

THE CASE OF FERHAT TEPE and ACCESS BLOCKS

PERSONS:

Ferhat Tepe, Bitlis reporter to the Newspaper Gundem

Korkmaz Tagma, The then Brigadier General of Tatvan

Ishak Tepe, Ferhat Tepe's father, the then Bitlis Provincial Head of the DEP

BACKGROUND*:

A group of men dressed in plain clothes and equipped with radios abducted **Ferhat Tepe** from in front of his house on July 28th 1993.

His father **Ishak Tepe** then received a phone call and was told that Ferhat Tepe has been kept hostage on the behalf of the Turkish Revenge Brigade (TIT in Turkish acronym). Ishak Tepe was instructed to resign from the party, pay ransom of 1 billion Turkish Liras and force the PKK to free four French hostages in return for releasing Ferhat Tepe.

Ishak Tepe said in his statement that the voice on the phone was sounding like Korkmaz Tagma, the then Brigadier General of Tatvan, who had once threatened him during a meeting. Although Ishak Tepe and the Newspaper Ozgur Gundem's lawyers issued all evidence, including the tape of the phone call, to the relevant authorities, their attempts remained inconclusive.

Ferhat Tepe's body was found nearby the Lake Hazar in Elazig on August 8th 1993. It was revealed in the autopsy that he had been strangled by a wire and that cigarettes had been extinguished on his body alongside exposing to some other forms of torture.

14 witnesses, including Mumtaz Cercel, the then Bismil District Head of the HEP, testified that they had seen Ferhat being taken to the Gendarmerie Command of Diyarbakir. Cercel has been exposed to violence and threats due to his testimony.

Sevket Epozdemir, the lawyer who has followed the case, was found dead three months after the abduction of Ferhat Tepe.

The way Ferhat Tepe was killed was similar in many respects to the other cases of missing and unidentified murder for which Korkmaz Tagma have always been held responsible.

Legal process has remained inconclusive for long years. The case was referred to the European Court of Human Rights. Turkey was ordered to pay compensation for the violation of the right to life and of the right to an effective remedy. However, no perpetrator has stood trial so far.

** Cited from the piece authored by Faruh Arhan, published on the website Bianet on July 28th 2010.*

PROCESS*:

Korkmaz Tagma filed a complaint to the Ankara 8th Criminal Judgeship of Peace on December 17th 2018 that 55 different URL addresses be blocked which has had contents regarding the case.

The Judgeship ordered that the relevant URL addresses be blocked. It ordered that even a URL be blocked which has provided access to the parliamentary record of discussions about the case.

The appeals against the access blocks were rejected by the Ankara 1st Criminal Judgeship.

The access blocks will be referred to the Constitutional Court.

Here are the access-blocked URL addresses:

