

# 13

## Turkish Media Policy in National Context

*Dilek Kurban and Esra Elmas*

### 1. Introduction

Since the foundation of the press, the media in Turkey has had a symbiotic relationship with the state. From the outset, the regime has relied on the media for shaping public opinion and disseminating propaganda. The media has been used as an instrument by both civilian governments and military regimes for the consolidation of their power. The state's heavy involvement rendered the development of a 'media policy' impossible, since the media did not exist as an independent realm to shape and be shaped by society and politics. Instead, it existed as a tool for the state to control and manipulate society.

A series of developments in the past two decades have had profound effects on the media. The changes induced by the economic liberalisation of the early 1990s, the banking crisis in 2000—2001, and the European Union (EU) accession process produced a complex regulatory framework governing the media content and structure. Despite some progress, there remain significant infringements of media freedom in laws governing the press and the internet, and more significantly in criminal laws. The transition brought by the post-economic crisis restructuring of the financial sector and the EU accession process increased the role of the regulatory bodies in the media. Nonetheless, the media's economic and political dependence on the government continues. In the meantime, international companies have penetrated into the media market, a trend that will certainly accelerate with the recent adoption of a new broadcasting law, which increased the cap on foreign investment from 25 per cent to 50 per cent.

Turkey has a population of 74,816,000, half of which is under the age of 28. The majority of readers are between the ages of 16 and 34 (Bariş, 2005: 289). Although 60 per cent of the people do not read a newspaper regularly, 90 per cent watch television on a daily basis. Turkey, with five hours of daily viewing, has one of the largest television audiences in the world (Terzis, 2007a: 13). The media sector is divided into aggregations of

companies. All major private television and radio stations, newspapers, and periodicals belong to the biggest 8 of the 15 media groups.<sup>1</sup> There are few, yet well-established, minority newspapers run by non-Muslim and Kurdish communities, as well as a few alternative media outlets that are not owned by a large media group and that emphasise objectivity and impartiality in news reporting.

Of the 24 news agencies, the official one, Anadolu Agency (Anadolu Ajansı), in operation since 1920, is the oldest and the primary news source for the press. The internet emerged in 1993, first on university campuses and soon after in businesses and homes. In 2010, household internet use increased from 30 to 41.6 per cent within one year (Turkish Statistical Institute, 2010). The broadcasters' increasing use of online services, the proliferation of online newspapers, political parties' and politicians' accessibility via e-mail, and people's increased awareness about the internet reveal the speed and breadth of internet development in Turkey. However, internet and cell phone usage is still very limited and highly expensive for most people. Further, the rate of internet use differs significantly from region to region.

This chapter starts with an overview of the development of the media-state relations in Turkey, with a focus on their implications for media policies and reporting. Following a discussion of the principal actors in the sector, the regulatory framework governing the media content and structure will be analysed. The political, legal, and institutional obstacles to media freedom will be examined with an emphasis on the judiciary, the military, and the government, as well as media governance. Some concluding observations will be made on the implications of the social media, the internet, and the independent media, and on the future of state-media relations and journalism in Turkey.

## **2. Media policy in Turkey**

Since the foundation of the republic, journalists have played an important role in the introduction to society of Western values and institutions (Demirel and Heper, 1996: 113). The media functioned as both the 'object' and 'subject' of the modernisation project of the single party regime. While some journalists developed a politically and economically interdependent relationship with the state, others were subject to state repression or pressure for their nonconformist opinions.

The use of the media as a tool for power has continued despite the transition to a multi-party regime in 1950. The Democrat Party (Demokrat Parti, DP), which brought an end to the 27 years of rule of the Republican People's Party (Cumhuriyet Halk Partisi, CHP), turned the radio into a political apparatus for 'manufacturing consent' (Herman and Chomsky, 1988) and surveillance of the society, causing the 1950s to be known as the

'partisan radio' years (Sümer, 2010: 108). The government introduced legal restrictions on freedom of the press and closed down the journalists' union.

The military regimes, too, took advantage of the media's critical function in disseminating mass propaganda. Each of the *coup d'états* in 1960, 1971, and 1980 was followed by a period of military rule, which had significant repercussions for media freedom. In 1983, the Motherland Party (Anavatan Partisi, ANAP), which came to power after transition to civilian rule, initiated an economic liberalisation characterised by free-market reforms. The government encouraged private entrepreneurship in the media, where companies entered into a bitter rivalry to dominate the market. This resulted in the transfer of media ownership from 'journalist families' to giant companies (Çağlar and Mengü, 2008: 111).

