

URGENT ACTION

LGBTI ACTIVIST HELD IN PRE-TRIAL DETENTION

Fashion designer and LGBTI activist Barbaros Şansal is being held in pre-trial detention, accused of ‘inciting the public to hatred or hostility’ for a video message and tweet he shared on social media on New Year’s Eve. He was detained on the territory of northern Cyprus and extradited to Turkey the next day. He was assaulted on arrival in Istanbul on the airport apron.

On New Year’s Eve, fashion designer and LGBTI rights activist **Barbaros Şansal** posted a short video message on social media in which he criticized people for celebrating the New Year at a time of large scale detention of journalists, and widespread corruption and child abuse allegations, ending it with a wish for ‘Turkey to drown in its shit.’ On 2 January, he was extradited from the territory of northern Cyprus, where he had been over the New Year period. Barbaros Şansal’s lawyer told Amnesty International that the authorities in the territory of northern Cyprus had not provided a document attesting to a formal extradition decision.

In the evening of 2 January, on arrival at Istanbul’s Atatürk airport, Barbaros Şansal was assaulted by a group of airport ground staff as he was leaving the plane before he was detained by Turkish police. His lawyer told Amnesty International that he had received cuts and bruises as a result of the physical attack and that, as of 4 January, there was no criminal investigation into the assault. The lawyer said a disciplinary investigation into three individuals had been announced by the company employing the ground staff at the airport after a video of the assault was posted online.

Barbaros Şansal was remanded in pre-trial detention on 3 January, accused of ‘inciting the public to hatred or hostility’ under Article 216 of the Turkish Penal Code, on the basis of the video message and tweet he shared on social media in the early hours of 1 January 2017. He is currently held in Silivri prison, near Istanbul.

Both the video message and the tweet Barbaros Şansal admits to sharing are protected under the right to freedom of expression, and should not be subject to criminal prosecution. Amnesty International has long called for Article 216 of the Turkish Penal Code to be amended and be brought in line with international law, by repealing paragraphs 2 and 3 which exceed the permissible restrictions on the right to freedom of expression.

Please write immediately in Turkish or your own language:

- Calling on the Turkish authorities to immediately and unconditionally release Barbaros Şansal from pre-trial detention and drop the charges against him;
- Urging them to start a criminal investigation into the assault on Barbaros Şansal and bring all those found to be responsible to justice;
- Calling on them to repeal paragraphs 2 and 3 of Article 216 of the penal code.

PLEASE SEND APPEALS BEFORE 17 FEBRUARY 2017 TO:

Minister of Justice

Mr. Bekir Bozdağ

Ministry of Justice

Adalet Bakanlığı, 06659 Ankara, Turkey

Fax: +90 (0312) 419 33 70

Email: ozelkalem@adalet.gov.tr

Salutation: **Dear Minister**

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

In response to questioning by prosecutors, Barbaros Şansal said: the reference to 'Turkey drowning in its shit' is a humorous comment I made two years ago during an interview. I made the same joke from time to time in my short videos I share on social media.'

Barbaros Şansal was also asked about two tweets. The first following the armed attack on the Istanbul nightclub Reina on New Year's Eve, during which 39 people were killed and 65 injured, read: 'The owner is Jewish, the complainant is Sunni, the manager is Alevi... Santa Claus? F... O..' He said he had shared this tweet, stating 'what I was trying to say was that what happened was not a clash between religions or different faiths.'

In the record of the interrogation, Barbaros Şansal states that the second tweet he was questioned about, 'Sunni Muslims in Santa costumes shot at people in Istanbul because the manager and the workers were Alevi' was not sent by him. The time and location on the tweet indicates it was sent from Turkey, not from the territory of northern Cyprus where Barbaros Şansal.

Since the 15 July coup attempt, a government crackdown on the rights to freedom of expression and association has seen hundreds of people including journalists, human rights defenders, activists and others imprisoned as a result of widespread and routine use of lengthy pre-trial detention, based on weak or non-existent evidence of internationally recognizable criminal acts. The state of emergency declared on 20 July 2016 was extended for the second time for a further three months on 4 January 2017. The executive decrees issued under the state of emergency limited detainees' access to their lawyers and increased the period of pre-charge detention from four to 30 days.

Article 216 of the Turkish Penal Code reads as follows: (1) A person who openly incites groups of the population to breed enmity or hatred towards one another based on social class, race, religion, sect or regional difference in a manner which might constitute a clear and imminent danger to public order shall be sentenced to imprisonment for a term of one to three years. (2) A person who openly denigrates section of the population on grounds of social class, race, religion, sect, gender or regional differences shall be sentenced to imprisonment for a term of six months to one year. (3) A person who openly denigrates the religious values of a section of the population shall be sentenced to imprisonment for a term of six months to one year in case the act is likely to distort public peace.

Name: Barbaros Şansal
Gender m/f: m

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