- 1- <https://m.bianet.org/bianet/insan-haklari/123758-bir-kontrgerilla-cinayeti-ferhat-tepe>
- 2- <https://m.bianet.org/bianet/insan-haklari/199380-ferhat-tepe-dosyasinda-zamanasimini-kabul-etmiyoruz>
- 3- <https://www.birgun.net/haber-detay/oglu-oldurulen-ishak-tepe-korkmaz-tagma-dan-davaciyim-57167.html>
- 4- http://www.cumhuriyet.com.tr/koseyazisi/568214/Ferhat_Tepe_dosyasi_neden_kapandi_.html
- 5- <http://haber.sol.org.tr/devlet-ve-siyaset/cemaatin-generaline-dokunulmuyor-haberi-39065>
- 6- <http://www.yakayder.com/tr/sayfa/bizden-koparilanlar/ferhat-tepe/265>
- 7- <https://www.nerinaazad.org/tr/news/life/people/ferhat-tepe-ahmet-gelen>
- 8- <http://www.milliyet.com.tr/yazarlar/mehves-evin/ferhat-1745303/>
- 9- <https://www.evrensel.net/haber/10831/cumartesi-anneleri-ferhat-tepenin-faillerini-sordu>
- 10- <http://sendika63.org/2017/08/cumartesi-anneleri-gozaltinda-katledilen-gazeteci-ferhat-tepe-icin-adalet-442050/>
- 11- <http://www.bizhaberiz.net/index.php?Did=5999>
- 12- <https://www.demokraphaber.org/etkinlik/cumartesi-anneleri-gazeteci-ferhat-tepe-nin-akibetini-sordu- h53073.html>
- 13- <https://www.facebook.com/ihdizmir/photos/d41d8cd9/894110917360346/>
- 14- <http://www.toplumsal.org/cumartesi-anneleri-gazeteci-ferhat-tepe-icin-bulustu/>
- 15- <http://www.inhak.adalet.gov.tr/ara/karar/tepe.pdf?????>
- 16- <https://www.otekileringundemi.com/?p=18299>
- 17- <https://emek.org.tr/cumartesi-anneleri-gazeteci-ferhat-tepe-icin-bulustu.html>
- 18- <https://twitter.com/lemanyurtsever/status/705885525027262465>
- 19- <http://umutgazetesi12.org/cumartesi-anneleri-gazeteci-ferhat-tepenin-akibetini-sordu/>
- 20- <https://karakok.wordpress.com/2011/12/15/mutki-kazilarinda-cemaat-generalii/>
- 21- <http://www.yenidemokrasi2.net/cumartesi-anneleri-695inci-haftada-ferhat-tepe-icin-adalet-istedi.html>
- 22- <http://www.nethaberajansi.com/mobil/haber/gozaltinda-kaybedilisinin-25-yilinda-ferhat-tepe-icin-adalet-istiyoruz-h5603.html>
- 23- <https://www.gazetepatika8.com/cumartesi-anneleri-devletten-para-pul-istiyoruz-kemik-istiyoruz-kemik-26254.html>
- 24- <https://www.gazetefersude.com/cumartesi-anneleri-714-haftasinda-adalet-talebini-yineledi-32909.html>
- 25- <https://www.haberhurriyeti.com/18-yasinda-olumun-bedelii-25-bin-lira/>
- 26- <http://kurdistanname.blogspot.com/2010/06/bitlis-katliami-ve-bir-demokrat-general.html>
- 27- <http://www.baskahaber.org/2013/08/cumartesi-annelerinin-436-bulusmas.html>
- 28- <https://gazeteyolculuk.net/cumartesi-anneleri-eylemi-712nci-haftasinda-para-pul-degil-kemiklerimizi-istiyoruz>
- 29- <https://gazeteyolculuk.net/cumartesi-anneleri-eylemi-712nci-haftasinda-para-pul-degil-kemiklerimizi-istiyoruz>
- 30- <https://www.semduinlihaber.gen.tr/m/?id=11030>
- 31- <http://www.gazetetamam.com/cumartesi-anneleri-712-hafta-devletten-para-pul-degil-kemik-istiyoruz/>
- 32- <http://devrimci proletarya.net/cumartesi-anneleri-712-haftada/>
- 33- <https://www.yuksekovahaber.com.tr/haber/anneler-tepeyi-sordu-56117.htm>
- 34- <http://ipahaber.com/2018/11/17/cumartesi-anneleri-712-hafta/>
- 35- <http://www.gazetevan.com/cumartesi-anneleri-hursit-kulter-ve-ferhat-tepe-icin-bulustu-102139.html>
- 36- <https://www.ibtimes.co.uk/saturday-mothers-turkey-ferhat-tepe-murdered-journalist-498473>
- 37- <http://www.jinpanel.com/GUNCEL/content/view/95706>
- 38- <http://www.sanalbasin.com/cumartesi-anneleri-para-pul-degil-kemiklerimizi-istiyoruz-27900949/>
- 39- <https://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d19/c039/b001/tbmm190390010047.pdf>
- 40- <http://www.cezasizlik.com/en/node/65?page=56>
- 41- <http://www.bolgededegisim.com/yazar/bitmeyen-aci-dinmeyen-feryat/>
- 42- <http://fasizmekarsibirlesikcephe.blogspot.com/2011/12/birgun-muhabirine-demecten-hapis-cezas.html>
- 43- <https://www.ozgurbingol.com/haber-7660-bu-ulkede-katiller-degil-sucuzlar-yargilanir.html>
- 44- <http://guncelyorum-canadil.blogspot.com/2010/09/onlarin-sayesinde-2.html>
- 45- <https://www.durushaber.com.tr/gundem/cumartesi-anneleri-epozdemir-ve-elci-icin-adalet-istedi- h26176.html>
- 46- <https://peyik.com/2017/08/26/648-hafta-kacirilip-oldurulen-ozgur-gundem-muhabiri-ferhat-tepe-icin-adalet-istediler/>
- 47- <https://magduriyetler2.blogspot.com/2018/11/712-haftada-cumartesi-anneleri.html>
- 48- http://www.edebiyatevi.com/yazi/84461_kayip-araniyor-cumartesi-anneleri.html
- 49- <https://alevihaber.ch/cumartesi-anneleri-katledilen-avukatlar-icin-adalet-istedi/>
- 50- <http://www.ufkumuzhaber.com/faili-mechuller-7889h.htm>
- 51- http://www.gorelesol.com/haber/haber_detay.asp?haberID=1621
- 52- https://issuu.com/gurkansose/docs/ihd_rapor__1_
- 53- <http://mehvesevin.tumblr.com/page/63>
- 54- <https://www.e-merhaba.com/wp-content/uploads/2014/11/Hallo-Schweiz-Merhaba-Kasim-2014.pdf>
- 55- <http://doczz.biz.tr/doc/153855/i%CC%87nsan-haklar%C4%B1-%C3%B6rg%C3%BCterininbas%C4%B1na%C3%A7%C4%B1klamalar%C4%B1-ve-veya-ra...>
- 56- http://sansursuzhaber.blogspot.com/2011_02_20_archive.html?view=classic

