



Joint Stakeholder Submission to the UPR of Türkiye presented by P24 and Freemuse

For consideration at the 49th Session of the Human Rights Council Periodic Review (April/May 2025)

1. P24 through the nationwide network of SUSMA and in cooperation with Freemuse, based on both organisations' ongoing work of documenting violations of freedom of expression and working with a wide variety of stakeholders advocating for artistic and cultural freedom, welcomes the opportunity to contribute to the Fourth Cycle of the Universal Periodic Review (UPR) process of Türkiye to be held at its 49th Session in April-May 2025. Our organisations' focus is on Türkiye's compliance to its commitments under international human rights instruments relating to freedom of expression, creativity and the arts, as well as guarantees under its own Constitution, and to recommendations accepted by Türkiye during the first (2010) and second (2015) and third (2020) cycle of the UPR.
2. This submission focuses on:
 - a. The right to freedom of expression in Türkiye, specifically the right to freedom of artistic expression
 - b. The right to assembly, the right to artistic and cultural expression and the presentation of such expression, including that of LGBTQ+ groups and individuals

Third cycle recommendations

3. The third cycle of the UN Universal Periodic Review (UPR) of Türkiye was held at the UPR's 44th session on 28 January 2020. Türkiye considered 302 of the 321 recommendations made by member states.¹
4. Pertinent to the remits of the organisations presenting this joint submission, 43 recommendations related to the protection of freedom of expression and the media², two of which highlighted freedom of artistic expression³. Of these, 20 were supported. These called for general protection of freedom of expression for journalists, human rights defenders and artists, and for them to be able to practice this right without fear of attack or reprisal.
5. The main reason given for the non-support of 23 recommendations relating to freedom of expression is the Turkish government's assertion that the legislation proposed for amendment was already in line with international standards.

Legislative protections of artistic freedoms in Türkiye

6. Türkiye ratified the International Covenant on Civil and Political Rights (ICCPR) in September 2003 and is thus obligated to ensure the rights enshrined within the Covenant. In this submission, we draw attention to Türkiye's lack of compliance under specific articles under the ICCPR related to the right to freedom of arts and creativity: Article 19 (freedom of expression), Article 21 (peaceful assembly) and Article 27 (linguistic and cultural rights).⁴
7. In addition, Türkiye has ratified the UN International Covenant on Civil, Economic and Cultural Rights and the European Convention on Human Rights which also contain articles protecting freedom of expression.
8. Furthermore, the Constitution of Türkiye contains a number of articles that specifically protect these same rights, notably: Article 25 (freedom of thought and opinion), Article 26 (freedom of expression and dissemination of thought), Article 27 (freedom of science and the arts), Article 34 (right to assembly and peaceful demonstrations) and Article 64 (protection of arts and artists).⁵

Implementation of recommendations – 2019 - 2024

9. Since 2019, the government of Türkiye has not abided by its commitments to the 20 recommendations relating to freedom of expression, and the country has instead seen a further deterioration in the protection of fundamental freedoms. This trend continues to be driven by codification of the State of Emergency (SoE) legislations that followed the July 2016 coup attempt (the SoE was lifted in July 2018). The most significant expression of these legislative changes has been the extension and deepening of discretionary powers on the level of the district governorships and governorships. Together with the trustees that have been appointed to the municipalities of Kurdish cities up until the last local elections in March 2024, non-elected officials have come to the fore in restricting freedom of the arts. The same is true for the trustee rectors that have been appointed to universities throughout Türkiye, increasingly replacing the self-governance models that universities customarily had.

Censorship of the Arts – 2019-2024

10. In its 2012 report, the Istanbul-based arts censorship monitor, Siyah Bant⁶ has conceptualised censorship not just as the banning of artistic expression through legal means but also through such processes as de-legitimization, threats, pressure, targeting and hate speech directed at artists and arts institutions that foreclose or delimit the presentation and circulation of artworks. Among the actors that play a part in suppressing creative rights throughout Türkiye are state institutions, political groups and parties, individuals who act as proxies of the state, neighbourhood organisations, as well as those more closely related to the art world, such as arts and cultural organisations, curators, funding agencies and sponsors.
11. In reports on artistic freedom made to the previous UPR process, outright government bans constituted only a fraction of censoring mechanisms. This situation has changed considerably, firstly following the national elections of 2015, and precipitating after the failed coup attempt of July 15, 2016. Instead of strengthening the rights mechanisms recommended to and supported by the government of Türkiye during the 2nd and 3rd Cycles of the UPR, the Turkish government has extended the application of counter-terror measures, and with it surveillance and persecution, to the wider public, civil society, the arts and cultural fields, thus increasingly equating

