

**Take Action: Article 301 of the Turkish Penal Code has been receiving worldwide attention for its increasing use by Turkish groups opposed to its abolition. Now is the time to speak out !**

*Imagine if you were prosecuted just for publicly discussing and challenging “official” versions of your national history.*

*Imagine if writing negative statements about your country’s armed forces could leave you facing a fine.*

*Imagine if printing satirical comments caricaturing state officials in your country could land you in prison.*

*Imagine if you did these things outside your own country and even then were liable to a penalty increased by one third.*

*Under Turkish law, these things do not just happen in the realms of imagination.*

*Many individuals today find themselves facing charges under Article 301 of the Turkish penal code for peacefully expressing their dissenting opinion.*

*These individuals are not just writers and journalists; they are also publishers and human rights defenders. In fact Article 301 can be used against anybody “denigrating Turkishness”.*

## **Recommended action :**

Send appeals to authorities:

- expressing dismay that writers, journalists and publishers continue to be brought before the courts in violation of their right to freedom of expression
  
- urging that there be an end to these trials
  
- asking the government to review its legislation with the aim of removing all remaining laws that allow for the prosecution of those who practice their right to write and publish freely

- calling on the government to do all that it can to abide by its commitments to the protection and promotion of freedom of expression

## **Appeals to :**

### **Prime Minister Recep Tayyip Erdogan**

Office of the Prime Minister

Basbakanlik

06573 Ankara, Turkey

Fax: +90 312 417 0476

### **Mr Abdullah Gül**

Foreign Minister and State Minister for Human Rights

Office of the Prime Minister

Basbakanlik

06573 Ankara, Turkey

Fax: +90 312 287 8811

## **Background: Article 301 is a threat to freedom of expression and must be repealed now!**

Amnesty International is extremely concerned at the frequent use of Article 301 of the Turkish Penal Code (TPC) to prosecute human rights defenders, journalists and other members of civil society peacefully expressing their dissenting opinion. Article 301, on the denigration of Turkishness, the Republic, and the foundation and institutions of the State, was introduced with the legislative reforms of 1 June 2005 and replaced Article 159 of the old penal code. Amnesty International repeatedly opposed the use of Article 159 to prosecute non-violent critical opinion and called on the Turkish authorities to abolish the article.

The organization is now concerned that the wide and vague terms of Article 301 mean that it too can be applied arbitrarily to criminalize a huge range of critical opinions. It states that:

*“1. Public denigration of Turkishness, the Republic or the Grand National Assembly of Turkey shall be punishable by imprisonment of between six months and three years.*

*2. Public denigration of the Government of the Republic of Turkey, the judicial institutions of the State, the military or security structures shall be punishable by imprisonment of between six months and two years.*

*3. In cases where denigration of Turkishness is committed by a Turkish citizen in another country the punishment shall be increased by one third.*

