkında Yönetmelik [Regulation on the Principles and Substance of Broadcasting Services], Official Gazette no. 28103, 2 November 2011, Art. 8(l).

¹⁴ An official at a media regulatory agency, 'Media and regulatory high bodies: The status of legal and governance regulations' Workshop.

¹⁵ Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun [Law on the Amendment of Certain Laws], no. 5397, 3 July 2005, Official Gazette no. 25884, 23 July 2005, Art. 1.

¹⁶ An official at the Competition Authority, minutes of the workshop on the topic of 'investment and competition relations in the media sector: the present and the future of the sector', Istanbul, 21/04/2011.

3. The structure of the Turkish media market

Since the launch of the first newspaper in the Ottoman Empire to the industrialisation of the press in the 1960s, journalism in Turkey has been led by a small group of journalists or journalist families who have also had a leading role in the social and political processes of change during the foundation of the republic. The liberalisation in the 1980s catalyzed the entry of other actors into the sector and changed the profile of investors (owners) of the media. In the 1990s, with the termination of state monopoly over broadcasting, the Turkish media market started to be dominated by a few conglomerates, which increased their economic power through vertical and horizontal mergers, and pursued competition strategies by setting up cartels and engaging in promotion wars. This situation changed considerably with the 2001 economic crisis and the ensuing state regulation of the banking sector. Those media groups which had investments in the financial and banking sectors were particularly affected by the crisis; some of them were completely wiped out while others were seized by the Savings Deposit Insurance Fund (*Tasarruf Mevduatı Sigorta Fonu-TMSF*) established by the government.

The high concentrated market structure in the media has been due to the inadequacy of legal barriers to cross-mergers, as well as the investments of the media owners in other sectors. Today, that ‘media is used as a weapon by the groups for their non-media investments’ is a widely accepted opinion in Turkey (Sönmez, 2003; Bek, 2004; Adaklı, 2006). Almost all big media groups have investments in the energy, telecommunications, financial or construction sectors among others. There are no barriers for preventing these groups from participating to public tenders either. Consequently, while public interest is sacrificed for business interests, the media competes with the government for political power and profit, rather than performing its watchdog function.

3.1 Media ownership

Article 28 of the Constitution and Article 3 of the Press Law do not impose an ownership restriction for the press. The print sector is subject only to a registration procedure prescribed by the Press Law, whereby the outlet is required to provide basic information about its printing facilities to the office of the local Chief Prosecutor.

Broadcasting companies, on the other hand, are subject to licensing requirement pursuant to Article 26 of the Constitution on the grounds that they use scarce or finite resources, i.e. frequencies. The allocation of such frequencies, however, has never been completed in Turkey. In 1995, RTÜK halted the process in the name of developing frequency planning first. The agency announced that it would not be accepting any new licence applications from television enterprises after 28 April 1995 and from radio enterprises after 8 December 1995 (Atabek, 1999). Tenders for frequency allocations were scheduled to begin in 1997. At the time, Turkey was going through a major political turbulence owing to the escalating conflict between the military and the Islamist Welfare Party (*Refah Partisi*), the junior partner of the coalition government. During the National Security Council meeting on 28 February 1997, the generals forced the government to resign. Soon after, extreme ‘security measures’ were introduced against Islamist organizations and media.¹⁷ Among these measures was the requirement for media owners and executives to get a national security clearance¹⁸ in order to prevent ‘separatist and reactionary’ broadcasts (Önderoğlu, 2005). As

¹⁷ This period has since been commonly referred to as ‘the February 28th process.’

¹⁸ The lawsuit filed on the grounds that this certificate, issued by the Prime Ministry, hinders freedom of the media, was decided by the 13th Chamber of the Council of State in 2005, with a court decision stating that the

a result of the ensuing bureaucratic chaos, the Prime Ministry halted the frequency planning process.

In 2001, RTÜK decided to resume the tenders, starting with national television enterprises, yet the Council of State (*Danıştay*) issued a decision to stay. In the meantime, in 2002, a new law was adopted (no. 4756), transferring the task of frequency planning to the Telecommunications Authority (*Telekomünikasyon Kurumu*) (Kılıç, 2002). However, to this date, the agency has not completed the planning process. In addition to the public broadcaster TRT, there are 23 national, 16 regional and 212 local television channels broadcasting with temporary licences currently in Turkey.

The predicament regarding the allocation of frequencies has created a barrier by increasing the cost of entry to the market. This, in turn, has been a major obstacle to diversity and pluralism in the broadcasting media. Partially to solve this problem, the new Broadcasting Law (no. 6112) reassigned the task of frequency planning to RTÜK. Article 26 (4) requires a sorting tender to be held for private radio and television enterprises: ‘media service provider enterprises that have been established as radio and television broadcasting companies and have operated in the field of radio and television broadcasting for at least one year, that fulfil the prerequisites specified in the tender specifications and that have obtained a qualification certificate from the Supreme Council to bid in the tender can participate in the sorting tender.’ It is clear that as a matter of priority RTÜK aims to protect the interests of the old players in the sector. Experts point out that the discriminate treatment of broadcasting companies could be a ground for legal action based on the principle of equality guaranteed under the Constitution.¹⁹

Diversity and competition are also safeguarded by regulatory frameworks that influence the behaviour of players in the Turkish broadcasting market. These terms refer to diversity of ownership as well as diversity of content and outlets (Hitchens, 2006: 9). A report prepared for the European Commission regards the effectiveness of a regulatory framework in the prevention of the undue concentration of ownership and control in the media as the legal indicator for ‘pluralism of ownership/control’ (Leuven, *et al.*, 2009). The prevention of undue concentration can be achieved in various ways. In the past, RTÜK has experimented two different methods: In the first regulation (law no. 3984), ownership restrictions had focused on the share limits, whereby (i) a company was allowed to establish only one radio and only one television station; and (ii) a shareholder in any given station could not hold more than 20 per cent of the shares and if he/she owned shares in several stations, the total ratio of his/her shares could not exceed 20 per cent. The law also had limited cross-ownership between the newspaper and broadcasting sectors.

At a time when the parliament was discussing amendments to the broadcasting regulation in 2002, the big media companies conducted effective lobbying against these ownership restrictions (Bek, 2003: 262). As a result, along with the 2002 amendments (law no. 4756) in the broadcasting law, the share ratios were introduced as the new measure for restrictions on ownership. Accordingly, if the average annual viewing or listening ratio of a television or a radio enterprise exceeded 20 percent, then the capital share of a real or legal person or a capital group in an enterprise should not exceed 50 per cent. The highest ratio recorded at the time was 16 per cent, indicating that the legal limit was too difficult to reach for any broadcasting company. The new amendment also removed the restrictions on cross-

amendment includes measures to ensure national security, national interests, public interest and rectification of legal shortcomings, and does not infringe upon freedom of the media.

¹⁹ An official at a media regulatory agency, minutes of the workshop on the topic of ‘the new legislation on the structure and authority of the Radio and Television Supreme Council’, Istanbul, 11/03/2011.

ownership and participation in public tenders and the stock market. Eventually, there remained no legal restrictions on media ownership. A research commissioned by RTÜK showed that the 2002 amendments enabled a media company to own 244 local and regional and 30 (medium sized) national stations at the same time (Cankaya and Yamaner, 2006: 240).

However, an intervention by the Constitutional Court changed this legislative framework soon after the adoption of the amendments. The court cancelled the two clauses of Article 29 governing media ownership on the ground that they caused monopolisation in the Turkish broadcasting market and violated Article 167 of the Constitution which tasks the state with the prevention of ‘the formation, in practice or by agreement, of monopolies and cartels in the markets,’ as well as Articles 26 and 28 guaranteeing respectively freedom of expression and freedom of press.

The current state of affairs concerning media ownership regulations was introduced by the recent broadcasting law (no. 6112) in 2011. Article 19 regulates the establishment and share ratios of radio and television organizations. As under the previous law, the right to establish radio and television stations is granted to corporations only; political parties, trade unions, professional organizations, co-ops, associations and local administrations are not allowed to own radio or television stations.²⁰ However, the provision of the former law stating that ‘the production, investment, export, import, marketing and finance organizations shall not be permitted to engage in radio and television broadcasting’ has been repealed. With paragraph (ç) of Article 19, private radio and television organizations are allowed to be opened to public and be traded at the stock exchange, another provision differing from the former law. Paragraph (d) introduces a limitation on media ownership based on terrestrial broadcasting licences. Unlike the previous law, the share of commercial communication, advertising revenues and other sponsorships are regarded as criteria for protecting competition and preventing monopolisation in the media market. This arrangement seeks to prevent a media organization from getting more than 30 per cent of all commercial communication revenues in the market.²¹

Introducing another major change, law no. 6112 increased the cap on the ratio of foreign shareholding in radio and television enterprises. Under the previous law, a foreign investor could not own more than 25 per cent of the shares of a broadcasting enterprise and could not hold shares in more than one enterprise in Turkey. This provision had created a significant obstacle to the foreign capital that started to show interest in the Turkish media sector, and anyhow various methods were used to circumvent this ban. Article 19 paragraph (f) of the new law raised the cap on foreign capital share to 50 per cent and the number of media service provider enterprises that foreign investors could become shareholders of to two.

As a result of the liberalisation of the legal regime governing media ownership, between 2002 and 2008, 35 national and 30 international mergers and purchase transactions took place in the media sector. These transactions peaked in 2005 and 2006 (Sözeri, 2009). Editorial independence was never factored in the merger and acquisition process and, as a result, the media sales frequently led to layoffs. Following the sale of the daily *Milliyet*, a senior columnist and reporter of the paper commented on this reality: ‘*Milliyet* was sold like

²⁰ This obstacle, which still exists in the new law, also receives criticism that the broadcasting ban on faculties of communication prevents news making, education and specialized broadcasting (İLAD, 2010).

²¹ The law does not state how this share is to be calculated. A RTÜK official expressed that the three per cent share given to RTÜK by radio and television enterprises from their turnovers will be taken as a basis, hence allowing measurement of the 30 per cent limit through monthly regular metering. Minutes of the workshop on the topic of ‘the new legislation on the structure and authority of the Radio and Television Supreme Council’, Istanbul, 11/03/2011.

a refrigerator factory' (Cemal, 2011). After the transfer of Star TV, one of the biggest national television channels in Turkey (from Doğan Group to Doğuş Group), about 15 journalists were let go. According to the EU, the failure of the regulatory system to grant journalists social protection in cases of change of ownership is the main threat for media pluralism in Turkey (Leuven, *et. al.*, 2009).

What makes the media sector attractive for investors is the media's power to influence public opinion and gaining revenues from advertising. Not only does advertising provide the main source of income for media owners, but it also gives the commercial media its characteristic look and sound, and orients the content offered to the audience, who are also the commercial target that advertisers want to reach (Sinclair, 2006). Hence it is not possible to understand the ecosystem of the media in Turkey without an analysis of advertising expenditures and their distribution based on the subsectors and outlets that media owners invest in.

