

Network of Concerned Historians				NCH
Campaigns				
Year original	Year follow-up	Circular	Country	Names
2005		40	Turkey	Orhan Pamuk, writer
	2006			<i>follow-up 1</i>

Announcement

The Writers in Prison Committee of International PEN reports about the trial of author Orhan Pamuk today, which was suspended. Pamuk faces up to three years' imprisonment for expressing an opinion about the Armenian genocide of 1915 and the Kurdish insurrection of 1984-2000. (See NCH #40) PEN also highlights a dozen similar cases.

INTERNATIONAL PEN

PEN OBSERVERS DESCRIBE “UGLY AND VIOLENT” SCENES TRIAL OF ORHAN PAMUK

16 December 2005

On 16 December 2005, the Sisli No 2 Court of First Instance in Istanbul, announced that the hearing against Orhan Pamuk, one of Turkey's most eminent writers, would be adjourned until 7 February 2006. His trial dossier is apparently still with the Ministry of Justice in Ankara for consideration that Pamuk be tried under the old penal code that was repealed on 1 June this year. Pamuk's "offence", was a statement published in a Swiss newspaper in which he declared "One million Armenians and 30,000 Kurds were killed in these lands [Turkey] and nobody but me dares talk about it." This has led to him being accused of "publicly denigrating Turkish identity". The comment was made in February this year before the penal code was revised. Since then Article 159 of that Penal Code dealing with "insult" to the Turkish state has been replaced by new Penal Code Article 301.

Until a few days ago, it was thought that the court would hear a request that the trial proceed under the New Penal Code. Pamuk's lawyer, Haluk Inanici, in a written statement earlier this week, said that the court asked the prosecutor's office whether Pamuk should be tried according to the new Penal Code or the old version. On December 2, the Istanbul court, stated that while both article 159/1 of the old penal code and article 301/1 of the new code call for prison sentences of up to three years for the same

“crime”, the old law favours Pamuk as it requires the permission of the Ministry of Justice to proceed with the trial.

Among the many observers to the trial were the Chair of International PEN’s Writers in Prison Committee, Karin Clark, President of the Turkish PEN Centre Vecdi Sayar, and International PEN Board Member, Eugene Schougin. Here follows their account of the events this morning:

“The scenes around the first appearance of Orhan Pamuk before Sisli No. 2 Court of First Instance on 16 December 2005 at 11:00 were marked by constant shouting and scuffling turning ugly and violent at times. As those attending the proceedings left the court, eggs were hurled along with insults from the nationalists and fascists among the crowd lining the pavement across the street. This in full sight of the national and international media which had turned out in full.

Right wing hecklers had already greeted the defenders of free expression from within and outside Turkey with banners bearing slogans in English and even German such as: “Turkey for the Turks this is none of your concern”, “Foreign presence is uncalled for”, “You are putting Turkey on trial, giving it a bad name”, “You are only here for the show” etc.

The courtroom was packed with well over 70 people - among them famous Turkish writers such as Yasar Kemal and Arif Damar, and representatives of the European Parliament, several diplomats, members of Turkish and international freedom of speech organizations. The aggression and heckling inside and outside the court did not abate. Some ten lawyers of the extreme right who want to be involved in the case on the prosecutor’s side, some in their robes, others in street clothes, eventually surrounded the court officials seated on the podium, with Orhan Pamuk and his defence lawyer standing before them. One of the lawyers who had initiated the charges, even though he did not have any right to intervene, as there had not been a decision yet on whether or on what grounds the trial would be opened, was allowed to speak for almost 10 minutes without being interrupted by the judge. He made accusations against Orhan Pamuk, who was represented by council but himself was not called on to speak.

Again and again, confrontations and shouting in the hallways interrupted the proceedings, the aggressive mood spilling over into the courtroom itself. The session ended after an hour and 15 minutes with an adjournment until 7 February 2006, due to the fact that the Ministry of Justice had indicated it needed more time to decide on the legal basis of the trial”.

