

Turkey's first English daily

turkish

# daily news

"peace at home, peace in the world" Kemal Atatürk

Sunday, January 22, 2006 YEAR: 44 No: 15080 YTL: 1.5

Your gateway to  
Turkey on  
the way  
to Europe



www.turkishdailynews.com.tr

# Rights group aims to save country from controversy

The struggle to protect individual freedoms and support for the democratic process continues to be waged by NGOs in Turkey, says IHGD Chairman Cengiz, noting that legislators fail to consult civil society when drafting laws

■ SERDAR ALYAMAÇ

İZMİR - Turkish Daily News

**H**uman rights activists, jurists, lawyers and academics who form the Human Rights Agenda Association (IHGD) have launched a Freedom of Expression Project to suggest alternatives to legal articles that create barriers to fundamental rights and freedoms.

explaining the aim of the project, said it would review laws limiting freedom of expression under threat of criminal sanction.

"We will not confine ourselves to just criticizing these laws but instead offer amendments and new provisions and may suggest total abolishment of some articles. We will do this by consulting not only with prominent lawyers but also with journalists, artists and academics," he said.

He said they wanted to fill the gap left by

legislators should consult civil society, the press and intellectuals when in the process of writing these laws.

Pointing out that a struggle to protect individual freedoms and support for the democratic process continues to be waged by nongovernmental organizations in Turkey, Cengiz said the primacy of the state over society was reflected even in the central administration's role in the daily affairs of Turkish citizens. The economic, social and cultural arenas have remained primarily under state

initiatives have been discouraged in the name of national unity and political stability since the founding of the modern Turkish state.

Talking about the project's activities, Cengiz said: "The IHGD will form a working group of five lawyers to review the new Turkish Penal Code [TCK] and identify those articles that prohibit fundamental rights and freedoms. The working group will also consult with other legal professionals, academics, bar associations and NGOs to collect additional opinions on the new TCK." *Photo: Pinar*



# Freedom of expression project by IHGD

■ SERDAR ALYAMAÇ

IZMİR - Turkish Daily News

The Human Rights Agenda Association (IHGD), an Izmir-based nonprofit organization established in 2003 by human rights activists, jurists, lawyers and academics, have launched a Freedom of Expression Project to suggest alternatives to some legal articles that create barriers to fundamental rights and freedoms.

IHGD Chairman Orhan Kemal Cengiz, explaining the aim of the project, said it would review laws limiting freedom of expression under threat of criminal sanction. "We will not confine ourselves to just criticizing these laws but instead offer amendments and new provisions and may suggest total abolishment of some articles. We will do this not only by consulting with prominent lawyers but also with journalists, artists and academicians. In this way, we will fill the gap left by legislators when they prepared these laws. They should have also consulted with civil society, the press and intellectuals when they were in the process of making these laws. But unfortunately, our lawmakers do not have such habits. And no government has ever taken a different approach towards the lawmaking process. At the end of the review process, we will submit our findings to legislators and we will say, 'Okay these are the opinions of members of civil society, please change the laws in accordance with these opinions,'" said Cengiz.

"Of course, problems are not solved through legislation only. We

also have a very strong problem in the mentality that interprets these laws," said Cengiz. "In this regard, it is very important to overcome nationalist sentiment and give a new perspective to judges. As was stated by Mr. Yusuf Kanli [of the Turkish Daily News] in his column, according to Article 90 of the Constitution, international agreements take supremacy over domestic laws. So when a judge confronts a situation in which domestic and international rules conflict, the judge should apply international law. This, of course, also includes taking into consideration the comments of the international bodies that are set up under these international documents. What I am trying to say, for example, is that Turkey is not only bound by the European Convention on Human Rights but also by the way in which this convention is interpreted by the European Court of Human Rights. Therefore, judges have to interpret laws in accordance with standards set forth by the European court when they come across a case dealing with freedom of expression."

Pointing out that a struggle to protect individual freedoms and support for the democratic process continues to be waged by nongovernmental organizations in Turkey, Cengiz said the primacy of the state over society was reflected even in the central administration's role in the daily affairs of Turkish citizens; economic, social and cultural arenas have remained primarily under state control, and nongovernmental economic and social initiatives have been, since the founding of the

the name of national unity and political stability.

Cengiz said, after the military coup in 1980, the Turkish Constitution was amended to restrict the fundamental rights and freedoms of Turkish citizens. "Now a candidate for European Union membership, Turkey has signed the European Convention on Human Rights and is obliged to guarantee basic human rights and freedoms. Over the past three years, the governing Justice and Development Party [AKP] has taken steps to advance Turkey's political and legal reform process. In 2003, the Turkish Parliament passed three sets of constitutional amendments to fulfill the remaining political criteria for EU membership. Nonetheless, the pace of legal reform has been slow and, despite positive developments, Turkish citizens continue to face legal barriers to their freedoms and rights. In May 2005, the Turkish Parliament approved changes for a new penal code -- a key condition for the start of EU talks. The new code as a whole was welcomed by EU officials; however, some clauses are in violation of Article 10 of the convention. For instance, criticizing some state institutions is still a criminal offense, as is receiving payment or benefit from a foreign state or body for publishing material deemed contrary to fundamental national interests. Overall, the new penal code is a giant step forward but there is room for greater reform."

**Project activities:** Talking about the project's activities, Cengiz said: "The IHGD will form a working group of

Penal Code [TCK] and identify those articles that prohibit fundamental rights and freedoms. The working group will also consult with other legal professionals, academics, bar associations and NGOs to gather additional opinions on the new TCK. Upon completion of the legislative review, the IHGD will conduct four two-day regional workshops in four major cities -- Izmir, Ankara, Istanbul and Diyarbakir -- to promote legal reforms on fundamental rights and freedoms. The workshops' aim is to mobilize support for legal reforms and engage civic groups and legal professionals throughout Turkey in drafting amendments based on the review findings. In each city, the HRAA will liaise with local groups to brief 15 participants from local NGOs, Turkish lawyers and bar associations, journalists, intellectuals and academics. The working group will develop the workshop agenda, and the IHGD will hire two part-time workshop coordinators to handle planning logistics and provide assistance to the working group. On the first day, participants will discuss the number and nature of articles in the TCK that restrict fundamental freedoms and rights. On the second day, participants will draft legal amendments and proposals to remove the remaining restrictions on fundamental rights and freedoms."

"After the regional workshops have taken place, a one-day working group meeting in Izmir will be convened to prepare a final joint declaration. Two participants from each of the four regional workshops will be selected to assist the working



Orhan Kemal Cengiz

final joint declaration, containing a list of proposed amendments based on expert opinions and workshop proposals, will be published in a book to enable lawmakers to better represent their constituents and promote further penal code reform. The IHGD will print and distribute 2,000 copies of a 300-page book and 500 CD-videos of the final declaration to Turkish bar associations and law schools, the media, NGOs, government officials, prosecutors and judges. The IHGD will use its Web site to disseminate information on the TCK review project and engage the public in the campaign for greater fundamental rights and freedoms. IHGD will target the media for full coverage of its activities and promotion of the campaign for greater