Advertising revenues have demonstrated a significant upward trend since 2002; they are expected to reach nearly 13 million USD by 2014. Considering that their ratio to GDP remains around 0.3 – 0.4 per cent, it is clear that advertising revenues have the potential to increase further. However, at the same time the media advertising pie is also far from being large enough. The most important reason for this is that television has a strong influence on public opinion in Turkey due to high ratings and the low costs of advertising. The share of television ads and the competition between television channels limit the growth of advertising revenues across all other media outlets and prevent a more balanced distribution of advertising shares. The second largest share in advertising revenues goes to the print media and subsectorally to newspapers. Competition in this sector takes place over advertising revenues rather than sales. However, due to the highly concentrated nature of the market, most newspapers cannot generate optimal advertising revenues and therefore operate in the red. The concentration is so high that two media groups (Doğan and Turkuvaz) dominate the market by 80 per cent. This duopoly is not only limited to the advertising revenues; the two media groups control the entire newspaper and magazine distribution sector excluding subscriptions.

The climate of deep political polarization in general and in the media in particular is also reflected in the advertising revenues. Newspapers have been more affected by this compared to other subsectors. A telling example of this phenomenon is daily *Taraf*, an independent newspaper notorious for its critical coverage of the military's attempts to overthrow the government in the early 2000s. During its first two years, the newspaper operated under great financial difficulty due to its inability to get advertising from the private sector, which was reluctant to be associated with a newspaper deemed radical and militant by the establishment. While *Taraf* managed to survive, at present some companies shy from giving advertising to the paper for fear of damage to their commercial reputation.²² In order to overcome its financial problems and generate capital for its operation, *Taraf* is preparing to go public.

The advertising pie is almost entirely divided between the big media groups in all of the subsectors (except for cinema and outdoors) of the media. As indicated in Table 1 and Chart 1, the Turkish media market structure does not enable the oppositional and independent players to survive on sales or advertising revenues. Therefore, it can be argued that access to information is controlled by these big media groups. The consequences of this situation are less diversity and reduced journalistic quality (Shah, 2009).

²² Interview with Markar Esayan, Vice Chief Editor, daily *Taraf*, by Ceren Sözeri, Istanbul, 12/07/2011.

Table 1:

Shares of Media Groups in Advertising Revenues (%)					
	TV	Newspaper	Magazine	Radio	Internet
Doğan Group	36	58	30	8	20
Çukurova Group	12	3	6	6	1
Turkuvaz Medya Group	19	24	18	2	4
Doğuş Group	8		4	9	7
Ciner Group	2	1	3		2
Other	23	14	39	75	66

Source: Mindshare, 2010

While new technologies undoubtedly offer readers and audience new sources of information, this kind of pluralism does not necessarily provide diversity of viewpoints (Hindman, 2007; Dwyer, 2006). Neither do new media technologies offer a new solution to the control of media power (Lievrouw, 2004; Chesney, 2006; Almiron, 2010). The most important area where the traditional media outlets/venues converge is the Internet and, more recently, the mobile communication sector. Today, the traditional media also operates on the Internet and there are news outlets that only operate on this channel. However, the advertising based business model continues to be the most used model for all online news organisations. In 2009, Internet advertising revenues in Turkey were 182 million TL according to the Advertisers' Association, and 120 million EUR according to the IAB Europe Adex Report. As in many other countries, the big share goes to international giants such as Google, Facebook, Yahoo, MSN. As a result, the advertising revenues that feed the online news organisations are inadequate to create a self-sufficient and independent online media which could offer an alternative to the concentrated mainstream media.

The blurring of the boundaries between the media, information technologies and telecommunication accentuates the essential nature of the relationship between the media organs and telecommunication companies (Barr, 2006). *Türk Telekom*, the largest telecommunication company and the single fixed telephone operator in Turkey which owns the infrastructure for all distribution networks, all telephone exchanges and transmission channels, has moved into the area of media content in recent years. At present, the company has games and music portals in addition to a web TV service and IPTV platform. *Türk Telekom* has transformed itself into one of the biggest players of the media sector, and, considering the advantages it has, this situation has adverse effects for competition and diversity of content in the Turkish media.

Problems caused by the competitive advantages of *Türk Telekom* have occasionally been carried to the agenda of the Competition Authority. Officials of the authority point out that their sanctioning powers are limited under the existing legislation, and that social support is needed for pushing the development of more effective competition regulations. Members of the Radio and Television Broadcasters Professional Union (*Radyo ve Televizyon Yayıncıları Meslek Birliği*), on the other hand, indicate that they cannot criticize *Türk Telekom*'s position in the market because it is one of the biggest advertisers for TV operators.²³

²³ Minutes of the workshop on the topic of 'Investment and competition relations in the media sector: the present and the future of the sector,' Istanbul, 21/04/ 2011.

3.2 Competition

Besides having its specific legal regulations, the media sector is also subject to the regulations of the Competition Law and the supervision of the Competition Authority. One should note here that Law on the Protection of Competition (no. 4054) has been in effect in Turkey since 1994, and it is in compliance with the EU's competition rules set out in Articles 81-82 of the Treaty of Rome. In other words, the Competition Law was enacted as part of the EU harmonization process. However, until 2000, the Competition Authority was inactive regarding cases concerning the Turkish media sector (Pekman, 2002).

Under Law no. 4054, in examining applications concerning the media, the Competition Authority is required to assess whether basic rules of competition have been violated, a dominant position in the market has been created, and, if so, whether such dominant position has been abused. The Competition Authority has issued several decisions concerning the protection of competition in the media markets. 'The infringements of competition' (50 per cent) and 'merger-acquisition and privatization' (33 per cent) constituted the major grounds of the decisions issued between 2008 and 2010. One of these decisions concerned the Doğan Group. On 5 April 2011, the authority sentenced the group's companies to a fine of approximately 6 million TL (2,5 million EUR) and another subsidiary media company to a fine of 444 thousand TL (186 thousand EUR) on the grounds that it abused its dominant position in the media through offering discounts in advertising sales and making agreements with media planning agencies.²⁴ Considering particularly the high concentrated market structure of the newspaper sector, such infringements of competition rules can be a fatal risk for the small and independent players and thereby endanger freedom of expression and pluralism in the media.

The new Broadcasting Law (no. 6112) regards the share of commercial communication, advertising revenues and other sponsorships as a criterion for protecting competition and preventing monopolization in the media markets. This provision prevents a media organization from getting more than 30 per cent of all commercial communication revenues in the market. How this limitation will be put into practice is somewhat vague in the law. Radio and television broadcasters and the Competition Authority foresee potential problems in the implementation of this provision, and propose instead the effective implementation of existent legal limitations on ownership and control.²⁵

3.3 State intervention

In Turkey there are no direct subsidies for commercial broadcasting companies. The official advertisements and announcements distributed by BİK are important sources of revenue for small, independent and local press outlets, which are economically vulnerable vis-à-vis the existing media market structure.

The way in which state advertisings are allocated and its implications for state intervention in the media have recently become a topic of public debate when the owner of *Apoyevmatini*, a weekly of the Greek community, announced his decision to close down the paper due to the sharp decline in its advertising and sales revenues.²⁶ In making this announcement at a public conference, Mihail Vasiliadis noted the government's refusal to

²⁴ The decision is available at <http://www.rekabet.gov.tr/dosyalar/tefhim/tefhim67.pdf> (date accessed 6 December 2011).

²⁵ Notes of the workshop on the topic of 'investment and competition relations in the media sector: the present and the future of the sector,' Istanbul, 21/04/2011.

²⁶ The principal reason for the decline was the economic crisis in Greece.

give state advertising to minority newspapers as a factor in the financial difficulties of his paper. The public reaction resulted in the President of BÉK meeting with Vasiliadis and subsequently with representatives of all other newspapers belonging to Greek Orthodox, Armenian and Jewish communities. The outcome of these meetings was an *ad hoc* decision by BÉK to allocate a one-time payment of a total of 250,000 TL to six minority newspapers (Turkish Press, 2011).²⁷ While a significant relief for their financial difficulties, the decision fell short of meeting the expectations of minority newspapers for a formal commitment of state advertising. In explaining why it was not able to do so, BÉK cited the legal obstacles stemming from the decision no. 67 of its general assembly, which lays out the conditions for state advertising. Pursuant to these regulations, newspapers eligible for state advertising must be published on a daily basis, must employ at least seven staff, and have a minimum of eight pages and a circulation of 5 thousand, criteria which minority newspapers are unable to fulfil. While BÉK promised to revisit the regulations to develop a solution for the minority media, the agency is concerned that the softening of the rules would lead to abuse by individuals who would claim state support for ‘one-page “newspaper” ’ (Bianet, 2011). At a workshop organized for this research project, this sentiment was echoed by a high level BÉK official, who pointed out that among recipients of state advertising are ‘newspapers’ where nepotism plays a great role in the hiring of individuals without journalism background simply because they are family members or friends of the owner.²⁸

3.4 Public service broadcasting

TRT, established in 1964, is the sole public service broadcaster in Turkey. It owns 15 television (five international, nine national, one regional) and nine radio channels. A 1971 amendment to law no. 1568 put an end to the autonomy TRT had enjoyed since its establishment. Article 133 of the 1982 Constitution restructured TRT as an impartial public corporate body. The Radio and Television Law (no.2954) centralized the organisational structure of the body, removing representatives of academia, NGOs and professional organisations from the TRT board (Cankaya, 2008). Today, the Administrative Board is the highest decision-making and management organ of the corporation. Members serve a four-year term. The Director General, who is also the Head of Administrative Board, is appointed for a four-year term by the Cabinet from among three candidates nominated by RTÜK. The Cabinet appoints two members of the Administrative Board from among the vice directors, and the remaining four from candidates nominated by RTÜK from fields of electronics or mass communication, law, business administration or economics, arts and culture.

TRT is funded by a combination of public and commercial revenues. The major sources of funding are: a broadcasting (licence) fee generated from the sale of television and radio receivers, music sets and VTRs; two per cent of electricity bills paid by each consumer; and a share allocated from the national budget.

Following the abolishment of its monopoly with the launch of private broadcasting in 1993, the public broadcaster has had to compete with commercial televisions and radio channels for the advertising revenues and its advertising income decreased about 50 per cent. A few years later, 87,1 per cent of advertising revenues was held by private broadcasters (Erdemir, 2011). TRT also found itself in a ratings race with its commercial rivals. In 2010,

²⁷ These publications are: *Apoyevmatini* (weekly) and *ého* (daily) of the Greek orthodox community, *alóm* (weekly) of the Jewish community, *Jamanak* (daily), *Marmara* (daily) and *Agos* (weekly) of the Armenian community.

²⁸ An official at BİK, notes of the workshop on the topic of ‘human resources problems and the future of the media sector’, Ankara, 18/12/ 2010.

TRT withdrew its channels from the rating system run by AGB Nielsen accusing the latter of ‘violating competition regulations’ (Zaman, 2010). It was clear that TRT was disturbed by the potential negative impact of low ratings on its advertising revenues.

These competitive moves by TRT have been criticized on the grounds of being in contradiction with public service philosophy and the social function of the agency (Cankaya, 2008). On the other hand, the commercialisation of the broadcasting environment revealed consumer dissatisfaction with TRT’s services. Although it provided a mixed programming with an emphasis on entertainment, TRT maintained a distinctly paternalistic and elitist approach and observed strict codes that sometimes amounted to censorship (Çatalbaş, 2003). As a result, TRT’s financing system and revenues have been questioned because of ‘its permanent endorsement of the official position of the state and/or government on almost any subject ... and careful avoidance from any engagement with controversial issues’ (Barış, 2005: 296).