The economic transformation of the 1980s gave rise to the emergence of strong media holdings. The big capital penetrated from these holdings into the media, which left no room for smaller groups in the sector. The media holdings' organic relations with political power caused a cross monopolisation<sup>2</sup> in the industry (Dağtaş, 2007: 3), enabling these companies to maximise their economic gains in other industries such as health, education, construction, and telecommunications. Although these groups may have different ideological stands and political positions, by and large they share the same 'mindset' in upholding the 'interests of the state' and 'national security' above democracy, human rights, and media freedom.

The rapid tabloidisation of newspapers in the 1980s, and the commercialisation of the media in the 1990s, generated a tendency towards sensational journalism. After the launch of private broadcasting<sup>3</sup> and the enactment of the first broadcasting law, media concentration intensified, and commercial media content became increasingly banal (Aksoy and Robins, 1997: 194).

By the end of the 1990s, the media evolved into a tool of manipulation for private capital, which did not refrain from false news reporting in order not to endanger its deeply entrenched economic and political relations with the state. The most drastic example was the role played by the media after the 'post-modern military coup' of 28 February 1997.<sup>4</sup> Prompted by the military, the mainstream media published fictitious news on the rise of Islamism, accelerating the step-down of the coalition government.

## 2.1. The actors of the media sector

There are three types of actors that develop media policies and (self) regulate the media: executive bodies, independent regulatory agencies, and self-regulatory professional organisations. While all three are briefly outlined below, the mandates and powers of the first two are discussed in detail in the section on structural regulation.

There is a Ministry of State in charge of radio and television, which is also responsible for the Radio and Television Supreme Council (Radyo Televizyon

Üst Kurulu, RTÜK), an independent agency in charge of regulating private radio and television. The Directorate General of Press and Information (Basın-Yayın ve Enformasyon Genel Müdürlüğü, BYEGM), under the office of the prime minister, has a mandate to deal with the accreditation of the press for relations with the government. The Communications High Council (Haberleşme Yüksek Kurulu, HYK) is tasked with the oversight and approval of communication policies. The Information and Communication Technologies Authority (Bilgi Teknolojileri ve İletişim Kurumu, BTK) is an independent agency responsible for regulating the internet and mobile communication. BTK's equivalent in the broadcasting sector is RTÜK.

The level of unionisation in the media is very low, owing to the pressure of media owners and the overall weakness of unions in Turkey, while the level of labour exploitation is high.<sup>5</sup> The few independent self-regulatory bodies are politically polarised associations based on clientelistic relations, and none of them has the capacity, the ability, or the will to meaningfully contribute to the development of media policy.<sup>6</sup> In recent years, newspapers started to select ombudsmen among their columnists or editors to monitor compliance with ethical rules of journalism.<sup>7</sup> There are two journalists' unions, but their prominence is low.<sup>8</sup>

## 2.2. The regulatory instruments

A number of laws regulate the structure and content of the media, all of which have been revised and/or re-enacted in the past decade: Law no. 5187 on the print media ('Press Law', 9 June 2004); Law no. 6112 on private broadcasting ('Broadcasting Law', 15 February 2011); Law no. 2954 on public broadcasting ('Turkish Radio and Television Law-TRT Law', 11 November 1983); Law no. 5651 on internet and mobile communication ('Internet Law', 13 February 2010); and Law no. 5809 on electronic communications ('Electronic Communications Law', 5 November 2008).

### 2.2.1. Structural regulation: Licensing rules

The constitutional ban on private broadcasting was de facto terminated with the launch of the first private television station in 1990 and formally abolished in 1993. In 1994, the first broadcasting law (no. 3984) was adopted.

Since then, RTÜK has been tasked with regulating private broadcasters and monitoring compliance with the Broadcasting Law. Its main regulatory function is to issue permits and licences and to assign frequencies. Its monitoring function entails enforcement powers against broadcasters that do not comply with the law. RTÜK's nine members are elected by the parliament among candidates nominated by political parties. While RTÜK defines itself as an 'autonomous and impartial' public body,<sup>9</sup> its political composition has been

a matter of contention for a long time. The agency has also been criticised for the punitive powers it has been equipped with in enforcing the law.

RTÜK has not been able to fully perform its regulatory functions. Initially, following the enactment of the Broadcasting Law, provisional licences were issued to broadcasters. The agency's attempts to complete frequency allocations failed due to the National Security Council's interference, broadcasting companies' opposition, court orders, and political battles in the parliament (Sümer, 2010: 113–125). In 2002, HYK and Türk Telekom were made partners of RTÜK for restructuring telecommunications services and facilitating the allocation of frequencies. However, the frequency auctions were halted due to the government's 'fear of retaliation by the media giants' and the National Security Council's intervention 'to oblige broadcasters to acquire a national security clearance document which would supposedly prevent the establishment of religious TV channels' (Sümer, 2010: 296).