INTERNATIONAL PEN

STATEMENT ON THE TRIAL OF ORHAN PAMUK

16 December 2005

Turkey: Suspension of trial hearing against Orhan Pamuk Bodes Ill for Free Expression

This morning the trial against Orhan Pamuk, one of Turkey's most well-known authors, was postponed to 7 February 2006 after the Ministry of Justice said that it needed more time to study the trial dossier. On hearing of the news that the process will drag on, the President of International PEN, Jiří Gruša said "It is unbelievable that Orhan Pamuk, one of Turkey's best known and eminent authors, is in this situation. What it indicates is a complete disregard for the right to freedom of expression not only for Pamuk, but also for the Turkish populace as a whole. This decision bodes ill for other writers who are being tried under similar laws."

Jiří Gruša is referring to the cases of around 14 other writers, publishers and journalists accused of "insult" for having criticised the Turkish state and its officials. They are on trial for writings on issues including accusations that the Turkish army has committed human rights abuses and for commentary on the mass killings of Armenians by the Ottoman army in the early 1900s. They are being prosecuted under the revised Penal Code that had been amended earlier this year as part of a process aimed at removing from Turkish law human rights anomalies. This is part of the process that the government hopes will lead to acceptance to the European Union. The EU's Enlargement Commissioner, Olli Rehn, has said that the trial has cast a shadow over Turkey's application.

Among those on trial for "insult" is Hrant Dink, the editor of an Armenian language newspaper, who is accused for his comments on his discomfiture at having to recite as a child a patriotic verse that required him to identify himself as a Turk rather than Armenian. Also writer Zülküf Kisanak, whose next trial hearing will be on 22 December, or his book depicting the destruction of Kurdish villages by the Turkish armed forces. Ragip Zarakolu, a long-time campaigner for minority and human rights, has two trials against him, both for books published by him by Armenian authors describing the events of the early 1900s. The most recent case was the initiation of trial proceedings earlier this month against five journalists who are accused of having insulted the judiciary by challenging a court decision in November to ban an academic conference on Armenia planned to take place at a university in Istanbul. For details of these and other "insult" cases known to PEN see below. Around 50 writers, publishers and journalists have been before the courts this year under various Penal Code items for

their writings on sensitive issues There is growing alarm in Turkey that positive changes in the state of freedom of expression and the right to write, which had been the pattern of recent years, have taken a dramatic downward turn in recent months.

International PEN President Jiří Gruša reiterates “PEN demands that the trials against all writers, publishers and journalists be halted and that the laws under which they are being tried be removed from the Penal Code.

We also call on the Turkish authorities to put a definitive end to the penalisation of those who exercise their right to freedom of expression.”

LIST OF CASES OF WRITERS, PUBLISHERS AND JOURNALISTS TRIED UNDER “INSULT” LAWS

1. Erkan AKAY, editor of Yeni Dünya İçin Çağrı (Call for a New World). His trial was launched in Istanbul Court of First Instance under Article 301 of the Penal Code on 10 November 2005 for an article ‘1915-2005 Forgetting or Denial?’

2. Hrant DINK: editor of the Armenian language Agos whose trial opened on 28 April 2005 on charges of insult regarding remarks he made at a conference in December 2002 entitled “Global Security, Terror and Human Rights, Multi-culturalism, Minorities and Human Rights”. He reportedly faces up to three years in prison if convicted. The charges relate to comments he made about his childhood when he had objected to having to recite a patriotic verse that required him to identify himself as a Turk, rather than an Armenian. He also criticised a line in the Turkish national anthem that he considered to be discriminatory. The next hearing is due on 9 February 2006.

3. Zülküf KISANAK: Writer and journalist against whom legal proceedings were initiated in December 2004 for his book, Lost Villages. He was charged under Article 159 of the Turkish Penal Code for insult to the Turkish state for claiming that 3,500 Kurdish villages were forcefully evacuated between 1990 and 1995 and that homes were burnt. A hearing held on 18 October 2005 approved the trial to proceed under Article 301 of the new Penal Code. Next hearing due 22 December 2005.