3.5 The impact of EU integration

The media policies in Turkey have undergone significant change as a result of the liberalization of the media and foreign investors’ entry into the market. Laws which used to regulate public service broadcasting now focus on regulating commercial publishing, protecting competition and preventing monopolization. Behind this change lie the rapid improvements in information and communication technologies and the need to align Turkey’s media regulations with those of the EU. The impact of the EU integration on media policy making was perhaps most visible in the recent enactment of Law no. 6112. In preparing the draft, Turkish policy makers strived to develop a text in harmony with the EU’s Audiovisual Media Services Directive (AVMSD). Indeed, the new law, which is much more comprehensive than the former (law no.3984) and also covers new technology broadcasters (such as on-demand service providers), appears to be in harmony with AVMSD in terms of scope, access and regulation of commercial communication. However, the law also requires radio broadcasting to be in compliance with Article 133 of the Constitution.²⁹

The greatest criticism to the new law is that it focuses too much on commercial communication and ignores the public service dimension of the media. Unlike in AVMSD, the excessively-detailed broadcasting principles laid out with ambiguous wording provide potential loopholes to limit freedom of expression (Sümer and Adaklı, 2011). When preparing the new law, the opinions of professional radio and TV broadcasting organizations were gathered, and the draft law was presented to the public on RTÜK’s website. However, some academics and non-governmental organizations stated that while their views were indeed sought, they were not reflected in the eventual text, and that the law regulates only commercial broadcasting rather than ensuring the freedom and diversity of the media. Critics point out that neither the consultative drafting process nor the fact that the law is in compliance with AVMSD are sufficient to render it a democratic piece of legislation.³⁰

²⁹ This expansive scope of the law and the effort to regulate radio broadcasting with primarily television focused regulations are points of criticism. Minutes of the workshop on the topic of ‘the new legislation on the structure and authority of the Radio and Television Supreme Council’, Istanbul, 11/03/2011.

³⁰ Ankara University, Faculty of Communication, *Opinion on the draft broadcasting law*. Also, minutes of the workshop on the topic of ‘the new legislation on the structure and authority of the Radio and Television Supreme Council’, Istanbul, 11/03/2011.

4. Composition and diversification of media content

Article 25 of the Constitution guarantees freedom of expression and protects individuals from state interference on expression of their opinions. Article 28 protects freedom of the press and imposes on the state a positive obligation to undertake the requisite measures to ensure the exercise of this freedom. The Constitution guarantees the right to declare or disseminate opinions individually or collectively and to access and share information and opinions without state interference.

What lies beyond this liberal façade, however, is a framework where nationalism, statism and cultural conservatism emerge as the supreme values looming over individual rights. The exercise of fundamental freedoms is subject to compliance with, *inter alia*, national security, national unity and state secrets.³¹ The Constitution entrusts the state with the duty to make sure that citizens act and think in accordance with the ideals of Atatürk, the values of the nation and the morals of the family. Article 41 identifies the family as the ‘foundation of the Turkish society’ and tasks the state with taking measures to protect ‘the peace and welfare of the family’ and to protect children against all kinds of abuse and violence. Article 58 allots the duty to protect the youth against abuse, exploitation and ‘bad habits’ such as alcoholism, drugs and gambling to the state, and as well as the responsibility to raise young people in accordance with ‘the principles and revolutions of Atatürk.’ Making note of this ‘state-centrist approach,’ the Council of Europe (CoE) Commissioner for Human Rights pointed out the pervasive recognition ‘that the letter and spirit of the present Turkish Constitution represent a major obstacle to the effective protection of pluralism and freedom of expression’ (Hammarberg, 2011: para. 11).

4.1 Media specific laws

The laws governing media content are drafted in the same spirit of nationalism and conservatism embraced in the Constitution. Despite relatively improved through the EU process, media laws contain restrictions based on principles of national unity, national security, and the reforms and principles of Atatürk.³² While these laws do pay lip service to freedom of the press and freedom of expression, the latter are secondary to the protection of the state and its founding principles.

The Press Law protects freedom of the press, the right to information, and the right of reply to defamatory or untruthful news. While the law guarantees journalists’ right to protect their news sources, it does not ‘include a strong public interest for the protection of journalists’ (Hammarberg, 2011: para. 30). At the same time, the law restricts these freedoms on grounds of ‘national security,’ ‘territorial integrity’ and ‘state secrets.’ Article 11 attributes criminal liability to editors and translators of written work in cases where the author is abroad or unidentified.

³¹ The restrictions on the press are laid out in Art. 26 of the Constitution: ‘The exercise of these freedoms may be restricted for the purposes of protecting national security, public order and public safety, the basic characteristics of the Republic and safeguarding 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 and rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.’ These restrictions are enforced through rigorous measures, including the confiscation of the print media. Art. 28.

³² Examples of such interdictions in laws governing media content: ‘the existence and independence of the Turkish Republic, the territorial and national integrity of the State, the reforms and principles of Atatürk’ (Broadcasting Law, Art. 8); ‘national security’ and ‘territorial integrity’ (Press Law, Art. 3); ‘crimes against Atatürk’ (Internet Law, Art. 8).

The new Broadcasting Law (no. 6112) ‘brings only partial improvement’ in expanding media freedom (European Commission, 2011: 27). It comprises a wide catalogue of restrictions, going well beyond the EU Directive which the law claims to be in compliance with. While the directive cites the protection of children and prevention of hate speech as the only grounds for content restriction, the law restricts content on grounds of, *inter alia*, ‘the national and moral values of society, general morality and the protection of the family.’³³ That the state defines broadcasting principles in punitive laws rather than enabling the media to develop its own values is criticized as an infringement of freedom of expression and freedom of the press.³⁴ A further criticism is the conservative nature of the values endorsed in the Broadcasting Law, evident in the exclusion of sexual orientation as a ground of discrimination.³⁵

The amorphous concepts such as ‘general morality,’ ‘the protection of the family,’ and ‘the national and moral values of society’ that the law embraces as broadcasting principles leave RTÜK with a wide margin of manoeuvre. The agency has the powers to sanction the media with warnings, monetary and administrative sanctions, suspensions and revocation of licences.³⁶ In the past, under the previous more restrictive version of the Broadcasting Law (no.3984), RTÜK had imposed heavy sanctions against dissident and minority media.³⁷ However, these sanctions by and large remained out of the limelight of wider public opinion. It was sanctions against popular TV series aired on television stations in recent years that generated widespread public debate. During the first half of 2011, RTÜK issued warnings and imposed fines against television stations on grounds of disrespect of historical characters (Önderoğlu, 2011),³⁸ broadcasting homosexual scenes (Gazeteciler.com, 2011),³⁹ the use of ‘poor Turkish and slang’ and the use of alcohol (Söylemez, 2011).⁴⁰ During July, August and September 2011 alone, RTÜK issued 16 monetary fines and 96 warnings against one radio station and 109 TV channels (Gülcan, 2011).

The sanctions received mixed reactions. On one hand, the followers of the series initiated campaigns via social media,⁴¹ while human rights groups protested RTÜK for discrimination against LGBT individuals (Amargi, 2011; Belge, 2011). On the other hand, it was the social pressure from the audience, the government and conservative political parties that mobilized RTÜK in the first place. The agency received 74,911 complaints about the series on the Ottoman Sultan Süleyman in only three weeks, which amounted to 93 per cent of all complaints filed during that period (Önderoğlu, 2011). The criticisms expressed by Bülent Arınç, the Deputy Prime Minister in charge of the press, TRT, the Anatolian Agency

³³ Broadcasting Law (no. 6112), Art. 8.

³⁴ Minutes of the workshop on the topic of ‘The new legislation on the structure and authority of the Radio and Television Supreme Council’, Istanbul, 11/03/2011.

³⁵ *Ibid.*

³⁶ Law no. 6112, Art. 32 and 33.

³⁷ For example, RTÜK suspended the broadcasting of local, regional and national operators for a total of 3,132 days in 2001. On 8 February 2002 alone, the agency suspended the broadcasting of 18 national and local media operators for a total of 128 days.

³⁸ RTÜK issued a warning to SHOW TV for having portrayed the Ottoman Sultan Suleyman as a man fond of women and alcohol in the series *Magnificent Centur*.

³⁹ In March 2011, RTÜK initiated proceedings against Digiturk, a cable television company, for having broadcasted a gay marriage scene in the movie *Sex and the City 2*. The agency based the proceedings on the violation of ‘national and moral value and Turkish family structure.’

⁴⁰ RTÜK issued a warning to STAR TV because of the use of slang and alcohol in the series *Behzat Ç*. The warning was issued because of the alleged negative influence of the series on children and youth.

⁴¹ For example, followers of *Behzat Ç*. initiated a campaign on Twitter, which ‘rocketed to first place in the section of “trends” in Turkey’ (Gülcan, 2011).

and various nationalist and Islamist parties further increased the pressure on RTÜK (Üstündağ, 2011).

There were also occasions where RTÜK resorted to its powers to sanction discrimination against minorities. The agency suspended a women's show on ATV, a national television station, on grounds of 'inciting people to revenge and hatred.' The sanction was imposed after the host of the program criticized the Kurdish population of Van, a province badly hit by an earthquake in October 2011, for seeking rescue from the same police that they 'had thrown stones at' during mass demonstrations (Ertürk, 2011).

The Internet Law (no. 5651) of 2007 regulates content providers, domain providers, access providers and collective usage providers.⁴² The law authorizes the banning of access to websites where there are sufficient reasons for a 'suspicion' that the following crimes enumerated in Article 8 are committed: incitement to suicide; sexual exploitation and abuse of children; facilitating the use of drugs; obscenity; prostitution; arranging a place or facility for gambling; and crimes defined in the Law on Crimes Committed against Atatürk (no. 5816). The appertain procedural regulation sets forth principles that publications on the Internet must adhere to, in addition to respect for human dignity and fundamental rights, the protection of the physical, mental and moral development of youth and children, and respect for the peace and welfare of the family.⁴³ According to the Internet Law, access can be blocked by a judge (at the investigation phase), a court (at the prosecution phase) or by TİB where the content provider is outside of Turkey or where the content concerns sexual abuse of children or obscenity.

Domestic experts point out that the legal grounds for blocking access to the Internet are ambiguous; that blocking orders are usually issued on the basis of a domain name, and as a consequence, block access to all content included under that name, and that in cases where the content provider or domain provider is abroad, TİB orders can be executed without the approval of a judge or a court.⁴⁴ International experts point out that '[E]ven if it is legitimate to *remove* some content, such as child pornography and hate speech inciting to violence from the internet, the *blocking* of internet sites often results in the blocking of content which has nothing to do with child pornography or hate speech inciting to violence' (Hammarberg, 2011a). The issue was eventually taken to the ECtHR, where four petitions challenged the bans on *Youtube* and *Google*. While the government is in the process of preparing amendments to the Internet Law, the content of the possible changes have not yet been disclosed to the public.

Both the TİB and the courts do not hesitate from resorting to their sanctioning powers under the Internet Law. So far, 80 per cent of the decisions to ban access have been issued by the TİB, and the rest by a judge or a court. According to a source which keeps track of blocked websites, as of 5 November 2011, a total of 15,486 websites are blocked in Turkey (engelliweb.com, 2011). The most recent orders were issued by TİB on 25 October 2011

⁴² İnternet Ortamında Yapılan Yayınların Düzenlenmesi ve Bu Yayınlar Yoluyla İşlenen Suçlarla Mücadele Edilmesi Hakkında Kanun [Law on the Regulation of Broadcasts on the Internet and on Combatting Crimes Committed through the Internet], no. 5651, 4 May 2007, Official Gazette, no. 26530, 23 May 2007.