With the 2002 amendments in the Broadcasting Law, the government issued permanent licences to the 23 broadcasters that had been given temporary licences in 1994, but could not allocate frequencies to any other firm. This has precluded the entry of new players into the market, leaving the purchase of one of the existing radio and/or television stations as the only means of entry. The new Broadcasting Law (no. 6112) of February 2011 assigns the task of frequency allocation back to RTÜK, and prioritises the existing broadcasters in the allocation of frequencies.

BTK is tasked with frequency planning. In accordance with its responsibilities under the Electronic Communications Law, BTK advises the Ministry of Transportation on planning in the telecommunications sector; providing support for domestic companies in the production of technology; and ensuring free competition in the provision of goods and services in the market. Monitoring compliance with the Broadcasting Law, BTK has the power to notify the relevant bodies on non-compliance and impose sanctions when required; ban access to the internet on grounds, *inter alia*, of obscenity and child abuse; and take measures for consumer protection.

Presided over by the prime minister, HYK is made up of the Ministers of Interior and Transportation, a high-level representative from the chief of staff, the general secretary of the National Security Council and the under-secretary of the National Intelligence Agency. It meets biannually to review and approve communications policies.

Türk Telekom is Turkey's telecommunications operator. Its privatisation was finalised in 2005 with the sale of 55 per cent of its shares. Although the market was thus opened for competition, obstacles for entry remain. In fact, currently, Türk Telekom has a near monopoly over service provision of the internet, controlling more than 95 per cent of the market (European Commission, 2008: 50).

The financial crisis of 2000 and 2001, and the bankruptcy of big banks that had investments in the media, resulted in the emergence of new

regulatory agencies in the sector. The Banking Regulation and Supervision Agency (Bankacılık Denetleme ve Düzenleme Kurulu), the Saving Deposit Insurance Fund (Tasarruf Mevduatı Sigorta Fonu) and the Competition Agency (Rekabet Kurulu) emerged as big players in the media, which have increasingly been regulated under the competition law (Sözeri, 2009: 131).

### *2.2.2. Structural regulation: Ownership rules*

The 1994 Broadcasting Law banned, inter alia, associations, political parties, unions, associations, foundations, cooperatives, and local governments from owning media or partnering with media enterprises. Cross-media ownership and foreign ownership was limited to 20 per cent, and each foreign investor was barred from having a share in more than one media enterprise. Individuals who had a 10 per cent share or more in a broadcasting company were precluded from entering into public tenders. And yet, these restrictions failed to preclude 'the emergence of media tycoons in the Turkish media sector since the media proprietors abused the loopholes in the monitoring of the law and kept "veiling" their actual shares' (Sümer, 2010: 131).

In June 2001, the parliament amended the Broadcasting Law to introduce transparency to media ownership.<sup>10</sup> While most of these amendments were overturned by the Constitutional Court, those that lifted the ban on private broadcasters from bidding in public tenders and increased the limit on foreign investment from 20 per cent to 25 per cent survived.

The debate on media ownership resurfaced in recent years. The new Broadcasting Law (no. 6112) increased the cap on foreign investment to 50 per cent, on the condition that the same foreign investor cannot invest in more than two companies. The law increased the ceiling on cross-media ownership to 25 per cent, and limited to four the number of media service providers any real or legal entity can be a partner of. However, the law retained the ban on political parties, civil society, and local governments to own broadcasting companies.

### *2.2.3. Content regulation*

The Turkish legal system is extremely restrictive of media content, which is evident not only in the constitutional and legislative framework directly regulating the media but also, and more so, in criminal laws. The Press Law, the Broadcasting Law, the Internet Law, the Penal Law, and the Anti-Terror Law impose significant restrictions on media freedom, which are interpreted widely by courts.

The 2001 constitutional amendments removed the prohibition of the use of minority languages in the media. But the amendments left untouched wide restrictions attached to the exercise of this right on grounds of national security, public order, and territorial unity.

Under the Press Law, rights that are tenets of free and independent media go hand in hand with severe restrictions that are characteristic of authoritarian regimes. The law protects freedom of the press and the right to information, guarantees journalists' right to protect their news sources, and grants individuals the right of reply. On the other hand, it limits press freedom in the name of 'the protection of the independence and impartiality of the judiciary'.<sup>11</sup> Article 11 attributes criminal liability to editors and translators of written work where the author is abroad or unidentified.

