

# AMNESTY INTERNATIONAL

## PUBLIC STATEMENT

AI Index: EUR 44/005/2013  
22 February 2013

### **Turkey: Time to deliver genuine human rights reform**

Amnesty International welcomes recent government statements indicating that it intends to bring a legislative reform package before the Parliament aimed at bringing criminal prosecutions in line with international human rights standards and the case law of the European Court of Human Rights.

The reform package, known as the “Fourth Judicial Package” is the latest in a series of reforms brought by the government. It follows the “Third Judicial Package” adopted in Parliament in July 2012 which amended or abolished several laws frequently applied in violation of the right to freedom of expression amongst other changes.

However, the reform package passed in 2012 did not represent the fundamental reform required to end widespread human rights violations within the judicial system, in particular, in relation to the rights to freedom of expression and assembly.

The Turkish government must use the opportunity of this “Fourth Judicial Package” to push through the fundamental reforms, it has to date been stalling on.

While the proposed amendments have not been made public, information obtained by Amnesty International indicates that the bill will contain a number of important reforms, including lifting the statute of limitations for the crime of torture. This amendment, which Amnesty International has long called for, would represent a significant step forward in the battle to combat impunity for torture committed by public officials.

Other reports regarding the latest text of the reform package suggest that it will be less ambitious than it should be. Early indications are that the previously mooted legislative changes to recognize the right to conscientious objection to compulsory military service, will not be brought forward. The failure to recognise the right to conscientious objection would represent a clear contradiction of the government’s stated aim of ending human rights violations in the judicial system. It will also result in yet more European Court of Human Rights judgments finding Turkey’s refusal to recognise the right to be a violation of the right to freedom of religion and conscience (Article 9 of the European Convention on Human Rights).

Amnesty International calls on the Turkish government to take the following steps to bring its legislation in line with international human rights standards on the right to freedom of expression:

#### **Abolish unfair laws which directly limit legitimate free expression**

The following Articles pursue no legitimate aim not catered for in other Penal Code articles or civil law provisions, are regularly applied in violation of the right to freedom of expression and should be abolished: Article 301 of the Penal Code “Denigration of the Turkish Nation”, Article 318 “Alienating the public from military service”, Article 215 “Praising a crime or a criminal”, Article 125 “Defamation”.

Article 216 of the Penal Code “Incitement to hatred or hostility” is broadly defined and far wider than the permissible limitations to the right to freedom of expression found in international law. In practice it has been used to prosecute criticism of dominant beliefs and power structures. It should be amended so that it is only used to prosecute advocacy of

hatred amounting to violence or discrimination in line with requirements found within international human rights standards.

### **End the widespread abuses in anti-terrorism prosecutions**

Amnesty International understands that the proposals will include amendments to Article 6/2 “Publishing declarations of a terrorist organization” and Article 7/2 of the Anti-Terrorism Law “Making propaganda for a terrorist organization” to ensure that only the overt promotion of violent acts and methods are prosecuted. These amendments should prevent the many prosecutions currently brought under these articles that violate international standards on the freedom of expression.

Amendments to these articles alone would not suffice to eliminate the widespread potential for – and practice of – abusive prosecutions under existing anti-terrorism legislation.

Most fundamentally, the government must amend the vague and overly broad definition of terrorism in Turkish law, to bring it into line with international standards regarding legal clarity and legal certainty.

The government must also amend provisions criminalising membership of a terrorist organization, under Article 314 of the Penal Code, and related provisions within Article 220 of the Penal Code that enable the sentencing of individuals “as though they were members” to ensure that only persons found to have committed a recognisably criminal offence can be convicted under these articles. Currently such prosecutions are brought – and convictions secured – under these articles solely on the basis of people’s writings, association with certain recognised political groups or participation in peaceful demonstrations in violation of the rights to freedom of expression, association and assembly.

Amnesty International encourages the Turkish government to consult widely with civil society prior to the presentation of draft legislation, and the Turkish Parliament to ensure that is effectively scrutinizes legislation brought before it to ensure its compliance with international human rights law.

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