*Cited from the pieces authored by Prof Dr. Yaman Akdeniz, published on the website Diken on January 28th and February 7th 2019.

JUDGING THE JUDICIARY

SUMMARY OF THE JUDGMENT

January 25th 2019

1. The access blocks imposed by the Ankara 8th Criminal Judgeship of Peace attested to what degree impunity has been promoted by the judiciary itself in Turkey.
2. Even though it has never been put in effect, the judgment that an access block be imposed on the Turkish translation of the ECHR's relevant decision available on the website of the Ministry of Justice clearly shows that the perpetrators and their collaborators have tried to keep an important information source away from people, who wants to learn more about the current status of the years-long case.
3. Imposing an access block on the 47 page parliamentary record dated September 1st 1993, the Judgeship both exceeded its authority and violated the Article 97 of the Constitution.
4. It is obvious that the Judgeship has not sought a balance between the personal rights of complainant Korkmaz Tagma and freedom of press.

REASONED JUDGMENT

The murder of Journalist Ferhat Tepe is another example of the cases of impunity that the judiciary has refrained from taking steps necessary to bring the perpetrators to the court. Access blocks have been imposed without substantial reasons on the internet sources. So the case has two dimensions, impunity and access blocks. Impunity has been accompanied by the access blocks aimed at making people "forget" the case.

Article 9 of the Law No. 5651 enables individuals to request a relevant content be blocked due to the violation of their personal rights. The requests are reviewed by the Criminal Judgeship of Peace and finalized within 24 hours. It is almost a rule that access blocks are imposed without reasoned judgments. The judgment regarding the access-blocked 56 relevant URL addresses just says "it is seen that the relevant contents have violated the personal rights of the complainant". A judgment has to be issued with its reasons, pursuant to the Article 34 of the Law on Criminal Procedures.

Access blocks can be appealed to the next Criminal Judgeship of Peace and the Constitution Court, respectively. That causes the process to take longer, and thus the content to remain blocked. The unreasoned judgments issued within a short period pose obstacles for freedom of expression. It intervenes disproportionately in freedom of expression and of press.

Even though it has never been put in effect, the judgment that an access block be imposed even on the Turkish translation of the ECHR's relevant decision available on the website of the Ministry of Justice clearly shows the severity of the situation.

Prof. Dr. Yaman Akdeniz revealed that one of the relevant 56 URL addresses has been blocked without prior request. The URL address belongs to a 47 page parliamentary record dated September 1st 1993. That means that the Ankara 8th Criminal Judgeship of Peace exceeded its

authority, and thus violating the paragraph 3 of the Article 9 of the Law No. 5651, which stipulates that an access block may be imposed only when it is requested.

Even if the Constitutional Court rules in favor of the appeal, a more comprehensive policy should be implemented to bring an end both to impunity practices and to access blocks.