The Broadcasting Law guarantees individuals' privacy and protects them against libel; prohibits broadcasts which 'discriminate or humiliate people on the basis of their race, colour, language, religion, nationality, sex, disability, political or philosophical opinion, denomination and any such considerations'; outlaws incitement to hatred and hostility through discrimination; and protects minors, the disabled, and the weak against programmes containing exploitation and incitement to violence. However, it also prohibits broadcasting in violation of, *inter alia*, 'the existence and independence of the Turkish Republic, the territorial and national integrity of the State, the reforms and principles of Atatürk'; and 'the national and moral values of society, general morality and the protection of the family'.<sup>12</sup> While recent amendments curtailed RTÜK's powers to a degree, the agency retains the power to suspend programmes, and in case of a repeated violation, the entire broadcasting, or even to revoke the licence of the company.

The standards of public broadcasting outlined in the TRT Law are similar to those laid out in the Broadcasting Law: protecting the indivisible unity of the state with its territory and nation, national sovereignty, the republic, public order, and public interest; consolidating Atatürk's ideals and reforms; and complying with national security policies and the national economic interests of the state. Moreover, 'TRT's staff, as public employees, has to act in accordance with the mandate of protecting the priorities of the state', laid out in Article 9 of the law (Barış, 2005: 296).

The Internet Law regulates content on the internet, without distinguishing between the traditional press and online broadcasting. The law restricts the freedom of expression and access to information in the name of combating the eight categories of 'internet crimes': encouraging suicide; the sexual abuse of children; facilitation of the use of drugs or stimulants; provision of substances that are hazardous to health; obscenity; prostitution; gambling; sports betting and games; and crimes regulated in the 1951 Law no. 5816 on Crimes Against Atatürk. Courts have unlimited power to restrict access to the internet in the name of preventing these crimes.

The Law on Access to Information (no. 4982 of 22 March 2011) requires public institutions to respond to citizens' queries within 15 days. Citizens have the right to apply to administrative courts in case of non-compliance. Authorities may decline to disclose the requested information on grounds of 'state secrets'.

The Anti-Terror Law (no. 3713 of 12 April 1991) and the Penal Code (no. 5237 of 26 September 2004) have a number of provisions restricting the freedom of expression and the media. Under both laws, the commitment of offences through the media is considered as an aggravating factor, increasing sentences by one third to a half. The Penal Code curtails media freedom by criminalising: the encouragement of military personnel to break the law (Art. 319); the alienation of the people from the military (Art. 318); the insulting of the president (Art. 299), the government, and military and security forces (Art. 301); the incitement to crime (Art. 214); the praise of crime and criminals (Art. 215); the incitement to hatred and animosity (Art. 216); and the incitement to break the law (Art. 217). Article 6(2) of the Anti-Terror Law makes it an offence to print or publish the declarations or leaflets of terrorist organisations. Under Article 6(4), where such offence is committed through the media, the owners and editors-in-chief of the media organs concerned are also liable to a fine. Article 6(5) allows the suspension of periodicals from 15 days to one month by court order or, where delay is detrimental, by a prosecutor. Article 7(2) makes it an offence to disseminate propaganda in favour of a terrorist organisation, subject to one to five years of imprisonment. Where such offence is committed through the press and media, the sentence is increased by half.

Notwithstanding relative progress in recent years, Turkey has a very poor record of press freedom. According to the International Press Institute, as of October 2010, some 48 journalists were in prison and more than 700 journalists were on trial (Bianet, 2010). In 2009, Turkey ranked 122nd in press freedom, falling 20 places in comparison with 2008 due to a surge in cases of censorship, especially towards the Kurdish media, and efforts by government bodies, the armed forces, and the judiciary to control media content. In 2010, Turkey ranked 138th out of 178 countries (Reporters without Borders, 2010).

### **3. Assessment of media policy in Turkey**

The complexities, internal tensions, and uncertainties of the media policy in Turkey reflect the political, economic, and social transition the country has been undergoing in the past three decades. The socio-economic change brought by the liberalisation of the 1980s, the economic crisis of the early 2000s, and the economic growth of recent years have had profound effects on media governance. The EU accession process has further complicated this situation, owing to the reforms it requires on media policies governing structure and content. The threats posed by the democratisation and EU accession processes to the interests of power structures associated with the ancient régime make them unwilling to come to terms with the norms of media independence and freedom, largely accounting for the inconsistencies in media policies in Turkey.

### 3.1. The nature and scope of media policy

The independence and the impartiality of the media are curtailed by pressure coming from multiple actors within and outside the media. The historical development of the state-media relations has left a lasting legacy in Turkey's political culture. The mainstream media has traditionally positioned itself in ideological, economic, and political proximity to power structures, and failed to develop a presence independent from the state. While the subject of political pressure on the media has in most cases been the armed forces, at times of transition where civilians gained relative power, the agent of pressure has become the elected government. A third actor that imposes pressure on the media is the judiciary, which has prosecuted thousands of journalists, banned dozens of newspapers, journals, radio and television stations simply for writing, publishing, editing, and broadcasting news critical of official policies on issues considered to be taboo by the establishment.