any kind of critique, including that through creative expression, with terrorist propaganda and terrorist actions. This shift was in part aided by the SoE declared on 20 July 2016. While the SoE was lifted on 18 July 2018, it is important to note that Law no. 7145 de facto turned emergency decrees into law, normalising powers applied under the SoE that fall foul of Türkiye's commitments under the ICCPR and other treaties and making otherwise temporary emergency legislation permanent.⁷ This has been especially effective in curtailing artistic expression. The continuity of these practices since the 3rd Cycle have expressed themselves in growing insecurities and fears of state prosecution on the part of artists, leading to a rise in self-censorship.⁸ The narrowing of the public sphere has not only impacted social movements, civil society organisations, and human rights advocacy, but has also affected the art world which has experienced a substantial wave of emigration.⁹ Along with deepening restrictions on freedom of expression, economic hardship is frequently cited by artists who endeavour to move abroad. The economic downturn caused by the pandemic was used by the government to further divest from the field of arts and culture, not just in monetary terms and infrastructural support, which remains low, but also with regard to arts spaces. Musicians have been especially hard-hit by the pandemic. Together with rapid inflation artists' livelihoods have been made even more precarious than they had already been. Basic economic security is vital for artistic freedom, and the kind of risk-taking that lies at the heart of artistic creativity and practice.¹⁰

12. Just as in the last reporting period, strengthening the discretionary powers of the police and district and local governors, Law no. 7145 has increased the arbitrariness of censorship, with many arts and cultural events continuing to be cancelled by drawing on these provisions ostensibly to "maintain the public order" or for "security reasons". These also include long detention periods and the extension of online surveillance, both of which continue to have an immense chilling effect, leading to the aforementioned rise in self-censorship. In addition, they have created a social climate rife for anonymous complaints and denunciation. Overall, the arbitrariness and vagueness of procedures to limit artistic freedom has deepened. This becomes evident in the erosion of accountability structures, for instance when arts events are banned, they often are not handed legal notices, nor are they allowed to take notes or document them via photographs but only inspect them on the spot. Potential appeals are regularly held up within the already overstretched courts. Several of the

examples listed in this report document how artists are confined to elongated legal procedures with uncertain outcomes. As detailed below, Kurdish artists and cultural expression continue to be most gravely impacted by these censoring practices.

13. The Kurdish version of Italian playwright Dario Fo's *Trumpets and Raspberries* (*Bêrû: Klakson Borizan Birt*) provides a case in point. Directed by Nazmi Karaman the play was performed over 100 times, including in Kurdish districts, where the scripts of theatre plays are still subject to inspection by local security forces before they are allowed to be performed before audiences. On October 13, 2020, however the Gaziosmanpaşa district governorship banned the play on the basis that it “may disturb the public order.” In addition, the Istanbul Governorship announced that it would pursue legal proceedings against the actors as the play purportedly contained “The Kurdistan Workers' Party (PKK) propaganda”. While an open-ended ban of the play was found to be in contravention of the Turkish constitution by the Istanbul Regional Administrative Court in June 2022, the investigation file against the actors remains “open”, i.e. is with the Prosecutor's Office. It remains unclear if a prosecution will be pursued. The practice of leaving investigation files open engenders great insecurities for artists and impacts their creative practice as do multiple prosecutions. An open-ended ban on the play imposed in November 2020 in Şanlıurfa on the grounds that it endangered “national unity and integrity” was found in contravention of the Turkish constitution by the Gaziantep Regional Administrative in April 2024. While the outcome of the proceedings is to be welcomed the sheer length of legal procedures puts a great burden on the creators and contributes to self-censorship.
14. Philanthropist and founder of the culture and arts organisation Anadolu Kültür, Osman Kavala, has been sentenced to aggravated life imprisonment for the crime of attempting to overthrow the government of Türkiye or preventing the government of Türkiye from performing its duty on April 25, 2022. The verdict was upheld on September 28, 2023. He and thirteen others from the field of culture and civil society have faced a myriad of charges, since 2017¹¹ including attempting to “overthrow the government” by way of the Gezi protests in 2013.¹² Kavala's arrest, long pretrial detention, and conviction, which entails the harshest prison conditions in place in Türkiye with minimum communication with the outside world have sent shockwaves through the arts and culture scene in Türkiye, and his detention has been widely

condemned internationally as unlawful.¹³ His detention impacts anyone, who has been working on “emphasizing cultural diversity and cultural rights, supporting local initiatives and strengthening regional and international collaborations; and [...] projects that establish dialogue with Armenia and create spaces for the Kurdish language and culture”.¹⁴

15. Due to the sheer volume of violations of the legally guaranteed freedom of the arts, only cases exemplifying the most common (but by no means all) mechanisms of censorship could be included in this report.

