

URGENT ACTION

DROP CHARGES AGAINST ACTIVIST AND PROTECT HIM

The prosecution of fashion designer and LGBTI activist **Barbaros Şansal** for exercising his right to freedom of expression continues. The next hearing will take place on 1 June. In the meantime, a travel ban prevents him from carrying out his professional activities and the authorities are failing to provide him with protection from attacks.

The next hearing in the prosecution against fashion designer and LGBTI activist **Barbaros Şansal** will take place on 1 June. He is being prosecuted under Article 216 of the penal code which criminalizes "inciting the public to hatred or hostility" for a video message and tweet that he shared on social media on 31 December 2016 (New Year's Eve).

On 1 March, a court ruled to conditionally release Barbaros Şansal, banning him from foreign travel. He had been in pre-trial detention since 3 January. Upon release, Barbaros Şansal thanked Amnesty International's supporters and declared, "We need more freedom not less. I am in good spirits despite the horrendous experience I lived through of being deported from the Territory of Northern Cyprus, being physically attacked and injured on the tarmac of the airport. I have seen repression before, like during the period following the military coup in 1980. I believe this period will also pass. We will see better days."

On 3 March, Barbaros Şansal filed a request to the Governorship of Istanbul to be given protection as he has been receiving threatening messages and has reason to fear further physical attacks, to the point he is afraid of leaving his home. To date he has not received a response to his request for protection.

Both the video message and tweet Barbaros Şansal admits to sharing on social media are protected under the right to freedom of expression, and should not be subject to criminal prosecution. During the first hearing on 16 March Barbaros Şansal pleaded not guilty and protested the travel ban, which essentially prevents him from carrying out his work. The judge ruled to maintain the travel ban. On 17 March, Barbaros Şansal's lawyer further objected to the ruling but as of 5 April, the court had not yet made a decision.

Please write immediately in Turkish or your own language:

- Calling on the Minister of Justice to drop the charges against Barbaros Şansal and lift the travel ban;
- Urging the Governor of Istanbul to ensure Barbaros Şansal is provided with immediate and effective protection in accordance to his wishes;
- Urging the Minister of Justice to start a criminal investigation into the assault on Barbaros Şansal and the threats he continues to receive and bring all those found to be responsible to justice.

PLEASE SEND APPEALS BEFORE 18 MAY 2017 TO:

Istanbul Governor

Mr Vasip Şahin
Istanbul Governorship
İstanbul Valiliği
Ankara Caddesi
34110 Cağaloğlu-Fatih/İstanbul
Fax: +90 212 512 20 86

Salutation: Dear Governor

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. This is the second update of UA 2/17. Further information:

<https://www.amnesty.org/en/documents/eur44/5648/2017/en/>

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ADDITIONAL INFORMATION

On New Year's Eve, 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. 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.

During 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 was.

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.

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.

Amnesty International has long called for Article 216 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.

Name: Barbaros Şansal

Gender m/f: m

Further information on UA: 2/17 Index: EUR 44/5969/2017 Issue Date: 5 April 2017