⁴³ İnternet Ortamında Yapılan Yayınların Düzenlenmesine Dair Usul ve Esaslar Hakkında Yönetmelik [Regulation on the Procedures and Substance of the Regulation of Broadcasts on the Internet], Official Gazette, No. 26716, 30 November 2007, Art. 4(1).

⁴⁴ 5651 Sayılı Kanun Çerçevesinde Erişim Engelleme Kararları [Decisions of Access Bans within the Framework of Law no. 5651], available at: http://www.internethukuk.com/index.php?option=com_content&view=article&id=77:5651-sayil-kanun-cercevesinde-eriim-engelleme-kararlar&catid=34:genel-kategori&Itemid=50 (date accessed 21 December 2011).

against seven websites, all of which were about transgender individuals. While the catalogue crimes enumerated under the Internet Law are the only legal grounds for blocking access to the Internet, in practice blocking orders have also been based on the Anti-Terror Law, other provisions of the Turkish Penal Code, such as Article 301, and intellectual property rights (Hammarberg, 2011: para.62).⁴⁵

In February 2011, BTK released a decision titled the ‘safe usage of the Internet,’ requiring service providers to propose the option to use one of four packages to their customers: family package, children package, standard package and domestic package (BTK, 2011). The decision was perceived as yet another attempt to restrict civil liberties and to render ‘censorship widespread and systematic’ (Altıparmak and Akdeniz, 2011). 50,000 individuals organized through the social media held a public protest against the measure, while the Communication Foundation and Bianet applied to the Council of State (*Danıştay*) for a stay of execution. On 12 March 2011, the World Day against Cyber-Censorship, Turkey was included among the ‘Enemies of the Internet’ (Reporters without Borders, 2011). According to the OSCE, if enforced, the filtering system ‘will lead to the first government controlled and maintained mandatory filtering system within the OSCE region’ (Akdeniz, 2011: 26).

Visibly concerned, particularly with the international reaction, BTK argued that the measure did not constitute filtering because consumers were provided with a choice (Altıparmak and Akdeniz, 2011a). Yet, faced with growing criticism, the agency revised its decision in August 2011, reducing the number of packages to two (family package and child package) and making Internet filters optional and applicable upon demand (BTK, 2011a). Following a three months trial period, the new filtering system came into effect on 22 November 2011. BTK’s revision of its earlier decision failed to put an end to the heated debate about Internet censorship in Turkey. Some point out that ‘the introduction of this system ... will lead to a DPI [deep packet inspection]-based monitoring and blocking system’ (Kırlıdoğ, 2011).

What was striking about the terms of the public debate was the mismatch between the discourse of the protestors and the BTK. While the former criticized the filtering system as an infringement on freedom of communication and privacy rights, the latter sought to legitimize the measure on the basis of moral values and the protection of children. The principal reason for the strong public reaction against BTK was the fact that the measure was perceived as yet another effort of censorship in a country where excessively strong and arbitrary barriers to Internet access had been causing public outrage. In April 2011, TİB had informed Internet hosting companies of the banning of 138 words deemed to indicate illegal content from domain names. The list included words used in daily life, such as ‘animal’ as well as words deemed inappropriate by the agency, such as ‘gay.’ TİB pointed out that the failure to comply could result in punitive sanctions. Soon after, the agency took the matters in its own hands and ordered the hosting providers of a popular dictionary website (www.eksisozluk.com) and the LGBT association Pembe Hayat (<http://pembehayat.org/>) to stop providing services to these websites.

While Turkey has adopted a Right to Information Act in 2004, public agencies often resist providing information to citizens and civil society, in blatant disregard of their obligations. Despite decisions by the Right to Information Review Council and administrative courts, ‘there is still resistance to give information, and a high number of public authorities

⁴⁵ An example of this was the independent media website www.istanbul.indymedia.org, which was blocked in 2008 for having insulted Turkishness in violation of Article 301 of the Penal Code.

are disputing Council decisions, either by ignoring them, or by appealing to administrative courts to challenge such decisions' (Akdeniz, 2008).

4.2 Penal laws

The principal obstacles to freedom of press and freedom of expression in Turkey stem from the criminal legal system. The Penal Code and the Anti-Terror Law are 'at the origin of the vast majority of freedom of expression cases against Turkey brought to the European Court of Human Rights' (Hammarberg, 2011: para.15). The following offences under the Penal Code provide the legal basis for cases against the media organs, journalists and human rights defenders: defamation (Article 125); setting up criminal organisations for the overthrow of the constitutional order (Article 314); encouraging military personnel to disobey the law (Article 319); discouraging individuals from military service (Article 318); insulting the Turkish nation, state, parliament, government or the courts (Article 301); incitement to crime (Article 214); praising a crime or criminals (Article 215); incitement to hatred or animosity (Article 216); and publishing or broadcasting obscene material (Article 226).⁴⁶

High level officials, including the Prime Minister, brought defamation cases against journalists criticising the government. In 2010, 11 journalists were among the 14 individuals who were sentenced to a total of 11 years and four months of imprisonment and approximately 10 million Euros in fines in defamation cases (BIA, 2010). Prosecutors are making increasing use of the Penal Code to decisively censor the media by penalising them for reporting on issues such as criminal cases against high ranking military officers. Recently, criminal cases are brought under Article 285 (breaching the confidentiality of investigations) and Article 288 (attempting to unduly influence the courts) against journalists who cover cases where military officers are accused of having committed crimes against the state. These two provisions 'have come to particular prominence since 2007, due to a steep increase in cases brought against journalists in connection with their writings on the *Ergenekon* case' (Hammarberg, 2011: para.20). The European Commission noted that there were more than 4,000 ongoing investigations on the basis of these two provisions (EC, 2010: 20). The draft law submitted by the Ministry of Justice for an amendment of the Penal Code, including Articles 285 and 288 (EC, 2011: 26), has not yet been taken up for review by the parliament. Neither has it been disclosed to the public. Another provision that the prosecutors refer to for censoring the press is Article 318, which makes the non-violent expression of views on conscientious objection a criminal offence and the publication of these views in the media an aggravating factor. The provision has caused the conviction of journalists for simply reporting on conscientious objectors who refuse to serve in the army.

The most widely debated and criticised provision of the penal code has been Article 301, largely due to the high profile cases brought against intellectuals such as the Nobel laureate Orhan Pamuk. Amidst growing international pressure, the government amended, but did not abolish, the provision such that prosecution in each individual case is now subject to prior authorisation of the Minister of Justice. While this amendment has indeed decreased the number of proceedings launched under this provision, it has still been found inadequate by the human rights community. The ECtHR put an end to the debates on Article 301, finding in the case of *Akçam v. Turkey* that the article is in violation of the European Convention (see section 4.2).

⁴⁶ While the law was drafted anew in the name of harmonizing national laws with the EU's *acquis*, for some offences it merely re-numbered and re-worded provisions contained in the previous penal code. For example, Articles 215, 216, 301 and 318 of the new Penal Code regulate the same offences as Article 312, 159 and 155 of the previous law.

The Anti-Terror Law (no. 3713), as amended in 2006, has restrictive provisions curtailing freedom of the press. Article 6(2) makes it an offence to print or publish declarations or leaflets of terrorist organisations, punishable by one to three years of imprisonment. Under Article 6(4), where such offence is committed through the press or the media, the owners and editors-in-chief of the media organ in question are also charged with imprisonment up to ten thousand days. Article 6(5) allows the suspension of periodicals for a period of 15 days up to one month by court order or the prosecutor in cases where delay is detrimental. Article 7(2) makes it an offence to disseminate propaganda in favour of a terrorist organisation, subject from one to five years of imprisonment. Where such offence is committed through the media, the sentence is increased by half. The article also imposes liability to the owners and editors-in-chief of the press and media organs concerned.

4.3 National courts

The track record of Turkish high courts in cases involving freedom of expression and freedom of media has been extremely poor. In civil cases, high courts tend to go against the established ECtHR case law by ruling in favour of plaintiffs who bring defamation cases against intellectuals and public personalities. In March 2011, the High Court of Appeals sentenced Nobel laureate Orhan Pamuk to pay around a 2,500 Euro fine for having ‘violated the personalities’ of plaintiffs for having stated in an interview that the Turks ‘killed 30,000 Kurds and one million Armenians.’ The judgment raised deep concerns that it would open the gate to a flood of defamation cases against Pamuk and any others who express opinions contradicting Turkey’s official narrative on the Kurdish question and the Armenian genocide.

In criminal cases, too, high courts are heavy-handed against individuals who are convicted for merely expressing non-violent dissenting opinions and/or reporting on political issues deemed to be ‘against state interests.’ While ‘prosecutors appear to exercise little restraint in filing criminal cases, including clearly unmeritorious cases’ (Hammarberg, 2011: para.50), judges do not sufficiently scrutinize whether cases have sufficient merit but readily issue admissibility decisions. Courts loosely interpret the Anti-Terror Law and the Penal Code in convicting individuals who express non-violent opinions on the situation of the Kurdish minority or the armed conflict between the army and the PKK (Hammarberg, 2011: para.20). They show an extreme reluctance to draw a distinction between reporting on terrorism and terrorist propaganda, regarding instead ‘media outlets reporting about sensitive issues ... as the publishing organs of illegal organizations’ (OSCE, 2011).

The Turkish Constitutional Court’s case law on freedom of the press and expression is also problematic. The Court has declined to review restrictive criminal laws, even when the head of the executive branch has called on it to do so. In a case brought by the former President Ahmet Necdet Sezer on the grounds that the suspension of the future publications and distribution of a periodical infringed upon freedom of the press, the Constitutional Court found Article 6(5) of the Anti-Terror Law to be compatible with the Constitution and rejected the request for annulment (Constitutional Court, 2009). Where the parliament adopted progressive legal reforms in accordance with the ECHR standards, on the other hand, the Constitutional Court overturned such changes. On 2 May 2011, the Constitutional Court invalidated Article 26 of the Press Law, which imposes time limits on prosecutors for launching criminal cases. Once this decision enters into force in July 2012, prosecutors will no longer be bound to certain time restraints if they want to file a case about a publication in a periodical. Currently, the maximum period for filing a case is two months after publication for dailies and four months for weeklies.

Pre-trial detention is extremely long in Turkey. Journalists, like other defendants, are detained on remand for such lengthy periods that detention time turns into punishment. Journalists are often convicted for multiple offences with extremely heavy sentences, facing life sentences without parole. In 2010, 33 individuals were sentenced to a total of 365 years of imprisonment under the Anti-Terror Law (BIA, 2010: 1). The editor-in-chief of the Kurdish-language daily *Azadiya Welat* was sentenced to 166 years of imprisonment. In 2010 alone, this newspaper was suspended thrice for one month each. These sanctions were imposed notwithstanding a ECtHR judgment which found the suspending of future publications of periodicals, whose content remained to be seen, to be in violation of the European Convention and called upon the government to revise Article 6(5) of the Anti-Terror Law. Drawing attention to the gap between the ECtHR case law and the judgments of national courts, the CoE Commissioner for Human Rights stated that ‘there is no indication that domestic courts, when deciding on freedom of expression cases, systematically assess whether the content of journalistic reporting is true, and if so, whether the public has a legitimate interest in and a right to obtain the information in question (the so-called defences of truth and public interest)’ (Hammarberg, 2011: para.37).