Laws applied in contravention of international instruments protecting freedom of expression and creativity as well as Constitutional guarantees

16. There are numerous laws that continue to be applied against artists and creative works in a manner which breach the rights to freedom of expression, freedom of association and other guarantees under the ICCPR and the Constitution of Türkiye. It is the ambiguous character of these laws that allows for arbitrary, subjective decisions and actions, in addition to the extended discretionary powers of state institutions and officials.

Anti-Terror Law – TMK (1991 Law no. 3713)

17. Türkiye’s Anti-Terror Law (TMK) has been subject to acute criticism in previous UPR cycles for its overly broad definition of what comprises an offence under this law and has brought to prosecution numerous artists and writers accused of disseminating terrorist propaganda, or membership of a terrorist organisation with little or no evidence of links to terrorism. Changes were made in 2013 to article 7/2 of the Anti-Terror Law that regulates “propaganda in favour of terrorist organisations” to define actions or speech that praise or legitimise the “force, violence, and threats” employed by terrorist organisations as such offences. While the government, when introducing the change of law in Parliament argued that it would bring the TMK to the standards required by the European Court of Human Rights, in practice the law has served to further criminalise all kinds of political and artistic expressions by claiming that they are congruent with those of terrorist organisations.

18. In the Kurdish regions of Türkiye, freedom of expression and assembly are disproportionately affected by anti-terror legislation. In practice this has meant that any cultural (e.g. language) and artistic expression within the Kurdish rights movement can be construed as illegitimate “separatist propaganda” and hence outside the parameters of protection of freedom of expression and the arts. While the last reporting cycle has witnessed quite a number of cases where the prosecution was eventually dropped, or ended in acquittals, the chilling effect remains palpable. In conjuncture with the immense monetary and emotional costs for often already precarious artists this practice amounts to legal harassment, especially when considering that violations against anti-terror laws and punishment with prison sentences of between one to five years are augmented if they are conducted by way of the media or the press. Kurdish musicians and culture and music festivals continue to be targeted under the anti-terror legislation, and in the summer of 2024 the persecution of Kurdish music was extended to weddings and other social gatherings with as of yet unknown legal outcomes.¹⁵

19. On March 14, 2023, Istanbul’s 7th Magistrate’s Court issued a recall of Yavuz Ekinci’s *Rüyası Bölünenler (Those Whose Dream is Interrupted)*, along with a ban on the publication and distribution of the novel.¹⁶ Ekinci has appealed the decision awaiting news from the Constitutional Court of Türkiye. In addition, Ekinci has been indicted for “disseminating propaganda on behalf of a terrorist organisation” based on the experiences and utterances of the novel’s characters, providing an example how the legal system does not distinguish between political speech and artistic expression, in this case literary fiction. The first hearing was held on September 18, 2024.¹⁷ There are several notable issues regarding the case – apart from it being a work of fiction, the novel was already published in 2014 and since then it has been translated into several languages. The indictment, however, sets the date of the purported crime as February 8, 2023, the date of the notification to CIMER (the Presidency’s Communication Center) based on an anonymous complaint. Ekinci already has incurred another prison sentence of one year and six months and 22 days in March 2022 (due to eight social media posts in 2013 and 2014 calling for solidarity with the victims of the 2014 attacks in Kobane, Syria and regarding Newroz (Kurdish New Year) celebrations in Diyarbakır). He could have chosen a deferred sentence but found it unacceptable to do so as it would indicate an acceptance of the charges

against him. The multiplicity of charges places him in a judicial limbo and suggests that some artists are explicitly targeted because of their high public profiles, and to serve as a warning to others.

