



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 28 August 2006

12322/06

LIMITE

PE-QE 709

PUBLIC

**PRELIMINARY DRAFT REPLY TO WRITTEN QUESTION
E-3588/06 put by Mario Borghesio (NI)**

from : General Secretariat of the Council
to : Permanent Representations of the Member States
Subject : - " **Turkey should abolish Article 301 of its Penal Code** "

1. Delegations will find attached:
 - the text of the above Written Question;
 - a preliminary draft reply prepared by the General Secretariat.

2. If no comments have been received from delegations **by 18 September 2006**, this preliminary draft reply will be submitted to the Permanent Representatives Committee (Part 1) and to the Council for approval.

Any comments received will be examined by the Working Party on General Affairs.

WRITTEN QUESTION E-3588/06
by Mario Borghezio (NI)
to the Council

Subject: Turkey should abolish Article 301 of its Penal Code

Article 301 of the Turkish Penal Code, which provides for up to three years' imprisonment for anybody who denigrates the 'good name of Turkey' has served as a basis, through the years, for persecuting dissident intellectuals and, in particular, anyone daring to mention the Armenian genocide.

This unjust provision is now being used to persecute an excellent Turkish writer, Elif Shafak, who is guilty of referring to the Armenian tragedy in her recent successful novel 'The Bastard of Istanbul'.

Does the Council intend to ask Turkey to remove from its Penal Code the notorious Article 301, which is an instrument of persecution of intellectual freedom?

REPLY

to Written Question E-3588/06

put by Mario Borghezio (NI)

The Council is aware of the specific case referred to by the Honourable Member and follows it closely. The Council has repeatedly underlined the importance it attaches to the issue of freedom of expression. This is one of the key areas where further sustained efforts are needed in order to ensure that the exercise of freedom of expression in Turkey is in line with the European Convention on Human Rights and in accordance with the relevant case-law of the European Court of Human Rights.

The Honourable Member is aware that certain provisions of the Turkish Penal Code - including Article 301 - contain terms vague enough to be open to interpretation by judges and prosecutors and on this basis a number of cases are still pending against individuals for non-violent expression of opinion. This issue has been systematically raised by the EU at all levels as part of the ongoing reform process in Turkey. At the latest meeting of the EC-Turkey Association Council held in Luxembourg on 12 June 2006, the Union side clearly stated that, if judges and prosecutors continued to give a restrictive interpretation of these provisions, Turkey would have to amend the vaguely formulated articles in line with the relevant EU standards.

Against this backdrop, the Honourable Member can be assured that the Union will continue to closely follow developments in this area and raise the issue at all levels as appropriate.
