

**Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of  
opinion and expression**

REFERENCE: AL  
TUR 2/2016:

8 March 2016

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pursuant to Human Rights Council resolution 25/2.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning **a court that order reportedly puts the Feza Media Group, which includes *Zaman*, *Today's Zaman*, and Cihan news agency, under state control.**

According to the information received:

On 4 March 2016, following a court order issued by the Istanbul 6<sup>th</sup> Criminal Court of Peace at the request of the Istanbul Chief Public Prosecutor's Office, police forces entered the press offices of the newspaper *Zaman*, and its English sister-publication, *Today's Zaman*, in Istanbul. The court order reportedly puts the Feza Media Group, which includes *Zaman*, *Today's Zaman*, and Cihan news agency under state control by appointing a panel of trustees for its administration.

The court decision is reportedly based on the allegation that the Feza Media Group finances terrorism linked to the Gülen movement. The prosecutor has reportedly claimed that the group seeks to topple the government. The Prime Minister has stated that there has been no political interference and that the seizure of the newspaper is based on a legal process investigating the illicit financing of a terrorist organization. It is reported that these allegations are unsubstantiated.

On 5 March 2016, the editor in chief and a leading columnist were allegedly fired. The other journalists who returned to work have reportedly been unable to access internal servers and their e-mail accounts. Allegations also indicate that there have

been attempts by the authorities to dismantle the entire online archive of the newspaper.

*Zaman* is Turkey's largest newspaper and has a circulation of approximately 650'000. *Today's Zaman* is the largest circulation Turkish newspaper in English. It is reported that lately *Zaman* newspaper had regularly issued reports and criticism of the government. It is reported that as of 6 March 2016, the editorial line of the newspaper was drastically changed in order to favour reports that are more in line of Government official positions.

While I do not wish to prejudge the accuracy of the aforementioned allegations, I would like express grave concern at the impact of the court decision to put the Feza Media Group, and along with it *Zaman*, *Today's Zaman*, and Cihan news agency, under state control, limiting its independence and resulting in the change of the editorial line of *Zaman* newspaper. I am particularly concerned at the allegations that indicate that the seizure responds to political motives and that the alleged grounds for investigations of illicit financing of a terrorist organization are unsubstantiated.

Concerns relate to the undue restrictions on the legitimate exercise of the right to freedom of expression, as well as the right to seek, receive and impart information and ideas of all kinds, as enshrined in article 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Turkey on 23 September 2003, and article 19 of the Universal Declaration of Human Rights (UDHR). To meet these international norms and standards, restrictions of this sort must be provided by law and must be proportionate and necessary to protect a legitimate government interest, such as national security or public order. I am particularly concerned that the seizure of one of Turkey's largest newspapers represents an extraordinary threat to free media and pluralism and would also exert a great deterrent effect on other media, stifling the reporting on issues of public interest, particularly those expressing dissenting opinions and views that are critical of the government.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. I would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and /or comment(s) you may have on the above mentioned allegations.
2. Please provide detailed information on the legal grounds invoked for the decision to place the Feza Media Group under a board of trustees for its administration, indicating how this measure is compatible with international human rights norms and standards, in particular article 19 of the ICCPR and article 19 of the UDHR.

3. Please provide detailed information on the legal procedures available to appeal the court decision that resulted in the seizure of the Feza Media Group and on the measures taken to provide all the guarantee of a fair and impartial judicial procedure, as provided by international human rights norms and standards.

While awaiting a reply, I would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right of media, and media workers, to legitimately exercise their right to freedom of expression and opinion and the right of all citizens to freely access information, including through the media, which are of central importance in the effective functioning of a vibrant democracy. In particular, I would like to call on your Excellency's Government and on the judiciary to ensure an immediate, fair and impartial appeal procedure.

I would like to inform your Excellency's Government that I will publicly express my concerns as the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. Please find enclosed the copy of the news release that will be issued in the course of the day today, 8 March 2016.

I look forward to having the opportunity to further exchange with your Excellency's Government about the functioning and independence of the media in Turkey during my coming official visit to the country, agreed for November 2016.

Your Excellency's Government's response to this communication will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

**Annex**  
**Reference to international human rights law**

In connection with the above alleged facts and concerns, I would like to refer your Excellency's Government to the right to freedom of the press and publications as set forth in article 19 of the Universal Declaration of Human Rights and Article 19 of the ICCPR provides that "[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." I would like to remind your Excellency's Government that any restrictions to this right shall be provided by law; may only be imposed for one of the grounds set out in article 19 and subparagraphs (a) and (b) of paragraph 3 and must conform to the strict tests of necessity and proportionality.

The Human Rights Committee has also stated in General Comment No.34 that "The penalization of a media outlet, publishers or journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be necessary restriction of freedom of expression" (CCPR/C/GC/34, para.42).

Also, I would like to refer your Excellency's Government to paragraph 79 of the 2012 report of the previous Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, where he expresses his concern "at the continuing existence and use of criminal laws against journalists and members of the media, which are often used by authorities to suppress "inconvenient" information and to prevent journalists from reporting on similar matters in the future" as well as the "chilling effect which stifles reporting on issues of public interest". The Special Rapporteur has recommended in paragraph 104 of this report that "States as part of their positive obligation to promote the right to freedom of expression... should give full political support to strengthening media freedom and ensuring that independent, plural and diverse media can publish. Any laws regulating the work of the media should adhere to the highest international standards on freedom of opinion and expression and allow uninhibited debate in the media, in line with principles of diversity and plurality" (A/HRC/20/17).