20. The continued pressure on Kurdish publishing, freedom of expression, and equal citizenship rights is exemplified by the publishing houses Avesta and Aram (both are located in Diyarbakır and publish in Turkish and Kurdish) that continue to face legal challenges. Among them are the banning and confiscation of Gayle Tzemach Lemmon's *The Girls of Kobane* (Avesta) upon the order of the İzmir 4th Criminal Court of Peace (September 2024). The police confiscated the book *Introduction to Jineology* at the Aram Publishing House booth at the *Munzur Culture and Nature Festival* in July 2024. Four other titles had already been confiscated during police raids in Diyarbakır in April 2024. In all cases the accusations referred to “disseminating terrorist propaganda” (TMK 7/2) and “inciting hate and animosity” (Turkish Penal Code 216).
21. Photographer and poet, Mehmet Özer is currently appealing a sentence of one year and three months which was handed to him under TMK7/2 for posting photographs he had taken of the exhibition of the *September 12 Museum of Shame* in 2021 that featured grave human rights violations perpetrated by the Turkish military junta following the 1980 coup d'état. Also included in the indictment were photographs of demonstrations of various rights groups and events commemorating different episodes of state violence in Turkish history. Özer sees himself as a witness who documenting the country's unofficial history ranging from attitudes towards women, LGBTQ+ individuals, children, laborers, workers and other marginalised peoples.¹⁸ Özer's example shows that the government is not only intervening on artistic commentary on the current affairs but is also regulating the boundaries of what can be said about Türkiye's past.
22. Film makers Çayan Demirel and Ertuğrul Mavioğlu have been on trial for “disseminating propaganda in favour of a terrorist organisation” under Article 7/2 for directing the documentary, *Bakur*. Shot in the summer and fall of 2013, the feature length documentary shows the daily life of PKK members during their withdrawal as peace talks between the Turkish government and the PKK were held to end a 40-year conflict. At the time a ceasefire was in place. *Bakur* marked the first

time in the history of Türkiye that a film has been on trial. After being locked into a multiyear legal battle, the Appeals Court upheld the two year and one-month prison sentences given to Ertuğrul Mavioğlu and Çayan Demirel. Currently, the file is under review at the Chief Public Prosecutor's Office of the Court of Cassation. If the verdict is upheld by the Court of Cassation, Çayan Demirel, who is severely disabled and in need of constant care, will go to prison.

23. The Diyarbakır 8th Assize Court handed down a three years and nine months prison sentence to Kurdish singer Azad Bedran on the grounds of “disseminating propaganda in favour of a terrorist organisation” based on a music video he shot for his song *Partizan* in June 2020. The song had been released in 2016, and – as required by law – had been registered with the national copyright office, and hence received permission to be disseminated. Also included in the indictment were other folk songs he performed during his concerts, and social media posts.¹⁹ In this example censorship not only delimits which expressions are tolerated and are allowed to be circulated without restriction, it also forecloses artistic expressions making them – and their producers – invisible.

Law on Meetings and Demonstrations (1982 Law no. 2911) in conjuncture with arts and culture events and assemblies curtailed by discretionary powers, including on university grounds

24. The right to peaceably hold meetings and demonstrations is protected under Article 34 of the Turkish constitution.²⁰ However Law No. 2911 on Meetings and Demonstrations has been used to prohibit artistic events and festivals and prosecute those who participate, especially in conjunction with the Provincial Administration Law No. 5442 that allows for broad discretionary powers by governors and district governors. Most commonly, the reasons for banning arts events have relied on citing vague threats to the “public order” or “security reasons”, despite the fact that state agencies are obligated to create a safe environment for the public.
25. These bans have consistently targeted LGBTQ+ cultural events and assemblies. Pride Marches and Trans-Pride Marches have been consistently banned throughout Türkiye since 2015 on the grounds that LGBTQ+ assemblies are “socially questionable”, and by citing vague provisions such as “public morals”, “public health”, and “security” creating a generalised suspicion and criminalization of

LGBTQ+ individuals and groups. This criminalization was also reflected in the most recent ban of the 2024 Istanbul Pride March where the Governorship banned the event by declaring that the organising committee of the march consisted of “various illegal groups.”²¹

