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Dear Commissioner,

RE: The Very Survival of Small Independent Turkish Publishers Producing Works Tackling Sensitive Issues is at Stake

The International Publishers Association (IPA) is deeply concerned by some of the recent judgements targeting the publishers' freedom to publish in Turkey. It seems to us that the very survival of some of the small independent Turkish publishers, all of them producing works tackling sensitive issues, is at stake. Strong and continued support for these independent publishers appears necessary.

In particular, IPA disapproves of the sentencing of publisher Fatih Taş in Istanbul on 5 January 2009 for "insulting the State" (Article 301 TPC) to a five-month prison sentence for publishing *They Say You Have Disappeared*, a biographical work on Nazım Babaoğlu, a Kurdish journalist who had disappeared during police custody. The sentence is commutable to a monetary fine of 1650 TRY (770 EUR).

As you might be aware of, Ragıp Zarakolu, recipient of the 2008 IPA Freedom to Publish Prize, was also condemned under Article 301 TPC on 17 June 2008 for "insulting the State" to a five month prison sentence, also commuted into a fine, for a book by George Jerjian on Turkish-Armenian reconciliation.

In practice, condemnations of publishers lead less and less to prison. We welcome this development.

Unfortunately, this is not the case of publisher Mehmet Ali Variş, the technical editor of the Belge Publishing House, and editor in chief of the *Uzun Yuruyus* (Long March) monthly journal. Mehmet Ali Variş was condemned in May 2008 to a very heavy fine of 20000 TRY (9330 EUR) for two articles of the *Uzun Yuruyus* journal found guilty of insulting Atatürk's memory following a six-year long trial. According to available information, the accused, who is now in prison, had not been properly informed of the verdict, and was therefore seemingly not in position to pay this fine. He was arrested on 31 October 2008. On 24 November 2008, the 14th Istanbul Heavy Crimes Court condemned him to a one-year prison sentence. In addition, Mehmet Ali Variş is under the threat of new convictions as he is facing other trials as the publisher of the former Tohum publishing house for the following books: *Kocgiri*; *Kemalism, the sitting man*; and *Anatolia from Multiculturalism to Monoculture*. The former two cases have led to convictions,

which are now being appealed, while the latter case is now being tried at first instance. In these three cases, the charges have been brought either under Article 301 TPC, or Law 5816 protecting Atatürk's memory.

Publishers Fatih Taş and Ragıp Zarakolu will appeal the sentences. IPA supports them in demanding that they be acquitted in appeal and urges the Turkish Judiciary to complete their trials swiftly, efficiently, quickly and fairly.

IPA also supports publisher Mehmet Ali Variş in demanding that he be released immediately and then also be acquitted of his various condemnations as a publisher in appeal following swift, efficient, quick and fair trials. We think he should also be acquitted in the first instance case (*Anatolia from Multiculturalism to Monoculture*).

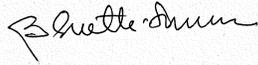
The condemnations of Ragıp Zarakolu in June 2008, Mehmet Ali Variş in May and November 2008, and Fatih Taş in January 2009 show that the recent changes to Article 301 TPC were not enough to put an end to freedom to publish trials and condemnations in Turkey. These condemnations are also evidence of the use of other laws to stifle freedom of expression in the country, including law 5816 protecting Atatürk's memory from insult. Attached to this letter, you will find an update of the latest freedom to publish cases provided by our Turkish member, the Turkish Publishers Association (Türkiye Yayıncılar Birliği, TYB). This list includes the cases against *God Delusion* (Kuzey publishing) by British author Richard Dawkins and *Allah'in Kizlari* (*Allah's Daughters*; Doğan publishing) by Paris-based Nedim Gürsel. The first court hearings are due in Sişli on 16 June and 5 May 2009 respectively.