Partially as a by-product of this pressure, the media itself has become an obstacle to its independence and impartiality. The entry of big business into the sector in the 1980s consolidated the relationship of interdependence between the state and the media.

#### 3.1.1. *The judiciary*

Turkish courts have a tendency to widely interpret the restrictive provisions in the laws. Article 11 of the Press Law, which attributes criminal liability to editors and translators where the author is not a resident of Turkey or is unidentified, has been used frequently against editors who published Turkish translations of foreign-language books on controversial political issues. An example of this is the case brought against Ragıp Zarakolu for having published books on the Armenian Genocide of 1915. Prosecutors widely interpret the concepts of 'national security', violation of 'territorial integrity', and 'disclosure of state secrets' under Article 3 of the Press Law to bring cases against journalists who report news deemed to be against state interests.

Courts also resort to their powers under the Internet Law in infringing on media freedom. In a well-known incident of censorship, an administrative court banned in May 2008 the video-sharing website YouTube on the ground that it contained videos insulting Atatürk. The ban was lifted in November 2010, but courts impose 'frequent website bans, which are disproportionate in scope and duration' (European Commission, 2010c: 21) and there are ongoing cases against mainstream web portals.

Most of the cases, however, rest upon the Penal Code and the Anti-Terror Law. In particular, Article 285 (breach of the confidentiality of investigations) and Article 288 (attempting to influence a fair trial) of the Penal Code are frequently used to deter journalists from reporting on the military. A total of

4,091 investigations were initiated under these provisions against journalists who reported on the Ergenekon case.<sup>13</sup> Countless journalists have been prosecuted under the Anti-Terror Law for having disclosed and published the names of officials engaged in anti-terrorism or having made 'the propaganda of the terrorist organisation'. The incidents that resulted in the closure of weekly *Nokta* in 2007 started with the magazine's publication of a classification by the chief of general staff of journalists and media organs. The magazine published sections from a diary reportedly belonging to Özden Örnek, the former chief of navy, revealing that a group of generals conspired to stage a coup against the government in 2004. The police raided the offices of the magazine and seized its computers. A defamation case was brought against Alper Görmüş, the editor-in-chief. While Görmüş was eventually acquitted, his requests for the court to look into the alleged coup attempts were rejected. In later years, these allegations formed the basis of the prosecution of Örnek and his alleged fellow conspirers in the Ergenekon case. In another case, İrfan Aktan, a journalist working for the left-wing weekly *Express*, was prosecuted for an article he wrote on the Kurdish question, where he quoted a PKK militant and cited a PKK publication. Aktan was convicted to one year and three months imprisonment for having made 'the propaganda of the terrorist organisation' in violation of Article 7 of the Anti-Terror Law.

The most recent development sparking debates on media freedom in Turkey was the detention in March 2011 of journalists Nedim Şener and Ahmet Şık as part of the Ergenekon case. Şener and Şık were arrested and subsequently detained on charges of 'incitement to hatred and animosity'<sup>14</sup> and 'membership of a terrorist organisation'. The dissident character of these journalists has led to an unprecedented public debate on a criminal case involving the media. Şener authored an award-winning book pointing out the culpability of the state in the assassination of Hrant Dink.<sup>15</sup> Şık has worked in media organs that had a critical take on the mainstream media, most notably *Nokta*. The detention of these journalists who are not believed to be affiliated with Ergenekon has not only given rise to protests by different segments of the media and society, but has also shattered the public's belief in the Ergenekon case. In response to criticisms, the prosecutor issued a written statement that Şık and Şener were not detained for their acts of journalism, but on the basis of 'evidence obtained as part of the investigation carried out in the Ergenekon case', which could not be disclosed due to the 'confidentiality of the investigation'. The prosecutor also warned that the 'ungrounded comments aimed at guiding the public opinion' through alleging that the case was political would 'contribute to the aims and purposes of the terrorist organisation concerned' and that 'such broadcasts were being closely monitored and evaluated with care' by the prosecutor's office. These statements were interpreted by many journalists as a threat. The police's confiscation of the unpublished manuscripts of Şık's book entitled *İmamin*

Ordu (The Army of the İmam) has further heated the debate on media freedom and undermined public trust in the Ergenekon case.<sup>16</sup>

### 3.1.2. *The military*

Since the founding of the republic, the military has positioned itself as the guardian of the fundamental principles of the regime, in particular of laicism and unity. The myth constructed around the army as the protector of the republic has penetrated into the political culture and consolidated the influence of the military in every walk of life. What has changed across time is the degree of the military's interference in politics. At times, the army took over power through coups. At other times, its interventions were milder. The most recent example was the ultimatum to the Justice and Development Party (Adalet ve Kalkınma Partisi, AK Party) government published on the chief of staff's website on 27 April 2007, just before the parliament's vote on the government's presidential candidate. The chief of staff 'informed' the public on the government's allegedly fundamentalist and anti-secular activities.