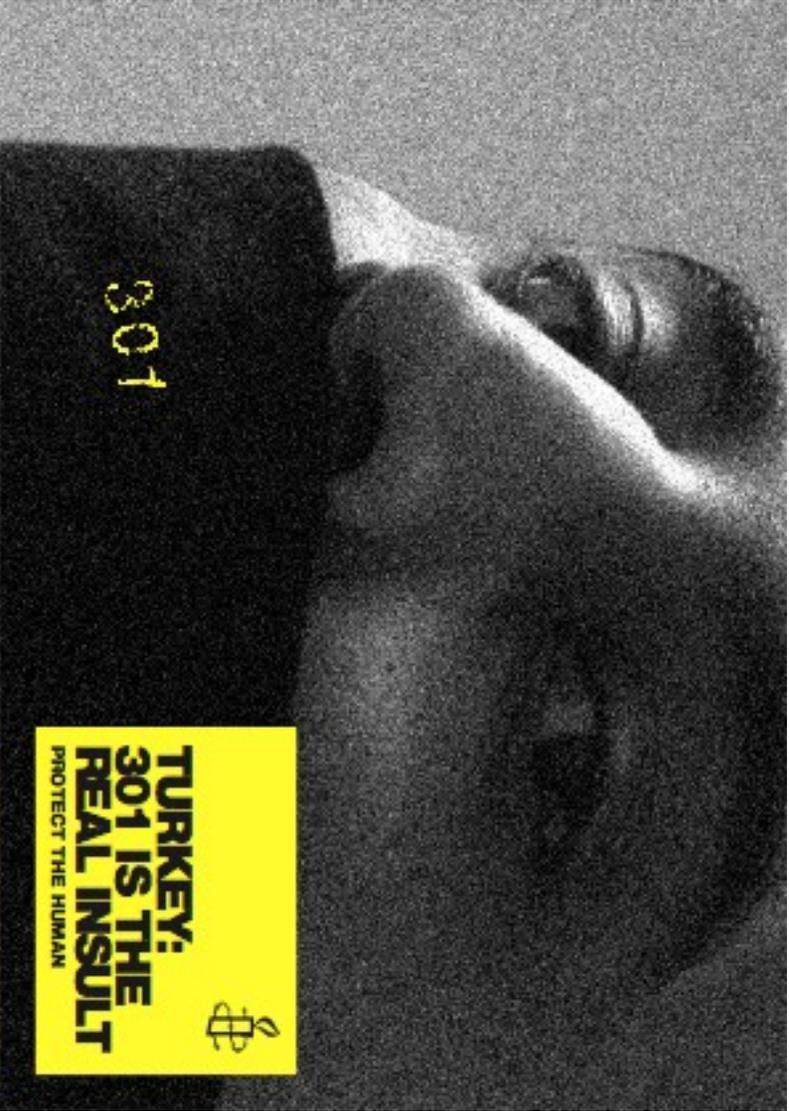
*4. Expressions of thought intended to criticize shall not constitute a crime.”*

Article 301 achieved international notoriety when it was invoked against novelist Orhan Pamuk

for comments made during an interview with a Swiss newspaper in February 2005. “Thirty thousand Kurds and a million Armenians were murdered,” he stated at the interview. “Hardly anyone dares mention it, so I do. And that’s why I’m hated.” The case made headlines across the world. It was thrown out of court last January on a legal technicality

But the failure of Orhan Pamuk’s case is small consolation for the many individuals who currently face similar charges. Article 301 has been used to prosecute anyone—journalist, artist, student or lawyer—who expresses a view that can be construed as “denigrating Turkishness,” including criticism of state institutions or public officials. Murat Pabuc, a former lieutenant in the Turkish Army, published a book last year explaining why he became disillusioned with the military. As a result he was put on trial under article 301 for “public denigration of the military.” Recently, Elif Shafak, an internationally known Turkish writer, was brought to trial simply because of a statement made by a character in her novel *Bastard of Istanbul*. Another Turkish writer, Hrant Dink, is currently on trial because of what he reportedly said to *Reuters* news agency regarding the massacres of Armenians during the Ottoman Empire. Dink has already been given a six-month suspended prison sentence following an October 2005 conviction on charges of “denigrating Turkishness” (upheld by the Court of Appeal in July 2006), and therefore if found guilty again on the same charge would be imprisoned. Should he be, Amnesty International would consider him a prisoner of conscience.

Amnesty International believes that the frequency with which Article 301 is being used and the arbitrary nature of its application represent a real threat to freedom of speech in Turkey. Individuals are being harassed and threatened with imprisonment simply for speaking or writing about aspects of Turkish history or culture that do not conform to an imposed nationalist ideal. The organization reiterates its call for Article 301 to be abolished in its entirety, thereby putting an end to arbitrary implementation of this ill-defined law.



301

  
**TURKEY:  
301 IS THE  
REAL INSULT**  
PROTECT THE HUMAN