Perhaps no other criminal case launched against journalists has resulted in as strong a reaction as the detention in March 2011 of journalists Nedim Şener and Ahmet Şık on charges of ‘incitement to hatred and animosity’⁴⁷ and ‘membership of a terrorist organization.’ While, prior to this incident, hundreds of journalists working in media associated with the Kurdish and revolutionary left movements had been prosecuted, the detention of these two renowned investigative journalists working for the mainstream media led to an unprecedented public debate around a criminal case involving the media in Turkey. The incident has not only given rise to protests by different segments of the media and society, but also shattered the public’s faith in the *Ergenekon* case. The subsequent confiscation by the police of the unpublished manuscripts of Ahmet Şık’s book⁴⁸ has further intensified the debate on media freedom. The CoE Commissioner for Human Rights expressed deep concern ‘about the decision of the prosecutors and courts to seize copies of an unpublished manuscript, which has serious chilling effects on freedom of expression, of the press and of publication’ (Hammarberg, 2011: para.49).

The cases brought against journalists drew fierce criticism from the international community. Various international organizations such as the Organization for Security and Co-operation in Europe (OSCE),⁴⁹ the European Federation of Journalists⁵⁰ and the CoE (Hammarberg, 2011) pointed out the gravity of the situation and called on the government to take the requisite measures to ensure press freedom. The European Parliament issued a very critical report on 9 March 2011, naming cases against journalists as ‘police or judicial harassment’ and expressing concern about ‘the deterioration in freedom of the press, about certain acts of censorship and about growing self-censorship within the Turkish media, including on the Internet’ (European Parliament, 2011: para.8). The Turkish Prime Minister rebuked the report as biased and subjective, stating that the imprisoned journalists were

⁴⁷ This charge was subsequently dropped. Currently, the two journalists are solely charged with ‘membership to the Ergenekon terrorist organization’.

⁴⁸ Titled *İmamın Ordusu* (The Army of the Imam), the book is about the alleged links between the Fethullah Gülen movement and the police in Turkey.

⁴⁹ On 4 April 2011, the OSCE Representative on Freedom of the Media made a written statement, calling upon Turkish authorities to bring the regulations governing journalism in line with the OSCE’s standards on media freedom (OSCE, Statement, 2011). The annex of the statement contained the names of 57 imprisoned journalists (OSCE, Annex, 2011).

⁵⁰ The European Federation for Journalists launched a campaign titled ‘Set Turkish Journalists Free,’ available at: <http://europe.ifj.org/fr/pages/turkey-campaign-set-journalists-free> (date accessed 21 November 2011).

behind the bars not because of their journalistic activities but ‘because of their relations with terrorist organizations, and their attempts to topple the government.’

4.4 The ECtHR on media freedom in Turkey

The obstacles to media freedom stemming from the Broadcasting Law (no. 3984) were raised for the first time before the ECtHR in the case of *Özgür Radyo*.⁵¹ The ECtHR found that the warnings and licence suspensions imposed by RTÜK violated Article 10 ECHR. The Court stated that the statements at issue did not incite violence or hatred but covered questions of general interest that had already been published by other media without being prosecuted. This judgment did not prevent RTÜK from issuing similar sanctions. In October 2010, the ECtHR found such a sanction to be arbitrary and in violation of freedom of the press.⁵²

Recently, the ECtHR’s judgments have had some positive impact on media content regulation. The new Broadcasting Law (no. 6112) increased the legal threshold for the suspension of broadcasting, introducing monetary fines instead, and making the fine proportional to the size of the company. However, as discussed earlier, the new law maintains more or less the same subjective, unclear and open grounds for sanctioning broadcasters, on the basis of which RTÜK continues to operate.

The vast majority of cases on media freedom and freedom of expression brought to the ECtHR are decisions based on the Penal Code and the Anti-Terror Law. In the case of *Ürper and Others*, the Court scrutinised Article 6(5) of the Anti-Terror Law,⁵³ concluding that the banning of the future publication of entire newspapers, whose content was yet unknown, had a chilling effect on applicants, dissuading them from publishing similar news in the future, and thus constituted censorship. The ECtHR issued a similar judgment in the case of *Turgay and Others*.⁵⁴ The ECtHR also took note of the fact that the Constitutional Court of Turkey had not taken into account the *Ürper and Others* judgment in its jurisprudence on media freedom. Concerning paragraph 2 of Article 6, the ECtHR held that the applicants’ criminal conviction for having published statements of illegal organisations and their members violated Article 10 of the Convention.⁵⁵

Two recent ECtHR decisions in particular caused major embarrassment for the Turkish government, which had argued that the amended version of Article 301 would prevent arbitrary prosecutions for non-violent opinions. In the case of *Dink v. Turkey*, the Court found a violation of Article 10 ECHR on account of Hrant Dink’s conviction for ‘insulting Turkishness’ in his article published in the Armenian-Turkish weekly *Agos*.⁵⁶ Dink was an Armenian journalist who was portrayed as an enemy of the Turks and turned into an object of hatred by the national media on account of his conviction and who was subsequently assassinated. The murder of Dink created such a strong protest that the government was compelled to amend (but not abolish) Article 301, requiring prior written authorization by the Minister of Justice for the launch of a case. This amendment, too, failed to prevent further defeat in Strasbourg. On 25 October 2011, in the case of *Akçam v. Turkey*, the ECtHR held that ‘the safeguards put in place by the legislator to prevent the abusive application of Article 301 by the judiciary do not provide a reliable and continuous guarantee

⁵¹ ECtHR, *Özgür Radyo-Ses Radyo Televizyon Yayın Yapım ve Tanıtım A.Ş. v. Turkey* (no. 64178/00, 64179/00, 64181/00, 64183/00, 64184/00), 30 June 2006.

⁵² ECtHR, *Nur Radyo ve Televizyon Yayıncılığı A.Ş. v. Turkey* (no. 42284/05), 12 October 2010.

⁵³ ECtHR, *Ürper and Others v. Turkey* (nos. 14526/07, 14747/07, 15022/07, 15737/07, 36137/07, 47245/07, 50371/07, 50372/07 and 54637/07), 20 October 2009.

⁵⁴ ECtHR, *Turgay and Others v. Turkey* (no. 8306/08, 8340/08 and 8366/08), 15 June 2010.

⁵⁵ ECtHR, *Gözel and Özer v. Turkey* (no. 43453/04 and 31098/05), 6 July 2010.

⁵⁶ ECtHR, *Dink v. Turkey* (no. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09), 14 September 2010.

or remove the risk of being directly affected by the provision because any political change in time might affect the interpretative attitudes of the Ministry of Justice and open the way for arbitrary prosecutions.⁵⁷ The Court found not only the applicant's prosecution under Article 301, but also the article itself to have violated Article 10 of the European Convention.

The ECtHR's judgments in *Gözel and Özer, Dink and Akçam*, which concerned criminal convictions based on the amended version of the Penal Code (in 2005) and the Anti-Terror Law (in 2006), validated the concern voiced on many occasions by the domestic and international human rights community that the reforms 'have kept the contents of the former texts largely intact' (Hammarberg, 2011: para.15). More recently, an unconventionally bold criticism by an ECtHR judge, and the Turkish judge on the bench no less, caused the government major diplomatic embarrassment. In an interview to Turkish press, Judge Işıl Karakaş stated that Turkey has the worst record on freedom of the press and freedom of expression among all members of the CoE (Karaca, 2011). Pointing out that the ECtHR found violations in more than 200 cases against Turkey, as opposed to 10 in the case of France, Judge Karakaş particularly drew attention to Article 6(2) and (5) of the Anti-Terror Law and Article 301 of the Penal Code as in violation of the European Convention and explicitly called for the abolishment of Article 301.

The persistence of the Turkish judiciary to disregard the ECHR standards and the ECtHR's case law (Kurban, *et al.*, 2008) shows that the infringements of freedom of press and expression in Turkey do not only stem from anti-democratic laws, but also from the entrenched understandings of judges and prosecutors.⁵⁸ Making reference to his observation that 'prosecutors and courts in Turkey often perceive dissidence and criticism, as well as the expression of minority identities, primarily as a threat to the integrity of the state,' the CoE Commissioner for Human Rights stated that in 'the absence of a drastic shift in the adjudicative approach of the judiciary,' legal reforms will not be sufficient to ensure the protection of freedom of press (Hammarberg, 2011: para.39). A similar point was also made by Judge Karakaş of the ECtHR, who emphasized that long periods of pre-trial detention was not just a problem stemming from the laws but also from judges who decide on the continuation of detentions 'on the basis of cliché' remarks which do not provide sufficient reasoning (Karaca, 2011).

⁵⁷ ECtHR, *Taner Akçam v. Turkey* (no. 27520/07), 25 October 2011, para. 94.

⁵⁸ A research study based on in depth interviews with judges and prosecutors of first degree courts reveals how prevalent the statist mentality can be among members of the legal profession (Sancar and Ümit, 2009).

5. The journalistic profession

From the beginning, Turkish journalists played a significant role in the modernization of the Ottoman Empire and the foundation of the Republic. The press has also consistently been the potential target of state/government repression or pressure (Elmas and Kurban, 2011). During the early years of the republic, opponent journalists were prosecuted by the Independence Courts (*İstiklâl Mahkemeleri*) and most of them were exiled. During the single party regime until 1950, the conflict between the ‘opponent’ (Istanbul) and ‘proponent’ (Ankara) press emanated from different approaches to the political regime. While journalists obtained some social rights via a liberal press law adopted during the first years of the multiparty regime, the honeymoon soon ended with the censorship policies of the government. Although the first *coup d’état* provided a truly liberal amendment to the Labour Law (no. 5953) in favour of journalists – and despite the protests of press owners - each and every coup of 1960, 1971 and 1980 was followed by a period of military rule, which had significant repercussions for media freedom.

The true shift in the journalistic profession came at the beginning of the 1980s through the new ownership structure. Traditional family-owned media ownership was replaced by new investors who already operated in other industries of the economy. The new owners of the Turkish press gradually carried the ‘corporate mentality’ to their media operations. Also due to the politically authoritarian post-coup *d’état* climate, the commercialization of the media ended with an increase in the sensationalisation and tabloidization of the press (Bek, 2004).

The deregulation of the media markets in the 1990s resulted in the development of ‘clientelist’ relationships between media patrons and the state, whereby the former began to exert pressure on politicians to maximize their profits in their other activity areas using their media outlets (Chrstensen, 2007: 185). At the same time, while media owners competed with each other financially, they by and large shared a common mindset which rested on protecting the ‘state interest.’ The most important political consequence of this new media structure was the ‘post-modern military coup’ of 28 February 1997, which many consider to be the fourth instance of military intervention in Turkey. Mainstream media organisations, prompted by Turkey’s military establishment, published fictitious news/content on the rise of Islamism. Cengiz Çandar and Mehmet Ali Birand, two renowned journalists working for a mainstream media organ, also became targets of the fictitious news leaked by the army chief of staff which alleged that they were on the payroll of the Kurdistan Workers’ Party (*Partiya Kerkerên Kurdistan- PKK*). Based on false documents fabricated by Çevik Bir, the general who was then the second in command of the chief of staff, allegedly quoted from the testimony of a PKK militant turned- informant, both journalists were labelled as ‘PKK agents’ by the mainstream media, who did not feel the need to verify the information leaked from the military. First Birand and some years later Çandar were fired from the national daily *Sabah* by their media owners, while a leading human rights activist also branded as a PKK agent survived an assassination attempt (Elmas and Kurban, 2011).