The media has not been immune from the military's interference in politics. At times, it provided the platform for the military to announce its take-over of power. At other times, the media published 'news' serviced by the military, without checking its accuracy, as in February 1997. A more direct and targeted way in which the military has propagated the media is the chief of staff's accreditation system, which allows only select media and journalists to participate in its press conferences. A document published by *Nokta* showed that the chief of staff has classified journalists as pro and against the army.

The minority media are particularly susceptible to threats or intimidation by the military. Turkey's recent history is full of incidents where members of the minority media were discreetly or openly threatened by state agents and criminal networks; killed in daylight by 'unidentified perpetrators'; tortured by security officers; and imprisoned for having criticised state policies, advocated the rights of minorities, or reported on taboo issues such as clandestine coup attempts by the military, the Armenian genocide, and the Kurdish question (Ogret and Martens, 2010). One of the most tragic instances was the conviction of the Armenian journalist Hrant Dink for 'having insulted Turkishness' and his subsequent assassination by agents of a criminal network whose plans were known to the military and police intelligence well in advance (Çandar, 2010).<sup>17</sup>

### 3.1.3. *The government*

The AK Party government, and in particular Prime Minister Recep Tayyip Erdoğan, have performed quite poorly on media freedom, adopting positions and policies against dissident media. Erdoğan has become notorious

for the civil cases he brought against cartoonists who depicted him as various animals. In September 2008, the prime minister called on the public to boycott newspapers belonging to the Doğan media group, which implicated the complicity of senior AK Party officials in one of the biggest fraud cases in Germany concerning an Islamic charity organisation that was found to have embezzled charitable contributions. The media criticised the government for affording protection to individuals pointed by the German court as the masterminds of this scheme, including Zahid Akman, the then head of RTÜK, and the highest executives of Kanal 7, a pro-government television channel. The press accused these individuals with channelling embezzled funds to Turkey, and claimed that some of the money might have been funnelled to the government. While Germany cancelled the licence of Kanal 7 INT in Germany, Erdoğan rejected persistent appeals to dismiss Akman from his position as the head of the media watchdog agency.<sup>18</sup> Another instance where the prime minister publicly confronted the media was in 2010, when he called upon the media patrons to dismiss columnists who criticised the government's economic policies, arguing that their distorted portrayals would serve to destabilise the well functioning Turkish economy.

The government's biggest and most infamous conflict with the media was over its levy on the Doğan media group of a fine of \$2.5 billion for tax evasion in September 2009. While the government portrayed this as a routine instance of enforcing the tax law, many interpreted the fine as a punishment for the group's anti-government and pro-military position. Although the government announced a tax amnesty in November 2010 by which the Doğan media group's financial debts were reduced by half, the court case against the group continues. The European Commission noted that 'the press exercises self-restraint when reporting following the initiation of this case' (European Commission, 2010c: 21).

The impartiality of the public broadcaster TRT has always been questioned in Turkey, and the agency has been criticised for 'its permanent endorsement of the official position of the state and/or government in almost any subject... and careful avoidance from any engagement with controversial issues' (European Commission, 2010c: 21). Following AK Party's coming to power, there has been considerable change in TRT's broadcasting policy. Political issues such as Cyprus, relations with Armenia, the Kurdish question, and the army's intervention in politics have started to be debated on television and the radio. Having said this, TRT's impartiality continues to be a matter of contention. Opposition parties and mainstream media criticise the public broadcaster for being too close and partial to the government.

### **3.2. Media governance**

As elsewhere, the media policy in Turkey is shaped by internal institutional dynamics and actors on the one hand, and processes beyond the nation-state on the other hand. The interplay of the globalisation of the 1990s

and the banking crisis of 2000–2001 brought about a major restructuring of the sector. While globalisation exposed the media to foreign investment, the bankruptcy of banks which owned media companies resulted in over-regulation and the emergence of administrative bodies as new key players. These developments resulted in the redesign of media regulations as well as the multiplicity of institutions designing media policy. The EU's entry into the picture as a player further complicated media governance in Turkey.