26. This logic was applied as a pretext for banning the screening of the documentary *Resist, Oops* planned by the University Feminist Collective in Istanbul as part of Pride Month activities on June 6, 2023, by the Şişli District Governorate on the grounds that “the activity in question, if carried out, would provoke outrage in the society, touch national, conscientious and humanitarian values, and threaten social peace”. Similarly, a screening of the movie *Pride* organised by the Science, Aesthetics, Culture and Art Research Foundation (BEKSAV) in June 2023 was raided by the police. Some audience members were detained and eight people were charged with violating Law No. 2911.
27. Protesting the appointment of a trustee rector to Boğaziçi University by President Erdoğan, students started an exhibition project collecting 400 artworks from Türkiye and around the world to be shown on the university’s campus. One of these artworks showed the Kaaba (a shrine located in Mecca) together with the LGBTQ+ flag and the mythical figure (half-woman, half-snake) of Shahmeran. The Boğaziçi University Islamic Studies Club (BİSAK) reacted to the painting on its Twitter account and some news organisations close to the government shared a video about the exhibition and targeted it. Among those actively targeting the exhibition through social media were state officials such as the Head of Religious Affairs and the Minister of Interior. The Istanbul Chief Public Prosecutor's Office launched an investigation into the artwork on the grounds that it “publicly denigrated the religious values espoused by a section of the public” and five students from the organising team of the exhibition team were detained on January 29, 2021. The Istanbul Governor's Office released a statement noting that Boğaziçi University Fine Arts Club and Boğaziçi University LGBTI+ Studies Club were also raided and that “LGBTI flags and various posters and banners used in protests were seized” from Boğaziçi University LGBTI+ Studies Club. Shortly after, the Boğaziçi University LGBTI+ Studies Club was disbanded on the orders of the rector. The first trial of the case against seven students involved in the protest on the charge of “inciting the public to hatred and hostility” (216/2), with a jail term of one to three years each,

was held on March 17, 2021. At the 12th trial hearing held on September 27, 2024, the prosecutor's office requested that the students should be sentenced for “insulting religious values”. However, the defendants continue to be tried on the charge of “inciting the public to hatred and hostility”. The next hearing is scheduled for February 21, 2025.

28. The exhibition *Dön-Dün-Bak: The History of the Trans Movement in Türkiye* was banned on July 12, 2024, by the Beyoğlu District Governorship, Istanbul. Taking place at the Depo gallery, the exhibition displayed materials on the trans struggle since the 1980s. The police enforced the closure of the exhibition on grounds that it “incited the public hatred and hostility” and constituted a “provocation.” The closure also entailed the request for an immediate removal of exhibition materials from the arts centre’s grounds, as well as the removal of all promotional and informational content related to the exhibition on Depo’s social media accounts and website. The legal notice ordering the closure was not delivered to the staff, nor were they allowed to photograph it. It further stated that Depo was forbidden from making a press statement on the closure.
29. The first exhibition *Starting from the Middle* staged by the Artistanbul Feshane, an arts and cultural center that was inaugurated by the Istanbul Metropolitan Municipality on June 23, 2023, was the subject of protests by groups that targeted LGBTQ+ artists and their work included in the show. It was reported in the press that the Istanbul Chief Public Prosecutor's Office opened an investigation against the exhibition on the charge of “public incitement to hatred and hostility” and being “insulting” (Article 216) in September 2023. The proceedings are ongoing, and the outcome of the investigation is as of yet unclear. However, it has placed an already vulnerable population even more at risk. The investigation is not only sanctioning hate-speech against the LGBTQ+ community but also equates artistic production of queer artists with offences against public order thereby also creating the grounds for legal harassment.
30. Most of these cases refer to Article 216 of the Turkish Penal Code “Provoking the Public to Hatred, Hostility or Degrading.”²² While these provisions are often presented to curtail discrimination, they are used to penalise writers and artists who take positions not sanctioned by the government. Cases under this law are also

frequently brought ex officio, after arts events are targeted by the press, for instance. Although these trials rarely result in imprisonment, they are long-winded and time consuming, causing psychological and other distress to the targeted individuals and thus amount to legal harassment. The publicity that also surrounds these trials also tends to expose the individuals to threats from the public on- and offline.

Insulting the President (Article 299) and Defamation (Article 125)

