

# Turkey: Court drops prosecution of writer Orhan Pamuk

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6 February 2006

An Istanbul court last month ended the trial of Turkish writer Orhan Pamuk on technical grounds. In many similar but lesser-known cases, however, journalists, writers, human rights activists and politicians have been prosecuted and convicted to prison sentences or fines.

Pamuk was charged under a new law against the “public denigration of Turkishness,” because in an interview with the newspaper *Züricher Taggesanzeige* in February 2005 he had said that during the period of the Ottoman Empire in Turkey 1 million Armenians and 30,000 Kurds had been killed but nobody dared to speak out. As a consequence of the interview, Pamuk was prosecuted on a charge punishable by up to four years in prison.

The law used to prosecute Pamuk, Paragraph 301, was introduced on June 1, 2005, and replaced Paragraph 159 of the old penal code. An amnesty was introduced for past offences. The new paragraph was allegedly aimed at ensuring increased freedom of opinion and was part of reforms adopted by the Turkish state as a condition for the country’s future admission into the European Union. In fact, it soon became clear that previous repressive practices were merely being continued under the new statute.

Paragraph 301 threatens prison sentences for anyone found guilty of the offence of “public denigration of Turkishness, the Republic, the parliament, the courts, the military or the security forces.” If the offence is committed abroad, the level of punishment increases. Mere criticism is supposed to remain exempt from punishment, but the distinction between criticism and “denigration” is left to the arbitrary decisions of the courts and state attorneys.

Last autumn, charges were brought against Pamuk and a number of others. According to the Turkish Press

Council, the largest association of journalists in the country, journalists, writers and publishers have faced more than 70 prosecutions since the introduction of the new law. All of these cases concerned comments on either the genocide against the Armenians, the Kurdish conflict or the military’s domination of Turkish society.

One of the most prominent of the accused was Joost Lagendijk, the Dutch co-chair of the European Union parliament’s Turkey Commission. On December 17 in Istanbul, Lagendijk accused generals of being behind recent provocations aimed at fomenting clashes with Kurds. One such incident occurred recently in Semdinli, where two junior officers and a renegade from the Kurdish Worker’s Party (PKK) were discovered as they planted a bomb in the bookshop of a Kurdish nationalist. Two persons were killed in the course of the explosion and subsequent gunfire, when one of the officers fired into a crowd.

The general of Turkey’s armed forces, Yasar Bueyuekanit, later publicly praised the man involved in the shooting and sought to protect him. The gunman was subsequently accused of the lesser offence of manslaughter, and the court refused to even deal with the question of the murders being connected to a terrorist attack. As the delegate of the European Union, Lagendijk commented on the incident and declared that the Turkish military sought to maintain its political influence through its continuous guerrilla war against the PKK. He was then promptly accused of offending the armed forces.

An investigation against Lagendijk was opened in December, but authorities announced this week that they were dropping charges.

The prosecution writes for the numerous court cases stem largely from a group of ultra-right-wing lawyers

with close ties to Turkey's fascist "Grey Wolves" movement.

Within the state apparatus itself, the treatment of dissidents, particularly over the Kurdish issue, has become a source of dispute. Kurdish separatist tendencies have been strengthened by the US occupation of Iraq. The Kurdish nationalists in neighbouring northern Iraq are the only reliable supporters of the occupiers in the region and consequently have been rewarded with extensive autonomy.

At the same time, large companies and banks in Turkey favour an orientation to the European Union, upon which they are economically dependent. While they seek to control social tensions with a limited degree of political liberalisation and are ready to cooperate with the Kurdish nationalists in Iraq, a wing in the bureaucracy and the military is intent on outright measures of suppression.

The government of the Justice and Development Party (AKP) straddles both camps. Foreign Minister Abdullah Gül indirectly criticised the trial of Pamuk, while Justice Minister Cemil Cicek took little care to disguise his sympathy for those denouncing Pamuk as a national traitor. The European Union commission called the trial of Pamuk a provocation and a test of the country's ability to reform. In European Union countries, the legal proceedings against Pamuk strengthened the hand of all those forces arguing against Turkey's admission to the EU.

The beginning of the trial against Pamuk on December 16 was accompanied by riots. With the police looking on passively, Turkish nationalists violently attacked the writer and attending foreign observers. The court postponed the trial, however, calling for it to reconvene on February 7. The court subsequently ruled that the charges against Pamuk under Paragraph 301 were inadmissible because the relevant legislation came into force only after the disputed interview. Pamuk could only be prosecuted on the basis of the former law of February 2005. A precondition for such prosecution would be an express authorisation by the Justice Minister.

Justice Minister Cemil Cicek decided, however, not to take sides. He quibbled that the old law was no longer valid, and that therefore he had no authority to permit a trial on such a basis. In a January 20 letter,

Cicek declared that the matter lay outside his authority and requested the court to decide on any continuation of the trial. A few days later the court interpreted this request as a refusal by the Ministry to authorise the trial and dropped the prosecution. The dozens of other cases brought under the new paragraph, however, will of course be pursued.



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