Turkey's laws on the media are not yet fully aligned with the EU's *acquis*. Among the outstanding issues are: very high taxation of communication services that are not related to administrative costs; the lack of independence of RTÜK and TRT and the lack of adequate public funding for these two agencies; RTÜK's failure to reallocate frequencies and issue licences; and Türk Telekom's near monopoly over internet service provision. In 2009 alone, RTÜK shut down more than a dozen television channels on the grounds that they operated without licences, although they had applied years before to receive broadcasting licences (European Commission, 2008: 52). The EU found inadequate BTK's strategic plan for 2010–2012 and the legal framework governing the telecommunications sector. The European Commission noted that BTK's authorisation procedures 'confer a margin of discretion on the regulator that could lead to legal unpredictability' and criticised Turkey for failing to ensure transparency and the independence of the regulatory authority (European Commission, 2010c: 56). The EU also warned that obstacles remain for the entry of new players to the telecommunications sector (European Commission, 2008: 50).

The EU's entry into the picture also increased the external pressure on the government to ensure media pluralism, freedom and independence. Already, the European Court of Human Rights (ECtHR) had issued critical judgements on the freedom of expression and the media in Turkey. Virtually all laws which directly or indirectly regulate media content have been contested in Strasbourg. The ECtHR criticised the Turkish courts' frequent resort to their injunctive powers under the Broadcasting Law, and found the warning and licence suspensions to have infringed the freedom of expression.<sup>19</sup> The court observed that banning under Article 6(5) of the Anti-Terror Law the future publication of entire newspapers, whose content was a priori unknown, had a preventive effect on the professional activities of journalists and amounted to censorship.<sup>20</sup> The court also noted the Turkish Constitutional Court's failure to take into account the ECtHR's jurisprudence on press freedom.<sup>21</sup> The ECtHR also found that the conviction under the Penal Code of journalists for having published statements or distributed leaflets considered to be incitement to conscientious objection violates the freedom of the press.<sup>22</sup>

In an attempt to fulfil the EU's accession requirements and implement the ECtHR's judgements, the government adopted the earlier discussed reforms in the name of liberalising and democratising media policies. However, the

desire of the political actors in Turkey to maintain their control over the media has resulted in the content of these reforms remaining quite limited.

#### **4. Conclusion**

Liberal theory has assumed a critical role for the media in democracies, portraying it as the 'Fourth Estate' and a watchdog. Critical theory, on the other hand, has viewed the media as the ideological apparatus of the state for 'manufacturing consent'. Today, the relationship between the media and politics is the new object of media studies. While it is by and large accepted that the media do not have absolute power over the masses, their ability to determine the public agenda gives them the potential to act in the interest of power structures.

The mainstream media in Turkey have never functioned as an independent force to monitor the state on behalf of society. At the same time, the emergence of a few small but effective independent media organs has shattered the ability of the mainstream media to filter controversial news that challenge the state's interests. The increasing demands for society for transparency, access to true and impartial information, and democracy will, in the long run, necessitate a complete overhaul of media policies and ethics in Turkey.

The increase in internet access, and the emergence of the social media, has provided an alternative space for controversial news which could not pass through the filters of the mainstream media, making possible citizens' participation in news making and dissemination. The use of the internet for leaking unlawfully obtained documents showing illegal conduct has on the one hand provided the public with otherwise inaccessible information, and on the other hand raised serious issues concerning the due process rights of those incriminated by such information.

While this increased citizen participation in politics through the media may be interpreted as a sign of the strengthening of democracy, such participation is not based on the embrace of core democratic values. A serious impediment to constructing a democratic notion of citizenship is the prevalence of hate speech in the media. Discriminatory news content against minorities and women is prevalent in both the traditional and new social media (Erler, 2010).<sup>23</sup> It is not only the media but also the users of the new social media that resort to hate speech. Readers' comments on the internet sites of newspapers reveal an ideological dichotomy of 'we' versus 'others', the latter referring to any real or legal person that criticises official policies on controversial issues. The absence of a legal framework criminalising hate speech and the existence of penal laws restricting free speech encourage and empower the 'militant citizen' as both the producer and the consumer of the media.

The processes of economic liberalisation, economic crisis, and the EU accession generated reforms, which, albeit slow and incoherent, changed the media ownership structure and relatively enhanced the freedom of expression. Nonetheless, these developments failed to ensure media independence and freedom. Much remains to be accomplished to liberalise media regulation, and more importantly and challengingly, to change the prevalent authoritarian mind-set in the state, the society, and the media.