IPA has been calling for the repeal of Article 301 TPC ever since it was presented in draft form, and was therefore deeply disappointed that rather than remove this legislation the amendments were rather superficial. Since its inception in 2005, more than 1,000 people, including writers, publishers and journalists, have been brought to the courts under Article 301. According to bianet, this figure includes at least 120 journalists. Currently, around 30 writers and journalists are on trial under Article 301 TPC, including most recently writer Temel Demirer. Fortunately, the signatories of the "Apology Campaign" will not join them. As of December 2008, the Ministry of Justice had authorised 47 trials under Article 301 TPC out of 381 requests. The balance is either pending or has been denied authorisation. Annually, this could mean up to 100 trials under Article 301 TPC, which, if confirmed in practice, would be much too high an amount for freedom of expression trials.

Sadly, publishers were not spared by this huge amount of freedom of expression trials and above all by condemnations. Publishers like Taş, Variş, or Zarakolu are often singled out by the more conservative elements of the judiciary because of their struggle for freedom of expression, and particularly their promotion of minority rights. Publishers like them are too often being subjected to series of long, time-consuming and expensive court hearings. The conduct of the trials in themselves often take the form of harassment and punishment against the defendants for daring to produce works, which touch on sensitive issues. The very survival of publishing houses like Belge is at stake. One is led to wonder if the goal of the Turkish authorities is not to liquidate publishing houses such as Belge. The Tohum publishing house, which Mehmet Ali Variş used to run, no longer exists. In addition, it is unfortunate to observe that publishers are extremely well-represented in the condemnations under Article 301 TPC since its revision last year. As a consequence, Turkish legislation (new Article 301 TPC, Law 5816 etc.) must be amended or repealed to meet international standards, including the Charter of Fundamental Rights of the European Union.

In conclusion, IPA calls for the release of publisher Mehmet Ali Varış, and for his acquittal in appeal, as well as those of publishers Fatih Taş and Ragıp Zarakolu. IPA also draws your attention to the new cases against *The Daughters of Allah* by Nedim Gürsel (Doğan publishing) and *God Delusion* by Richard Dawkins (Kuzey publishing). IPA also kindly requests the Delegation of the European Commission to Turkey to send observers to the various upcoming court hearings.

Yours sincerely,



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IPA Freedom to Publish
Committee Chair

CC:

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ANNEX: Latest Freedom to Publish cases list prepared by Turkish Publishers Association (Türkiye Yayıncılar Birliği, TYB).

Publishing House/Publisher	Book	Author	Article Used	Status or Date of next hearing
Aram	Yargilayanlar Yargilaniyor	Hatip Dicle	Article 7/2 of Anti Terror Law	
Do Yayıncılık/ Hüseyin Gündüz	Sirnak Yarıyor 1992	Sertaç Doğan	Article 7/2 of Anti Terror Law	Hüseyin Gündüz convicted to a prison sentence of 1000 days turned into 16'000 TL fine
Do Yayıncılık/ Hüseyin Gündüz	Öcalan'a Mektuplar	Medeni Ferho	Article 7/2 of Anti Terror Law	
Doğan Yayıncılık	Allahın Kizlari	Nedim Gürsel	"inciting hatred and hostility and humiliating the values adopted by a section of the population"	5 May. Sisli 2 nd Light Crimes Court
Doz Yayıncılık/ Ali Rıza Vural	Donusu Olmayan Yol	Hasan Bildirici (lives in Switzerland)	Article 7/2 of Anti Terror Law	Ali Rıza Vural convicted to 20'000 TL fine despite the submitting of a report to the court by the Turkish Writers Union insisting on the liberal character of the book
Kuzey/Erol Karaaslan	God Delusion	Richard Dawkins	Articles 216/1-3 and 54 TPC	16 June 2009 Sişli 2 nd Criminal Court
Neden Yayıncılık	Ergenekon'un Çöküşü	Zihni Çakır	Article 285 TPC	Zihni Çakır convicted to 18 month prison sentence