4. Ersen KORKMAZ: editor-in-chief of Demokrat Iskenderun had a case launched against him on 28 June 2005 for “insulting the state” under Article 301 of the new penal code for an article entitled “Turkey Towards May Day”. Hearings started on 22 July 2005.

5. Seyvi ÖNGİDER: A court hearing was scheduled to open 8 December 2005 on charges of “insulting Atatürk” for his book *The Story of Two Cities: Ankara-Istanbul Conflict*. To be tried at the Kadıköy Penal Court of First Instance.

6. Murat PABUC, a writer on trial in November 2005 under Article 301 of the Penal Code for his book *Deserting Bench Guard Duty* that suggests that corruption in the army is systemic. He is accused of insulting the military. Pabuc refers to his experience as a soldier serving in the south east of Turkey as being an inspiration behind his book.

7. Orhan PAMUK an internationally renowned author who is to stand trial on 16 December 2005 before the Sisli Court, Istanbul on charges under article 301/1 of the Penal Code for “insult” to the Turkish nation. He faces up to 3 years in prison. Charges relate to a statement he made in the Swiss newspaper *Tagesanzeiger* published 6 February 2005 in which he stated that a million Armenians had been killed by Ottoman forces in Turkey in 1915-17, and that “30,000” Kurds had died in the conflict in the south east since the mid 1980s. In February-April 2005, Pamuk was under threat from extremist groups who had objected to the article. It was also reported that a local official in the southern town of Isparta ordered the seizure and burning of all Pamuk’s works in Isparta’s libraries, only to discover that none existed. The official was subsequently reprimanded for his comments by the Isparta governor. Pamuk is the author of six novels and is translated into 20 languages. He is the recipient of numerous literary awards both in Turkey and abroad. Books include *My Name is Red*, *Snow* and most recently book on his home city, Istanbul.

8. Fatih TAS, a publisher with the Aram Publishing House. A trial opened on 17 November 2005 for the publication of a Turkish Translation of US academic John Tirman’s *Spoils of War: the Human Cost of America’s Arms Trade*. The book, that claims that US weapons were used to carry out human rights abuses against Kurds and is highly critical of the Turkish military, nationalism and Atatürk. He is being tried under Article 301 of the Penal Code for insult to the army, the Turkish state, “Turkishness”, and, under Article 1/1 and 2 of Law 5816, to the memory of Kemal Atatürk. Article 301 carries penalties of up to 2 years. Law 5816 carries sentences of up to 3 years, which can be increased by one half if the “insult” is in print. Hearing held on 2 December 2005 was adjourned to 8 February 2006. On 9 December Tas was convicted to six months in prison under article 301 of the New Penal Code for publishing another book, this time accusing the Turkish army of complicity in the disappearance of a journalist in the early 1990s.

9. Ragip ZARAKOLU: publisher, Belge Publishing House. Legal proceedings were initiated in December 2004 against Zarakolu for the publication of George Jerjian’s book *History Will Free All of*

Us/Turkish-Armenian Conciliation under Article 301 of the Turkish Penal Code (formerly Article 159 of the old Penal Code) for “insult” to the State and to the memory of Kemal Atatürk. The book is said to claim that leading government figures close to Atatürk had been responsible for the mass deportation of Armenians in 1915. The first trial was held before the Light Crimes Court at Istanbul on 16 March 2005 with a subsequent hearing on 17 May, postponed to 20 September, then to 22 November 2005 and again to 15 February 2006. On 1 August 2005, another case was opened, this time for the publication of Professor Dora Sakayan’s *An Armenian Doctor in Turkey: Garabed Hatcherian: My Smyrna Ordeal of 1922* To be charged under Article 301 of the Penal Code . Case opened on 21 September 2005, adjourned to 22 November and again to 15 February 2006 when the final verdict is due to be given.

10. Five journalists: Ismet BERKAN, Murat BELGE, Haluk SAHIN (Radikal) and Erol KATIRCIOGLU and Hasan CEMAL (Milliyet): Charged on 2 December 2005 with insult to the judiciary under Article 301 of the Penal Code for having criticised a court decision to ban a conference on the Armenian “genocide” that was to be held in September. The conference was eventually held later that month at another university.

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