## Notes

1. These eight groups are Albayrak, Doğan, Çukurova, Ciner, Çalık, Feza, Doğuş, and İhlas.
2. Cross monopolisation refers to the situation where economically strong large companies investing in other sectors begin to own media organs in the interest of gaining prestige and political power rather than making profit.
3. The launch of Magic Box (later renamed Star 1), the first private television station, in 1990 was a landmark event for mass communication in Turkey. Star 1 had to begin its broadcasting via satellite from Germany due to a constitutional prohibition of private broadcasting at the time. The company was able to circumvent Article 133 of the Constitution which established TRT's monopoly over broadcasting, mainly because Ahmet Özal, the son of President Turgut Özal, was one of its shareholders.
4. During its monthly meeting in February, the National Security Council, an executive organ comprised of civilian and military leaders, 'advised' Prime Minister Necmettin Erbakan to resign.
5. Low levels of newspaper circulation, the use of the privately owned media for power, the politicisation of public broadcasting and broadcasting regulation, the presence of a tradition of advocacy reporting, and the limited development of journalism as an autonomous profession make Turkey's media a typical example of the 'Mediterranean or Polarised Pluralistic Model' (Hallin and Mancini, 2004).
6. These bodies are: the Press Council (Basın Konseyi), Journalists' Association of Turkey (Türkiye Gazeteciler Cemiyeti), Journalists' Federation of Turkey (Türkiye Gazeteciler Federasyonu), Progressive Journalists' Association (Çağdaş Gazeteciler Derneği), Foundation of Journalists and Writers (Gazeteciler ve Yazarlar Vakfı), Association of the Media (Medya Derneği).
7. Yet, exempted from the mandate are the website editions of newspapers.
8. They are the Union of Journalists in Turkey (Türkiye Gazeteciler Sendikası) and the Media Union (MEDYA-SEN).
9. See [http://www.rtuk.org.tr/sayfalar/IcerikGoster.aspx?icerik\\_id=80775e05-caec-4a48-bac5-39fd6375da3b](http://www.rtuk.org.tr/sayfalar/IcerikGoster.aspx?icerik_id=80775e05-caec-4a48-bac5-39fd6375da3b), date accessed 8 September 2010.
10. Law no. 4676 of 7 June 2001.
11. Article 3.
12. Article 8.
13. The case concerns an alleged ultranationalist criminal network involving retired and current senior military personnel, members of the intelligence, bureaucrats, journalists, academics and mafia, who are accused of plotting the overthrow of the government.
14. This charge was subsequently dropped. Currently, the two journalists are solely charged with 'membership of the Ergenekon terrorist organisation'.

15. For more on the murder of Hrant Dink, see the next section on the military.
16. The book is about the alleged links between the Fethullah Gülen movement and the police in Turkey.
17. On 6 February 2004, Hrant Dink, the founder and editor-in-chief of the Armenian-Turkish weekly *Agos*, published an article which suggested the possibility of Sabiha Gökçen, Atatürk's adopted daughter and the symbol of the educated-modern Turkish women, having been an adopted Armenian orphan who survived 1915. When this news was covered on the front page of *Hürriyet*, the most popular daily, a number of columnists in mainstream media reacted strongly to Dink. Finally, the head of the chief of staff made a public statement, rejecting as unacceptable the allegations on Sabiha Gökçen and indirectly accusing Dink of threatening national unity and peace in Turkey. Meanwhile Dink was convicted of 'denigrating Turkishness' on the basis of an indictment which deliberately distorted his writings and portrayed him as a threat to the 'Turkish nation'. The media's overall coverage of the case was extremely biased, making him a target of further nationalist attacks and hate crimes. Eventually, Dink was assassinated on 19 January 2007 by a 17-year-old Turkish nationalist who told the police that he killed Dink because he read in papers that Dink hated the Turks.
18. *Deniz Feneri e.v. (Lighthouse)*, a German-based Islamic charity organisation, was found by a German court to have embezzled €58 million in charitable contributions mostly collected from the Turks living in Germany, at least €17 million of which were channelled to private enterprises within the Islamic community in Turkey. While the Frankfurt court convicted three members of staff of the company in Germany, it passed the ball to the Turkish authorities stating that the actual masterminds of the fraud were in Turkey.
19. ECtHR, *Özgür Radyo-Ses Radyo Televizyon Yayın Yapım ve Tanıtım A.Ş. v. Turkey* (nos 64178/00, 64179/00, 64181/00, 64183/00, 64184/00), 30 March 2006.
20. ECtHR, *Ürper and Others v. Turkey* (nos 14526/07, 14747/07, 15022/07, 15737/07, 36137/07, 47245/07, 50371/07, 50372/07, 54637/07), 20 October 2009.
21. ECtHR, *Turgay and Others v. Turkey* (nos 8306/08, 8340/08 and 8366/08, 15 June 2010), 15 June 2010.
22. See the ECtHR's judgements in *Düzgören v. Turkey* (nos 6, 56827/00), 9 November 2006 and *Ergin v. Turkey* (no. 47533/99), 4 May 2006.
23. The 2009 report of an NGO documents the prevalence in the Turkish media of hate speech against ethnic and religious minorities within the past decade. See Social Change Association (2009).