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## Pamuk, Tas and other freedom of speech cases in Turkey should be subject to international law and action

The trial of Orhan Pamuk puts a spotlight on Turkey as never before. Many politicians, periodicals, and human-rights groups have criticized Turkey's unwarranted prosecution of Pamuk and 60 other writers and publishers under Article 301 of the penal code. Among those prosecuted is Fatih Tas, the owner of Aram Publishing, which in early 2005 brought out John Tirman's book, *Spoils of War*, in Turkish. The 1997 book, published in the U.S. by the Free Press to favorable reviews, is the subject of one of many charges against Tas for insulting the state, military, Atatürk, etc. Tas, who has been sentenced to six months in prison on a similar case, will return to court for Tirman's book on February 8th, the day after Pamuk must appear in court for his next hearing. Tas was also prosecuted for publishing Noam Chomsky's *American Interventionism* in 2002. The charges were dropped when Chomsky appeared in court with Tas.

These prosecutions raise many questions about Turkey's "European aspiration," especially its hope to join the EU. Observers should take note of several aspects of this situation that deserve more emphasis.

- These prosecutions are not merely human-rights violations. They demonstrate that the military remains in control in Turkey. The fact that the elected government cannot prevent these prosecutions from going forward is, for Turkey's friends, the most troubling specter of this affair.
- The evidence of the "deep state" and its criminal activities was on display this autumn when security personnel were caught again in the southeast planting bombs and assassinating opponents.
- Turkey already is in Europe. It is a member of several European multilateral organizations, including NATO, OSCE, and the Council of Europe. As such, it is already beholden to

“European” standards on freedom of speech, an independent judiciary, civilian control, and so on.

- The treaties that Turkey signed and ratified to join these organizations (as well as the United Nations) obligate it to uphold democratic processes, including freedom of speech. There is no ambiguity in these documents, and they comprise many legally binding commitments.
- Membership in international organizations comes with a price—adherence to the principles set out for such membership. An obvious question with regard to Turkey is whether it should be suspended or expelled from such organizations as long as it systematically violates human rights and purposefully ignores its obligations under current international law.
- The U.S. Government should cease its pressure on Europeans to include Turkey in the E.U. until Turkey has clearly demonstrated a durable commitment to democratic processes, including free speech and assembly, an independent judiciary, and other such standards.

The Government of Turkey should consider these obligations and act accordingly, terminating the prosecution of Tas, Pamuk, and the other writers and publishers being prosecuted under Article 301.

[signed]

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John Tirman

*Relevant treaties and legal documents*

OSCE: [http://www.osce.org/publications/odihr/2005/09/16237\\_440\\_en.pdf](http://www.osce.org/publications/odihr/2005/09/16237_440_en.pdf), esp. pp. xvi-xix

OSCE: [http://www.osce.org/documents/mcs/1975/08/4044\\_en.pdf](http://www.osce.org/documents/mcs/1975/08/4044_en.pdf) Helsinki Final Act

Council of Europe: <http://conventions.coe.int/treaty/en/Treaties/Word/005.doc> Human Rights Convention

European Court of Human Rights:

<http://www.echr.coe.int/ECHR/EN/Header/Reports+and+Statistics/Reports/Annual+surveys+of+activity/>

Use search engine, “Turkey”

NATO: <http://www.nato.int/docu/basic/txt/treaty.htm> Article 2

United Nations: <http://www.un.org/Overview/rights.html> Universal Declaration of Human Rights