It cannot be denied that the vulnerable position of journalists vis-à-vis their patrons or the state is at the same time the result of the absence of horizontal solidarity in the media. At the beginning of the 1990s, the new media owners forced journalists to make a choice between their labour union memberships and their jobs (Tılıç, 2000). Commenting on the obstacles to unionization, a labour union representative stated that as soon as employers find out about their unionized employees, they pressure them to quit the union. He added that their members who were dismissed due to their union activities cannot find a job in the sector. Journalists lack effective strategies to combat wage exploitation and unlawful dismissals. Few dare to bring a lawsuit against their former employers for fear of not being able to find a

job in the sector. The existence of a ‘gentlemen’s agreement’ among media companies not to hire journalists others have fired is widely commented on. The experience of Ahmet Şık, who was arrested as part of the Ergenekon cases a couple of months after he attended our workshop, is one of the most well known examples of this phenomenon. After having being dismissed in 2005 - on the World Press Freedom Day - from a newspaper belonging to the Doğan media group for his union activities, Şık could not find job in the sector for a long time. His employers had told him to quit the union and threatened that, if not, he would be dismissed and would not find a job elsewhere.⁵⁹ Where journalists do go to court, cases take too long: ‘I file a case, it ends in six years!’⁶⁰ Recent strikes at the daily *Sabah* and *ATV* television station failed due to suppressions of the employer and also lack of solidarity. Nine of the ten journalists who participated in the strike were dismissed from their jobs and the last one subsequently resigned to save his indemnity (Cinmen, 2011, Ergün, 2011; and Tılıç, 2011). Today, according to the data of the Ministry of Labour and Social Security, the Turkish Journalists Union has 4,550 members; and the rate of unionization in the journalism sector is 28.9 per cent. However, it is hard to say that these numbers are accurate as not all of these memberships are active (Tulgar, 2006).

When the Justice and Development Party (*Adalet ve Kalkınma Partisi- AK Party*) came to power in 2002, the media owners initially supported the new government. This positive atmosphere largely eroded after AK Party’s second electoral victory in 2004. The collaborative attempts of a group of political elites and media owners to bring an end to AK Party’s power caused irreversible conflicts between the government and the media. The fall out was particularly visible in the largest media group’s (Doğan Group) opposition to the government reform packages. Most strikingly, on 10 February 2008, the constitutional amendment adopted by the parliament to legalize the headscarf at universities was covered by *Hürriyet*, the biggest Turkish daily with the headline ‘411 hands rose to chaos,’ referring to the number of parliamentarians who voted in favour. *Hürriyet* was also instrumental in generating public opinion in favour of mass demonstrations in the name of protecting secularism against the government, which were later found to be co-organized by groups involving retired high rank military leaders. In response, the AK Party government developed a dual strategy to eliminate media opposition. On one hand, it forced the Doğan Group to downsize its media investments by introducing disproportionately heavy fines for tax fraud. On the other hand, the government reconfigured the mainstream media. In 2007, the second largest media group was bought by Çalık Holding, which has close ties to the government, thanks to credits provided by two major public banks. The chairman of the board of this group is the son-in-law of the Prime Minister. Thus, the power shifted from opponent mainstream media companies to ‘reconfigured’ or ‘proponent’ media companies. Some analysts argue that AKP’s coming to power was a milestone for the media in Turkey, which needs to be analyzed in accordance with a pre and post AKP comparison. Others, however, believe that the current situation where most media is named as ‘pro-government’ is an inevitable outcome of the 2001 crisis, which resulted in the withdrawal of the financial sector from the media and the entry of new capital to fill the gap.⁶¹

As experienced journalist Ragıp Duran suggested, the media which formerly wore the (invisible) ‘epaulette’ henceforth became ‘green,’ shifting from a pro-military to a pro-Islamist government position (Duran, 2011). To illustrate this change, Duran refers to the meeting the Prime Minister convened in October 2011 with the owners and executives of

⁵⁹ A journalist, minutes of the workshop on the topic of ‘Labour Relations and Working Conditions in the Media Sector’, Istanbul, 21/12 2010.

⁶⁰ *ibid.*

⁶¹ Minutes of the workshop on the topic of ‘Media and Democratisation’, Istanbul, 08/10/2010.

media organizations to beseech them to be ‘sensible’ in their coverage of ‘terrorism and violence incidents.’ The day after this meeting, the five biggest news agencies ‘Anadolu Agency (AA), Turkish News Agency (AHT), Ankara News Agency (ANKA), Cihan News Agency (CİHAN) and İhlas News Agency (İHA) announced in a joint statement that they were going to “comply with the publication bans of the competent authorities” (Söylemez, 2011).

The shifting power influenced not only the ownership structure, but albeit indirectly also editorial policies and increased self-censorship. Thereby, as pointed out by a journalist, the media ownership structure in Turkey presents an obstacle to media diversity and pluralism: ‘when I look at the newspapers in the morning, I see two groups. The media has established such a monopoly that it does not cover any news about social and environmental or world affairs.’⁶²

On the other hand, the media owners’ preoccupation with keeping good relations with the state has been more decisive in self-censorship in comparison with direct threats facing journalists. The recent discharge of Banu Güven, one of the most respected and reliable journalists on television, following her critical coverage of government policies on the Kurdish issue demonstrated that self-censorship arose from the media owners’ policies rather than pressure from the ruling party (Tekerek, 2011). Arguably, it is the government’s pressure on media groups, such as the disproportionate tax fines imposed on the Doğan Media Group, that causes such self-censorship. The Prime Minister Erdoğan’s plea to media owners to keep under control or otherwise dismiss columnists for their negative press coverage of the government’s fiscal policies –on the grounds that their distorted portrayals would serve to de-stabilise the economy- is another instance of such pressure (Duran, 2010). However, today, as in the past, it is the involvement of the media patrons in other sectors of the economy that makes them susceptible to such pressure and financially reliant on the government, which in turn leads them to pressure journalists to refrain from negative coverage of the government.

A recent survey shows that a very high percentage of journalists in Turkey believe that there is censorship and self-censorship in the media. Respondents express the fear that ‘they might be taken to court for the content of their articles’ and feel intimidated by pressure from the government and media patrons (Arsan, 2011). On the other hand, journalists have always worked under intense legal and political pressure in Turkey. As seasoned journalist Alper Görmüş⁶³ reminded with respect to its owner’s closure of weekly *Nokta* after the initiation of a criminal case at military courts,⁶⁴ journalists are afraid to lose the ‘privileged’ economic and political position afforded to them by the media. According to Görmüş, self-censorship results not from government pressure but from the unwillingness of media executives, columnists and editors to risk their careers and high incomes. On the other hand, criminal cases launched against media organs and journalists reporting on sensitive political issues not only cause the media to censor itself, but also constitute firsthand censorship. Indeed, the daily *Taraf* has faced about 300 criminal cases launched against its owner, editors and journalists as of July 2011.⁶⁵ The tabloidization of news and violations of professional rules of ethics through inconsistent and even fictitious news in the Turkish media are the

⁶² A journalist, notes of the workshop on the topic of ‘Media and regulatory high bodies: The status of legal and governance regulations’.

⁶³ Alper Görmüş prepared a series on editorial independence in the media in Turkey including debates between other journalists, *Taraf*, available at: <http://www.taraf.com.tr/alper-gormus/makale-lafla-editorial-bagimsizlik-gemisi-yurumez-1.htm> (date accessed 11 November 2011).

⁶⁴ For more on the incidents leading to the closure of *Nokta*, see Elmas and Kurban, 47- 48.

⁶⁵ Interview with Markar Esayan, Vice Chief Editor of daily *Taraf*, by Ceren Sözeri, Istanbul, 12/07/2011.

outcomes of ‘the industry’s fierce competition in the ratings “war”’ (Bek, 2004). The ideological polarizations and political divisions within and among various media and journalists’ associations prevent them from engaging in collaborative efforts to develop rules of self-regulation. The oldest of these associations is the Press Council (*Basın Konseyi*), which was established by a group of journalists in 1986. From the outset, the independence of this body from the state and official ideology has been highly contested by members of the profession. Currently, the Press Council ‘accounts to very few newspapers and does not enjoy significant respect among the media community’ (Zlatev, 2011: 36). Most recently, a number of key representatives including those from TRT and the Anatolian News Agency (official news agency of Turkey) withdrew from the council following a vote of confidence in November 2011 to keep Oktay Ekşi as its chairman. What has made Ekşi’s endorsement controversial was the fact that he had recently resigned from this post to run in the general elections as an MP candidate.

The 1998 *Declaration of Rights and Responsibilities* developed by the Journalists Association of Turkey (*Türkiye Gazeteciler Cemiyeti*) is the most referred source on ethical codes for journalism. Recently, a group of journalists who parted their way with the Press Council established the Media Association (*Medya Derneği*) to support and raise the standards of the media. In 2011, the association announced a new code of ethics for journalists, which was developed during a three-day Media Ethics Workshop held in January of the same year.

The first print news ombudsman of Turkey was initiated in 1999 by the daily *Milliyet*. The initiative ended in a ‘car crash’ when the ombudsman was dismissed following his refusal to bow down to the management’s pressure to refrain from publishing a critical piece about the fabrication of facts in the newspaper (Baydar, 2011: 96). Currently, three Turkish newspapers (*Sabah*, *Star* and *Milliyet*) have active ombudsmen who (self) monitor the compliance of their paper with codes of journalistic ethics. The website editions are exempt from the ombudsmen’s mandate. While the ombudsman institution is seen as a potentially important monitoring force for the media, many doubt its effectiveness in a culture which does not tolerate criticism. In September 2006, RTÜK introduced a voluntary ombudsman mechanism for broadcasters. Currently, 34 national and local television channels have ‘audience representatives,’ whose contact information is listed on RTÜK’s website.

The new technologies offer new opportunities to access alternative sources of information beyond the mainstream media. One of the most significant examples of such sources is the Independent Communication Network (*Bağımsız İletişim Ağı- BİA*), which was established in 1997 for monitoring and covering media freedom and promoting independent journalism in Turkey. Funded mainly by the EU Initiative for Democracy and Human Rights, BİA gives training to journalists, communication students and NGOs; publishes handbooks on peace journalism; broadcasts radio programs for the local media; organizes conferences, forums and international exchange programs. Besides BİA and a handful of other successful examples, however, many of the online news media outlets release ‘copy-paste’ content from news agencies or the mainstream media. The government’s recent attempts to extend the Press Law to the online media and to issue press cards for journalists working for online media raised serious concerns regarding freedom of the press. The Alternative Informatics Association launched the ‘Internet needs freedom, not press cards’ campaign, criticizing the government’s initiative as an attempt of censorship and control of the media (Alternatif Bilişim Derneği, 2011).