31. Although there is a seeming drop in cases investigated and tried under Article 299 (at its height in 2017 20,539 investigations and 6,033 criminal cases were opened under this charge).²³ In its 2016 report, the Venice Commission clarifies that “although ‘insult’ is not defined in Article 299, the definition provided in the general provision on ‘insult’ in Article 125 [...] is used when applying Article 299.”²⁴ According to Article 125, insult is the attribution “of an act, or fact, to a person in a manner that may impugn that person’s honour, dignity or prestige, or attacks someone’s honour, dignity or prestige by swearing”. Defamation is sanctioned under both civil and criminal law in Türkiye, with Penal Code Article 125 penalising cases of defamation against a “public officer”, carrying a prison term of up to two years. It is universally accepted that public officials should expect to be subject to open scrutiny and should not seek to suppress criticism by resorting to criminal defamation laws and that a distinction should be made between criticism and defamation/insult.²⁵
32. In January 2024, artist Berkay Kahvecioğlu was sentenced to one year and two months in prison for insulting the President based on an image of President Erdoğan along with the designation “slut” in the form of a fictitious album cover. Erdoğan had used the term widely to describe those participating in the Gezi protests in 2013.²⁶ Notably the criminal complaint lodged by four women against the President’s usage of the term “slut” along with other insults targeting the Gezi protestors was dismissed in November 2022 by the Bartın Chief Public Prosecutor's Office who decided that there was “no ground for investigation”. Kahvecioğlu’s prison sentence was deferred. The deferment of prison sentences relies on the provision of not committing the same “crime” within the next five years.²⁷ This example shows how applications of the current prison sentence deferment procedures impede greatly on artists pursuing their artistic practice and production.

Protection and Access to Cultural Heritage

33. The devastating earthquake that hit southern and central Türkiye and Syria on February 6, 2023, has brought questions of cultural heritage and access to cultural heritage, especially with regard to the heritage of non-Muslims and other minoritised populations, once again to the fore. The preservation of and access to cultural heritage is a vital source of artistic creativity, self-reflection, for the democratisation of society and the cultivation of diversity. At the centre of the destruction was the city of Antakya, an important city for different Christian communities both historically and – until the earthquake – in the present. As the Chamber of Architects and the Chamber of City Planners have frequently noted the demolition following the earthquake to make way for reconstruction failed to preserve the heritage of minoritized communities. The reconstruction efforts have been used for large-scale expropriation of the inhabitants' property, especially of the historic city center, leaving doubts about whether they will be able to return, or if and how churches, and other religious and cultural sites will be reconstructed. The already dwindling minoritized communities are not being heard in the reconstruction plans, threatening to make the loss of this important part of Türkiye's heritage permanent.

Other Censorship Modalities Applied by the State in Collaboration with Non-State Actors

34. The state frequently opens investigations into events or art works on grounds of anti-terror or defamation citing “societal sensitivities” that are not codified by law. Yet, conversely, the state also follows the policy of impunity for non-state actors who attack artists and creative work, showing great reluctance to investigate or prosecute non-state actors who carry out such attacks. This has been especially the case for LGBTQ+ arts and cultural events. In the above-detailed case, the *Starting from the Middle* exhibition at Feshane was protested by the ultranationalist organisation Yesevi Alperenler, alongside prominent Islamist figures. The protest and press conferences by these groups induced fear within the LGBTQ+ community, including for their physical safety. In the case of the above mentioned Trans-Pride exhibition at Depo gallery, it seems that Governorship was tipped off anonymously, pointing to a culture of denunciation in Türkiye.

35. On September 7, 2022, the Eskişehir Provincial Directorate of Culture and Tourism launched an investigation into the exhibition *Yas ve Haz (Mourning and Pleasure)*,

which opened at the Odunpazarı Modern Museum (OMM) in Eskişehir, northwest Türkiye, after it was targeted with anti-LGBTQ+ hate speech on social media.

Among the many allegations made against the exhibition was that it “corrupted” children and youth. The exhibition, which was due to end on July 30, was closed on July 18, with no explanation by the museum.

36. Nejla Demirci’s documentary *Kanun Hükmü* (The Decree, 2023), telling the story of a doctor and a teacher who were dismissed from their jobs with by decree (these decrees have been widely employed since the attempted coup in 2016), was removed from the National Documentary Competition Selection of the 60th Antalya Golden Orange Film Festival, in October, 2023. The reason for the removal that “the judicial process regarding a person in the film is ongoing” and that a screening of the documentary would affect the impartiality of the judiciary”. However, the offense of attempting to influence a fair trial applies to verbal or written statements made with the specific intent to influence prosecutors, judges, courts, experts, or witnesses. The removal of the documentary from the competition without any legal proceedings presents a violation of the constitutionally guaranteed freedom of the arts and creates an atmosphere of self-censorship, beyond the immediate actions of the state.

