

Minister Ergin,  
Dear Presidents,  
Your Excellencies,  
Distinguished Guests,

It is a pleasure to be back in Ankara and it is an honour to be able to address you today.

The subject of this conference is as important as it is timely.

The title of one of the main sessions of today's conference says it all: Freedom of Expression: The Founding Pillar of Democracy.

The founding pillar of democracy – that is essentially what freedom of expression boils down to.

Freedom of expression and media freedom – as guaranteed by Article 10 of the European Convention on Human Rights – is a core element of any functioning democracy.

And it is essential for the protection of other fundamental rights.

I would therefore like to acknowledge the steadfast support of Minister Ergin and the Turkish authorities in the implementation of the project which is the basis of this Conference.

Fourteen months ago, at a Conference here in Ankara, Minister Ergin publicly declared his determination to ensure that the judgments of the European Court of Human Rights are executed in a timely and effective manner.

Speaking at that same conference, I said that shortcomings exist everywhere, including in longstanding democracies. What counts, I said, is what is being done to address them.

Since then, we have started working together to address the main challenges, in law and in practice, related to freedom of expression identified by the European Court of Human Rights in its judgments concerning Turkey.

According to the latest statistics just released by the Court, there are still 450 cases pending against Turkey in the field of freedom of expression.

This is simply too much.

Some of these cases refer to the offence of "praising a crime or a criminal" and "propaganda on behalf of a terrorist organisation".

Other cases relate to punishing defamation against certain national values and state bodies.

In this respect, I should like to underline that, according to the case-law of the European Court of Human Rights, politicians should accept that their words and actions are open to a higher degree of scrutiny by both journalists and the public at large. They should therefore be cautious when they initiate criminal or civil defamation cases. This can have a serious chilling effect on freedom of expression and the media.

The need for action is evident.

Legislation has to be brought in line with Council of Europe standards.

Some progress has already been achieved.

Last July, the 3rd Package of Laws was adopted.

As a result, Article 6 para. 5 of the Anti-Terrorism Law was abolished.

With this amendment, publication of periodicals will no longer be suspended on the grounds that their content encourages the commission of offences.

I am confident that the Turkish Parliament will include the necessary legislative amendments in the 4th Reform Package.

What is needed is a complete overhaul of the anti-terrorism law as well as amendments to the Criminal Code.

When pushing ahead with these legislative reforms, it is also important to remember that the Internet has now become one of the main means of exercising the right to freedom of expression and information.

We were reminded of this in a recent landmark judgment by the European Court of Human Rights, which ruled that Turkey needs a strict legal framework regulating the scope of preventing access to certain Internet sites (YILDIRIM v. Turkey).

Our common challenge is of course not just about the changing of laws. It is also about raising awareness of those who interpret the laws.

Progress has also been achieved in this field.

It is little known that judges and prosecutors now regularly visit the Strasbourg Court to familiarise themselves with its case-law in the area of freedom of expression. Study visits are also being organised to Member States, including the United Kingdom, Spain and Germany. We are also recently seeing examples of Turkish court decisions, especially from the Court of Cassation and the Council of State, which are in line with the case-law of the European Court of Human Rights. For example, the Court of Cassation, in a judgment dated last December, annulled the applicant's conviction who had said during a public demonstration that conscientious objection is a right. The Court of cassation considered that non-violent opinions supporting conscientious objection should be protected by freedom of expression.

Dear friends,

The case-law of the Strasbourg Court is very clear on another point: expressions inciting to hatred and violence are not permissible.

Let me give you an example in this respect: in a case before the Court, the applicant had published a series of articles portraying the Jews as the source of evil in Russia. He accused an entire ethnic group of plotting conspiracy against the Russian people. Both in his

publications and in his oral submissions at the trial, he denied the Jews the right to national dignity.

The Court considered that through his publications he incited hatred towards the Jewish people. Such a general and vehement attack on an ethnic group is in contradiction with the Convention's underlying values, notably tolerance, social peace and non-discrimination. Consequently, the Court found that this situation was not protected by freedom of expression as guaranteed in the Convention.

Therefore, a clear distinction has to be made between expressions that incite hatred and violence, and those which in fact do not.

Let me give you another example from the case-law of the Court. It is related to freedom of the press.

The owner and the editor of a Turkish weekly review were sentenced to high fines and to imprisonment for having published an interview with one of the leaders of a terrorist organisation. This was considered as disseminating propaganda against the state and giving support to a terrorist organisation. The Strasbourg Court did not agree. It recalled how important it is for the press to impart information and ideas on political issues, including divisive ones. It also recalled that the public has the right to receive such information. The Court concluded that there was a violation of Article 10 of the Convention.

Dear friends,

Freedom of expression is a right protected by the Turkish Constitution.

I welcome the fact that Turkey has started a process of preparing and adopting a new Constitution.

This is a truly historic opportunity.

Reforming the Turkish Constitution will take time and effort.

The Council of Europe, and our Venice Commission, are there to help member States to meet such major undertakings.

Dear Friends,

Freedom of expression may offend, it may even shock. These are not my words. They are taken from a judgment of the Court.

Freedom of expression can disturb the State or any sector of the population, especially when the country is facing threats of terrorism and instability at its borders.

But even in these circumstances, freedom of expression is vital.

It does not make countries weaker. On the contrary, it strengthens democracy and the rule of law. In fact, any successful struggle against terrorism must be based on democratic principles and rule of law.

Free media and independent judiciary are also essential to protect against misuse of power and to avoid corruption. Protecting journalists and freedom of expression is protecting democracy.

But, of course, journalists also have the basic obligation to respect ethical standards such as refraining from hate speech.

Dear friends,

What we are talking about here today – freedom of expression– was vital to the historic period we call Enlightenment in Europe.

A period which brought the most astonishing achievements in science, art, and a new understanding of what constitutes a society.

As the famous philosopher Emmanuel Kant said: "from now on everything must be up for discussion and criticism."

These words set the tone and started dynamic changes. Because when the human mind is "free," everything is possible.

As the famous scientist, Albert Einstein, once said: "The human brain is like a parachute. It has to be open to function."

I speak to you today not just as a visiting politician, but as a friend of Turkey.

Turkey has been a member of the Council of Europe for more than sixty years, since 1949.

It ratified the European Convention on Human Rights already in 1954 and accepted the right to individual application in 1987.

Turkey has come a long way since then. You have much to be proud of.

Turkey now has impressive economic and political clout. In other words, you have every possibility to do what one of the main figures; Selahattin, in Orhan Pamuk's novel; "The Silent House" says:

"We'll establish a brand new world here, thinking and living things that are fresh, simple, happy, and free: a world of freedom such as the East has never seen, a paradise of logic on the face of the earth, I swear, Fatma, it will happen, and we'll do it better than the West, we've seen their mistakes."

Thank you.