5.1 The working conditions of journalists

Labour relations in the media have been regulated by Law no. 5953 (commonly known as ‘212’ because of the number of amendments) on the Regulation of the Employee-Employer Relations in the Journalism Profession in the Turkish Media Industry since 1952. However, despite the special rights granted to journalists by this law, for long years journalists have been employed without social security and under provisions of the Labour Law instead of the Law no. 5953.

Although there have been some positive developments since the 1990s, most of the problems concerning the working conditions of journalists remain to be addressed. However, the fierce competition in the sector and the fear of unemployment prevent journalists from voicing their problems even through the media.⁶⁶ The financial crisis of 2001, which resulted in the dismissal of about 5,000 journalists (Söylemez, 2011) working in media groups that had investments in the banking sector, has further exacerbated these fears.

Conducting research on labour relations in the Turkish media sector is a difficult endeavour, owing not only to the informality of employment practices, but also the scarcity and inaccessibility of data. Research conducted for this report shows that a very high number of media employees lack social security benefits; journalists are forced to frequently change jobs, resulting in high employee turnover rates in the sector; and media companies are reluctant to pursue a transparent policy when it comes to labour relations. According to the data of Social Security Institution of Turkey (*Sosyal Güvenlik Kurumu- SGK*), a large majority of the employees in the media sector have an average seniority of less than five years.⁶⁷

The sector-based findings of the 2009 Household Labour Force Survey of Turkish Statistical Institute (TURKSTAT) confirm SGK data.⁶⁸ Accordingly, the average seniority of employees working in large media groups in Turkey is five years. This drops down to one year for employees working without social security benefits. Journalists formally employed in the media work for an average of 50 hours a week, while 70 per cent of the informal employees work for an average of 40. In rare occasions, the government inspects whether media companies hire employees without social security insurance, as in the case of the inspection of the Doğan media group in 2010. While union representatives find regular inspections to every media company –in addition to the legal protection of the right to association and the penalization of employers who arbitrarily dismiss journalists for their union activities- to be an effective mechanism,⁶⁹ others point out that the selective nature of inspections, which do not target pro-government media, which also violate the labour law.⁷⁰

⁶⁶ For an example, see: Internethaber (2011), ‘Medya toplu işten çıkarmalarla sarsılırken Sabah Grubu ve Habertürk'teki “küçülme” internet sayfalarına yansımada’ [While media was shocked by collective redundancy, the downsizing of Sabah and Habertürk were not covered by media], available at: <http://www.internethaber.com/bu-haberi-vermeye-yurekleri-yetmedi-324040h.htm> (date accessed 25 December 2011).

⁶⁷ The data derived from SGK according to classifications included the media sector in the NACE (Nomenclature Générale des Activités Economiques dans les Communautés Européennes), the system used for statistical classification of economic activities in the EU countries.

⁶⁸ In an attempt to collect data on working conditions in large media groups in Turkey, we analyzed the survey results from companies employing 250 or more employees (a total of 100 surveys).

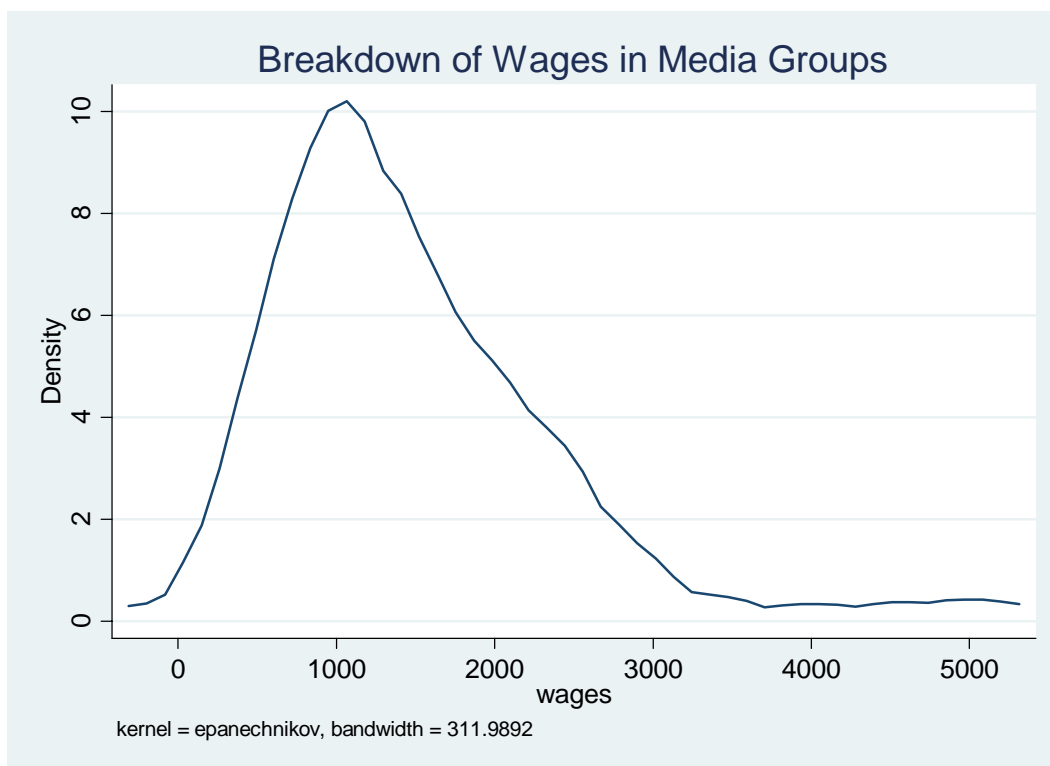
⁶⁹ Labour union representative, minutes of the workshop on the topic of ‘Human Resources Problems and the Future of the Media Sector’, Ankara, 18/12/2010.

⁷⁰ An editor, minutes of the workshop on the topic of ‘Human Resources Problems and the Future of the Media Sector’, Ankara, 18/12/2010.

Union representatives point out that even the public broadcaster TRT is engaged in informal employment practices.⁷¹

TURKSTAT survey also includes data on the wages earned by employees in the media sector. The highest monthly salary declared is 35 thousand TL (15 thousand EUR), while 25 per cent of the respondents reported they work for less than 1,000 TL (418 EUR) per month. The average monthly salary among the formally employed is 1,250 TL (521 EUR). While 25 per cent of those informally employed work for a monthly salary of less than 500 TL (208 EUR), the average monthly salary for this group is 560 TL (233 EUR). The wage imbalance between the employees not only disrupts relations in the workplace, but also constitutes a significant impediment to the unionization of journalists, which in turn further deteriorates working conditions.

Chart 1: Breakdown of Wages in Media Groups



Source: TURKSTAT Household Labour Force Surveys (2009)

Another important factor that adversely affects the working and living conditions of journalists is that private and public media enterprises are located in big cities, and mostly in Istanbul, where living costs are extremely high compared to the rest of the country. The disproportionate representation of the media and media professionals in Istanbul also accounts for the underdeveloped nature of the local media in Turkey.

According to TURKSTAT statistics on print media, the total circulation rates of local and regional media were as low as 18 per cent in 2009. Local media is unable to employ qualified journalists, and those who seek to participate in labour force in the media sector are

⁷¹ *ibid.*

forced to live in big cities. This affects not only the working conditions of journalists but also the media content they produce, resulting in an Istanbul centric flow of news and information.

The root cause of the poor working conditions, problems in organising and the imbalanced geographical distribution in the media sector is the gap between legal regulations and their implementation, as well as the economic structure of the sector. Media enterprises that make no profit and work under conditions far from economically rational survive solely on the resistance of their owners, who want to stay in the sector in order to maximize their profits in the other sectors they invest in. In other words, labour exploitation is a significant source of media subsidy in Turkey; a media executive stated that this situation creates an extraordinary pressure for cost-cutting on the owners.⁷² These conditions make issues such as increasing the quality of journalists and improving their working conditions secondary, and result in informal employment practices which are detrimental for journalists. An editor working for a broadcasting company said the following on the lack of skilled journalists in the sector: ‘Nobody wants to invest in high quality media in Turkey. They make an effort to hire young, inexperienced, presentable individuals who are unaware of and who do not care about ethical aspect of the media.’⁷³

⁷² Minutes of the workshop on the topic of ‘Media and Democratisation’, Istanbul, 8/10/2010.

⁷³ Minutes of the workshop on the topic of ‘Human Resources Problems and the Future of the Media Sector’, Ankara, 18/12/2010.

6. Media literacy and transparency requirements

According to surveys, an average adult in Turkey watches television for 2.8 hours a day. This number is 6.8 hours for housewives and 2-2.5 hours for children. An average adult reads 0.1 newspaper every day, and 0.02 weekly and 0.1 monthly newspapers and journals. S/he listens to the radio for 2.3 hours a week (Sözeri and Güney 2011; RTÜK, 2006). In view of the high access rate of television (98 per cent) and long watching hours, the effects of the media particularly on children and young adults and the concentrated market structure that does not allow for pluralism, media literacy is considered as the core element for the expansion of democratic culture in Turkey (İnceoğlu, 2007).

RTÜK's project for media literacy education in primary schools was extensively debated by the regulatory authority and academics during the First Media Literacy Conference in 2005. In 2006, elective media literacy courses started to be taught to children in the 6th, 7th and 8th grades with the cooperation of RTÜK and the Ministry of National Education. A guideline for teachers was prepared in collaboration with the Board of Education and Discipline (*Talim Terbiye Kurulu*) and academics from various communication faculties in Turkey.

The first research conducted on the effects of media literacy courses on teachers and students welcomed the initiative 'which will have several positive effects on children' but warned of the 'possibility of the project's failure since the classes are taught by social science teachers and not by specialists of communication.' The research asserts that the question of who should teach these classes has been prioritized over how their content or methodology should be. The 'teachers are not aware of the difference between evaluation and media criticism' (İnceoğlu, 2007). Teachers are reported to feel inadequate to teach media literacy: 'The subject of the course is not my professional area. I tell the students what I know and what I think about the media. A media specialist should teach this course' (Yazıcı, 2011). Although RTÜK's director also proposed these courses should be taught by graduates of faculties of communication (IV. Kuvvet Medya, 2011), these individuals lack pedagogic formation and are thus unqualified to teach (Ajans1, 2009).

On the other hand, RTÜK's approach to media literacy has also received criticism on the ground that it is fuelled by a protective mentality. In the guide books, children 'are seen as the "most sensitive group" prone to media effect' and portrayed as 'vulnerable receivers' whose consciousness on the media need to be raised. The courses are not designed from a pedagogical perspective on critical media literacy education. Moreover, the comments of children about the media after attending the media literacy program attest that this education introduces a conservative rather than a critical perspective on the media (Bek, 2011).

On the other hand, considering that media literacy is not only a matter of education, but also a political and ideological issue and a component of social opposition, it is sometimes classified as a new social movement (Hepkon and Aydın, 2005). In recent years, there has been a growing awareness on the need for social monitoring of the media. The inability and unwillingness of the media to regulate itself, as well as the authoritarian and punitive nature of state regulation mobilized civil society to monitor the media's compliance with universal principles and professional codes of ethics. Various non governmental organizations and activist groups started media watch initiatives in order to expand the culture of diversity and to reduce discrimination, racism and hate speech. For example, MEDİZ (Woman's Media Watch Group)⁷⁴ has been monitoring sexism in the media since

⁷⁴ MEDİZ [Women's Media Watch Group], available at: <http://www.mediz.org/Kategori/13/1/English.aspx> (date accessed 27 December 2011).