State funding as a tool of economic censorship and delegitimizing artistic expression

37. In December 2022, screenwriter and director of the award-winning and internationally acclaimed *Burning Days* (2022), Emin Alper announced that the General Directorate of Cinema of the Ministry of Culture and Tourism ordered him to repay the financial support he had received for the film, with interest. The film had been targeted by pro-government media outlets such as *Yeni Akit*, *Sabah* and *Aydınlık* as “LGBT propaganda” financed by the government, creating a dangerous precedent for the future of our cinema.” Independent cinema relies largely on government funding in Türkiye. The economic penalties against the film that had premiered at the Cannes Film Festival and has garnered numerous national and international awards has a substantial chilling effect on the entirety of the film community and the arts setting in Türkiye.

RECOMMENDATIONS

38. a) A multitude of legislation is applied in Türkiye that either directly targets freedom of expression, or in its applications suppresses this right as protected under Article 19 of the ICCPR, as well as under the Turkish Constitution. The following recommendations address some of these infractions of human rights protections as they relate to the practice of the right to freedom of expression by artists and cultural practitioners.
 - b) Review legislation introduced in July 2018 under Law No. 7145 that normalises within law decrees enforced during the 2016-2018 State of Emergency and that are incompatible with Türkiye's commitments under the ICCPR.
39. Recognise that the definition of "terrorism" in the application of anti-terror laws is ambiguous. The notions such as "terror", "terrorist organisation", "membership of a terrorist organisation", and "disseminating propaganda on behalf terrorist organisation" remain ambiguous and should be clarified by law.
40. Acknowledge that anti-terror legislation should not be applied against artistic and creative works that clearly have no connection with nor propagate violence. Public officials should desist from issuing statements which ally artists with terrorism, and hence turn artists into targets for harassment, intimidation, and attack.
41. Review and repeal the Anti-terror Law to bring it in line with the Turkish Constitution and Article 19 of the International Covenant on Civil and Political Rights.
42. Take serious steps to abolish discretionary powers by non-elected officials who regularly rely on Laws no. 2911 and Provincial Administration Law No. 5442 to curtail peaceful meetings and arts events as guaranteed under the Turkish Constitution and international agreements.
43. Revoke Penal Code Article 216 "Provoking the Public to Hatred, Hostility or Degrading" which is predominantly used to curtail artistic freedom notably against minoritized populations.

44. Remove criminal defamation and insult from the statute books by abolishing Articles 125 and 299. In the meantime, restrict public officials and authorities, and the President from initiating defamation cases before criminal and civil courts.
 45. Penal Code Article 215 ('praising a criminal') should not be applied in a manner that leads to the prosecution of those practising their rights to artistic freedom of expression.
 46. Protect artists and creative workers as well as audiences engaged in artistic activities against threat and violence. No person issuing or carrying out such threats should be granted impunity to do so.
-
-

¹ Human Rights Council 44th Session, Report of the Working Group on the Universal Periodic Review: Türkiye – Addendum 24 June 2020 A/HRC.44/14/add.1.

² See Appendix 1.

³ Ibid. Recommendations 45.97 (Canada) and 45.157 I(Norway).

⁴ <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁵ https://global.tbmm.gov.tr/docs/constitution_en.pdf

⁶ Asena Günal (ed.), “Sanatta Sansür: Farklı Aktörler ve Mekanizmalar,” Siyah Bant Yayınları, 2012; http://www.siyahbant.org/wpcontent/uploads/2012/09/siyahbant_kitap_final_web.pdf

⁷ For a summary of this assessment supported by the Human Rights Association (IHD) and Human Rights Foundation of Türkiye (TIHV) see <https://bianet.org/english/humanrights/203384-state-of-emergency-made-permanent>

⁸ For SUSMA’s research on perceptions and experiences of self-censorship in Türkiye, see <https://susma24.com/en/index.php/publications/>

⁹ Number of emigrants increased by 53% compared to the previous year and reached 714 thousand 579 people in 2023, <https://data.tuik.gov.tr/Bulten/Index?p=InternationalMigration-Statistics-2023-53544&dil=2#:~:text=714%20thousand%20579%20people%20emigrated,males%2C%2044.8%25%20were%20females>

¹⁰ https://ifacca.org/media/filer_public/05/c1/05c119f8-5d9a-4886-88e1f50fb6f6e694/9th_world_summit_report_2023_eng_july_2023_high_res.pdf

¹¹ On April 25, 2022, 18-year-prison sentences and arrest orders were also issued against ex- and current members of Anadolu Kültür’s Executive Board Yiğit Ali Ekmekçi, Ali Hakan Altınay, and Mine Özerden; Anadolu Kültür’s advisor Çiğdem Mater, and Mücella Yapıcı, Tayfun Kahraman and Can Atalay from Taksim Solidarity initiative. Then on September 28, 2023, the 3rd Criminal Chamber of the Court of Cassation upheld 18-year-prison sentences for Mine Özerden, Çiğdem Mater, Tayfun Kahraman, and Can Atalay, while sending back the decision to the local court and releasing Ali Hakan Altınay, Yiğit Ali Ekmekçi, and Mücella Yapıcı.