2006. The group opened the issue to public discussion at a conference titled ‘For a non-sexist Media’ and published a book named *End to Sexism in Media*. KAOS GL⁷⁵ regularly watches sexism and discrimination in the media against LGBT individuals.

After the assassination of the Armenian journalist and human rights defender Hrant Dink in 2007, hate crimes and hate speech in the media became a pressing issue for civil society. The Association for Social Change (*Sosyal Değişim Derneği*)⁷⁶ prepared a report entitled *Hate Crimes in National Press: 10 years, 10 examples* and recently launched a campaign for the adoption of Turkey’s first anti-hate speech law. Similarly, the International Hrant Dink Foundation⁷⁷ combats racism and discrimination based on ethnic and religious grounds through media monitoring. During a two years project funded by the European Commission, the Foundation analyzed 24 newspapers, published four monthly reports and organized workshops for journalists. The Human Rights Joint Platform (*İnsan Hakları Ortak Platformu- İHOP*)⁷⁸ published a report titled *I am not Racist but...: Racist and Discriminatory Speech in the Press*, which points out that ‘discrimination denial strategy’ is one of the most typical examples for discrimination in the media.

⁷⁵ KAOS GL [LGBTT’s News Portal], available at: <http://www.kaosgl.org/category.php?id=21-0> (date accessed 27 December 2011).

⁷⁶ Sosyal Değişim Derneği [The Association for Social Change], available at: <http://www.nefretme.org/hakkinda/> (date accessed 27 December 2011).

⁷⁷ International Hrant Dink Foundation, Media watch on hate speech, available at: <http://www.nefretsoylemi.org/en/index.asp> (date accessed 27 December 2011).

⁷⁸ İHOP [Human Rights Joint Platform], available at: http://www.ihop.org.tr/index.php?option=com_content&view=article&id=351&Itemid=46 (date accessed 27 December 2011).

7. Conclusion

An analysis of media independence and freedom of the press in Turkey is not just a matter of an analysis of the regulatory framework governing media content and structure, but also calls for a critical assessment of media-state relationships from a historical perspective. From the outset, since the establishment of the first newspaper in the late Ottoman era, the media in Turkey has never been independent of the state. Neither has the media ever had such a claim or aspiration. To the contrary, since its emergence, the press was designed as a tool of political power and tasked with the mission of spreading the official ideology to the masses. With the transition to the republic, the Turkish press was used by the founders as an effective tool in processes of state formation and modernization. The attempts by a minority to establish a truly independent and free press were rebuffed by the punishment of dissident media. Since the late 19th century, opponent journalists have been suppressed by state and non-state actors who claimed to act in the name of 'state interests,' evident in the dozens of assassinations by 'unknown' perpetrators. The transition from an authoritarian single-party regime to a multiparty democracy in the 1950s did not change this fact; the press continued to be used by successive governments to consolidate their political power, be it military regimes or civilian governments.

The economic liberalisation of the 1980s resulted in the entry of new investors into the media sector, resulting in substantial change in the ownership structure. The profile of media patrons changed from journalist families to companies which also had investments in other sectors. Independent newspapers were replaced by companies that owned multiple newspapers and magazines. The ending of state monopoly over broadcasting in the 1990s and the proliferation of private broadcasters introduced the second wave of structural change in the sector; the media started to be dominated by only a handful of large corporations, which increased their economic power through vertical and horizontal mergers. The concentration in the media was made possible with the inadequacy of legal barriers to cross-mergers, as well as the lack of legal barriers that would prevent media conglomerates from participating into public tenders in other sectors they had investments in. The inadequacy of the regulatory framework to promote press freedom and diversity in the media has encouraged big corporations to see themselves as political actors that can bargain with the government (Mahçupyan, 2011). These corporations competed with the government for profit in sectors such as construction, transportation and industry. At the same time, media owners were extremely dependent on the clientelist relations with the state which enabled them to acquire tenders to undertake massive projects financed by the public. This has prevented these companies from performing the watchdog function expected from the media in established democracies.

The economic crisis of 2000-2001 caused by the collapse of private banks resulted in a new wave of structural change in the media. This time, the entire sector was restructured with major changes in the ownership structure. The collapse of media conglomerates which owned some of these bankrupt banks led to their withdrawal from the sector and the transfer of their broadcasting companies to the state. The crisis had two major outcomes: the emergence of the state as a principal media owner and the establishment of high regulatory bodies. Newspapers, radios and televisions taken over by the state after the financial crisis were bought by companies which had no prior investment or experience in the media sector, but had close ties to the AK Party government. As a result of this reconfiguration of the mainstream media, the balance of power shifted in favour of the government and against the military which hitherto exercised ideological control over the media. Initially, the conflict between the government and the military was reflected in the media, which was sharply divided along pro-government and pro-military lines. The polarization in the media reached

its peak in the run up to the presidential and general elections in 2007. With the launching of the Ergenekon cases against senior retired and on-duty military leaders accused of plotting a coup against the government, the re-election of AK Party in the general elections, and the election of a president from an Islamist background radically changed media-government relations in Turkey. Mainstream media organs which had backed the military's psychological warfare against AK Party drastically changed their positions; so much so that virtually all media has become pro-government.

The late 1990s and early 2000s also witnessed the initiation of the EU accession process, which served as the most recent and powerful trigger of structural change in the media sector. In order to align its legal framework with the EU's *acquis*, Turkey had to undertake major reforms not only in laws and regulations concerning ownership of the media, but also those concerning content. In the meantime, the processes of globalization, the advancements in information technology, the growth of the Turkish economy and the prospect of stability offered by the EU candidacy not only rendered the media in Turkey an attractive sector for foreign investors, but also generated a need for further structural reform to cope with the rapidly changing technological developments in the sector. The outcome of these political, economic and social developments during the last three decades has been an extremely complex regulatory framework, which continues to be reshaped and redesigned, causing tremendous uncertainty for both the players and the wider public.

Eager to join the EU, Turkey also found itself having to undertake substantial reforms in the sphere of human rights and media freedom. Hundreds of ECtHR judgments waiting to be executed by the Turkish state provided the EU with an effective benchmark for measuring Turkey's progress in fulfilling the political criteria for membership to the Union. Dozens of these judgments pertained to freedom of expression and freedom of the press. While the need for the complete overhaul of Turkey's constitutional and legal framework was evident, the change proved to be very difficult. Thanks to a series of constitutional amendments and 'reform packages,' some progress was achieved towards the protection of human rights and press freedom. On the other hand, not only has progress been limited, but it has also been marked with regressions. While the AK Party government introduced significant human rights reforms in the early 2000s, it substantially rolled most of them back in later years, particularly after 2005. Turkey continues to have an extremely restrictive anti-terror law and its penal code retains authoritarian provisions in violation of fundamental rights and freedoms. The amorphous and over inclusive definition of terrorism and terrorist activity in the laws has caused hundreds of human rights activists, journalists and politicians to be prosecuted on remand for lawful political activities.

While there is a formal commitment to freedom of expression, freedom of the press and freedom of information in Turkey's laws, what lies beyond this seemingly liberal facade is a framework where nationalism, statism and cultural conservatism are the supreme values looming over individual rights. The Constitution and the laws governing the media are written with an authoritarian, paternalistic and conservative spirit, making the exercise of freedom of expression and media freedom prohibitively difficult due to expansive restrictions. The marginal space left in laws for the exercise of these freedoms is restricted further with media regulatory agencies, which are equipped with extensive sanctioning powers. The principal role designed for these agencies in Turkey is not policy making for the media but rather policing, which they successfully perform.

In an environment where the media is dominated by corporations driven with profit maximization and which therefore refrain from building adversarial relations with the state, the emergence and survival of an independent media proves difficult. The existence of an

authoritarian legal framework which penalizes critical media coverage of sensitive political issues accentuates this challenge. The handful independent media organs which try to provide the public access to truth face significant financial difficulties and are harassed by criminal prosecutions. Virtually all journalists, of the mainstream and dissident media alike, work under extremely harsh conditions of very low wages, lack of social security, long work hours and lack of job security. Journalists who dared to join labour unions have faced and continue to face pressure, harassment and threats from their employers and often have to choose between their rights and their jobs. It cannot be denied that the vulnerable position of the journalists in face of the media owners or the political power is at the same time the result of the lack of horizontal solidarity among the journalists. The competition among the workforce and the fear of unemployment prevent journalists from voicing their problems even through the media.

As a result, the prospects for media independence and freedom in Turkey appear extremely weak. In a sector driven by corporate interests, nepotism and clientelist relations, the media owners do not have the incentive to provide truthful and critical news coverage. The historical weakness of trade unions in Turkey, the high level of unemployment among journalists, the high turnover rate in the sector and the deep divisions among journalists due to ideological differences make it very difficult for media employees to engage in a unified struggle against their employers. The lack of a strong pro-democracy social movement, the ideological conservatism of the judiciary, the institutional weakness of the parliament and the lack of democracy within political parties render the government –and future governments– too powerful vis-à-vis the society and the media. On a positive note, however, there is a growing awareness on the need for social monitoring of the media. The inability and the unwillingness of the media to regulate itself, as well as the authoritarian and punitive nature of state regulation, has mobilized the civil society to monitor the media's compliance with universal principles and professional ethical codes and to combat discrimination and hate speech in the media.

While Turkey has undergone significant political reforms in the past decade and will continue to do so, change will not be quick or easy. What awaits the society in general and the media in particular is a long struggle, where real change will only be possible with an overhaul of institutions and a radical change in mindsets.

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Interview with Ferhat Boratav, News Editor of *CNN Turk* TV station, by Ceren Sözeri, Ebru İlhan, Istanbul, 02/11/2010

Interview with Markar Esayan, Vice Chief Editor of daily *Taraf*, by Ceren Sözeri, Istanbul, 12/07/2011

Interview with Sancak Basa, Human Resources Director of daily *Hürriyet*, by Ceren Sözeri, Istanbul, 08/12/2010

Interview with Uğur Şeker, General Manager of interactive advertising agency *Dijital Büro İstanbul*, and founding member of IAB Türkiye, by Ceren Sözeri, Istanbul, 02/02/2011

10. List of discussion groups

Minutes of the discussion groups convened with journalists and academics on the topic of 'Media and Democratisation', Istanbul, 8/10/2010

Minutes of the discussion groups convened with policy makers, bureaucrats, academics and representatives of professional media unions on the topic of 'Human Resources Problems and the Future of the Media Sector', Ankara, 18/12/2010

Minutes of the discussion groups convened with journalists and journalist associations on the topic of 'Labour Relations and Working Conditions in the Media Sector', Istanbul, 21/12 2010

Minutes of the discussion groups convened with academics, policy makers and civil society representatives on the topic of 'The New Legislation on the Structure and Authority of the Radio and Television Supreme Council', Istanbul, 11/03/2011

Minutes of the discussion groups convened with convened with policy makers, bureaucrats, media owners and high level executives of the media sector on the topic of 'Investment and Competition Relations in the Media Sector: The Present and the Future of the Sector', Istanbul, 21/04/2011

Minutes of the discussion groups convened with policy makers, bureaucrats, journalists and experts on the topic of 'Media and regulatory high bodies: The status of legal and governance regulations' Ankara, 18/10/2011

ANNEX

NGOs which are monitoring media to combat discrimination and hate speech:

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