¹² For a detailed overview over the judicial process, the activities of Osman Kavala in the fields of arts, culture, and civil society as well as statements of support and solidarity from international human rights organisations, human rights advocates, as well as the Council of Europe, for instance, see <http://www.osmankavala.org>

¹³ <https://www.coe.int/en/web/portal/-/pace-calls-on-türkiye-to-immediately-release-osman-kavala-who-remains-unlawfully-detained->

¹⁴ For a detailed article on Osman Kavala’s arrest and its effect on arts and culture in Türkiye, see <http://red-thread.org/en/cultural-hegemony-by-means-of-the-police/>

<https://mezopotamyaaajansi40.com/en/search/content/view/254650?page=1&key=45a2d2fe2d5fe80b2a555c07b4f73970>

¹⁶ These confiscations and ban are made possible by press law Article 25/2 of the Press Law No. 5187.

¹⁷ <https://www.mlsaTürkiye.com/en/yavuz-ekinci-prosecuted-10-years-after-his-novel-imbeing-accused-over-a-work-of-fiction>

¹⁸ <https://susma24.com/fotografci-ve-sair-mehmet-ozere-hapis-cezasi/>

¹⁹ <https://susma24.com/en/index.php/court-insists-on-sentence-for-musician-azad-bedran/>

²⁰ https://global.tbmm.gov.tr/docs/constitution_en.pdf

²¹ <https://kaosgl.org/en/single-news/2024-report-on-violations-against-pride-month-eventsand-protests>

²² The full text of Article 2016 reads: (1) A person who publicly provokes hatred or hostility in one section of the public against another section which has a different characteristic based on social class, race, religion, sect or regional difference, which creates an explicit and imminent danger to public security shall be sentenced to a penalty of imprisonment for a term of one to three years; (2) A person who publicly degrades a section of the public on grounds of social class, race, religion, sect, gender or regional differences shall be sentenced to a penalty of imprisonment for a term of six months to one year; (3) A person who publicly degrades the religious values of a section of the public shall be sentenced to a penalty of imprisonment for a term of six months to one year, where the act is capable of disturbing public peace.

²³ See <https://www.hrw.org/news/2018/10/17/Türkiye-end-prosecutions-insulting-president>

²⁴ Article 299 of the Turkish Penal Code (falling under the section of Offences against the Symbols of State Sovereignty and the Reputation of its Organs) stipulates that (1) “Any person who insults the President of the Republic shall be sentenced to a penalty of imprisonment for a term of one to four years”; (2) “Where the offence is committed in public, the sentence to be imposed shall be increased by one sixth”; and (3) “The initiation of a prosecution for such offence shall be subject to the permission of the Minister of Justice”, see [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)002-e)

²⁵ “The Venice Commission recalls that the use of offensive, shocking and disturbing words especially within the context of a debate on matters of public interest, are guaranteed by the freedom of expression”.

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)002-e)
Para 67.

²⁶ <https://susma24.com/gorsel-tasarimci-berkay-kahvecioglu-cumhurbaskanina-hakarettenceza/>

²⁷ The option to “defer the announcement of the verdict” (known in Turkish as *Hükmün Açıklanmasının Geri Bırakılması*, HAGB) is given to the defendant if the predicted prison sentence is less than 24 months. Defendants who accept this offer might avoid prison sentences but lose the right to appeal. Should defendants commit another “crime” in the five years following the sentence, the verdict is announced, and the given prison time will be served. As the Human Rights Foundation of Türkiye (TIHV) explains in a recent report: “Suspending the execution of the sentence is a different legal practice from deferring the announcement of the verdict. In the latter no conviction occurs because the verdict is not legally announced but kept in reserve, whereas in the former the defendant is convicted and has a criminal record with all consequences except serving time in prison, which is conditionally suspended.”

<http://www.tihvakademi.org/wpcontent/uploads/2019/03/AcademicsforPeace-ABriefHistory.pdf>