



Think, think...

Freedom of Expression Weekly Bulletin

(Issue 30/19, 2 August 2019)

What happened last week?

*** The Constitutional Court (AYM) announced the reasoned decision for the violation of freedom of expression decree issued for the “Academics for Peace.” Four of the eight members voting against violation based their votes on their “loyalty to government.” The Rectorates, who have supported the dismissals of hundreds of academics from universities, now took action against the AYM decree. *(Details below...)*

*** Assoc. Prof. Tuna Altınel, who is arrested for 81 days among Peace Academics, was released in the first hearing of the lawsuit filed against him. *(Details below...)*

*** No consensus was made with the U.S. on a “security zone,” the Foreign Ministry stated, “We will have to establish it on our own.” On the other hand, the National Security Council (MGK) indicated that the Syrian border will be cleared off of all terrorist elements, making an emphasis on a “peace corridor.” It drew attention that a “security zone” was not expressed by the MGK.

*** Minister of Treasury and Finance Berat Albayrak gave the message that the Turkish economy will recover through the period of interest rate decrease. Economists are in the opinion that the decrease in interest rates could be beneficial to a certain extent, but that it can not be a permanent solution by itself. Following the interest rate decrease, the Central Bank’s second action was to decrease the inflation forecast for the end of the year to 13.9 percent. In the meantime, 21 billion TL was transferred from the “security fund” of the Central Bank, to be used in extraordinary situations, to the Treasury.

*** With a second authorisation decree issued by the Council of Judges and Prosecutors (HSK), the court board responsible for the “Gezi Park Case” was changed. The case has 16 defendants, including arrested businessman Osman Kavala.

*** The regulation, authorising the Radio and Television Supreme Council (RTÜK) with monitoring internet publications, was published on the official gazette. According to the regulation, media service providers wanting to present their publications on the internet must receive a publication license from RTÜK first. “*This is the biggest step in the history of censorship in Turkey,*” said lawyer Asst. Prof. Kerem Altıparmak, further indicating that the regulation defines a much greater scope that extends legal limitations.

*** Four of the six people, who were dismissed from profession with Statutory Decrees issued during the State of Emergency and later claimed to have been kidnapped in February, were found. The Security stated that Salim Zeybek, Özgür Kaya, Erkan Irmak and Mikail Ugan, who were missing for six months, were actually under custody at Ankara Anti-Terror Office.

*** The judiciary evaluated the SETA report, which tagged journalists, within “freedom of expression” despite filing lawsuits and imposing terror crimes against other journalistic activities. *(Details below...)*

*** Istanbul Governorate announced that 12 thousand refugees, including 2630 Syrians, were transferred to deportation centers within 20 days.

*** 233 thousand individual applications were made at the Constitutional Court. It was decided that “at least one right was violated” in 7835 of the 186 thousand applications concluded by the high court. *(Details below...)*



Reason for judges voting against the Constitutional Court decree on Peace Academics: “Loyalty towards government”

The Constitutional Court (AYM) announced the reason for the violation verdict issued against the penalisation of scientists, who signed the Peace Petition of the Academics for Peace. “*When an expression or statement is being*

evaluated to see whether it is within the scope of freedom of expression or not, the expressions being correct or disturbing is not an indicator... It cannot be considered a legal evaluation to consider any expression of thought as terrorist organisation propaganda, relating it to an attempt to create a certain perception,” stated the Court. The AYM further indicated that public authorities have the opportunity to reply and react against criticisms against them through various tools, and that they must not initially turn to criminal investigation or prosecution - as long as the expressions do not contain a call for violence. The Supreme Court further emphasized that the fact that first degree courts based the petition on a purpose of denigrating the Turkish government in the international platform does not legitimise the intervention against freedom of expression. “*Persons being penalised through presumptive evaluations related to making terrorist organisation propaganda based on the honour or reputation of public institutions, and their freedoms of expression being restricted by this means, is Constitutionally not possible,”* the court stated.

On the other hand, Serdar Özgüldür, Burhan Üstün, Muammer Topal and Rıdvan Güleç from the eight Constitutional Court (AYM) members who voted “against” a violation, claimed that expressions against the principle of “loyalty towards government” can not be compensated through freedom of expression.



Rectors take action against AYM decree for "Academics for Peace"

Universities dismissing hundreds of signatory academics following the order of President Erdoğan regarding the Peace Petition of the Academics for Peace took

action against the Constitutional Court (AYM) decree this time. Ağrı İbrahim Çeçen, İstanbul Aydın, Altınbaş and İstanbul Medeniyet University Rectorates sent a petition to the Dean's Offices to be transferred to department heads. The academics were asked to sign the petition sent, with the title, "Constitutional Court Cannot Legitimise Terrorism." Istanbul University Rectorate launched a similar statement, entitled, "On Peace Petition, the So-Called Manifesto," targeting the Academics for Peace.

The petition campaign, prepared by the rectorates, was signed by 1071 people. The petition text describes the Peace Petition a "So-Called Peace Petition" and the AYM decree a "scandal." However, Dr. Şerif Eskin, Prof. Dr. Ercan Eyüboğlu and Dr. Anıl Özgüç, the academics asserted to have signed the petition, announced that their names were used without permission.



Release verdict for arrested academic Tuna Altinel

Assoc. Prof. Tuna Altinel from the Academics for Peace, who was arrested for 81 days, was released in the first hearing of the lawsuit filed against him. Balıkesir 2nd Assize Court issued the release of the academic, who is also a faculty member at Lyon 1 University, after prosecution due to a conference he

participated abroad. The academic was thus released without judicial measures. The next hearing was scheduled for November 19, 2019.



Investigation against journalist Rıfat Doğan

An investigation was opened against journalist Rıfat Doğan, who was tracking the lawsuit on the train disaster in Çorlu. Doğan is charged due to taking a photograph in the hearing room. The Prosecutor's Office told the journalist, who testified within the file, that a lawsuit will not be filed against him in

case he pays 900 TL judicial fine. Doğan denied the offer. In the statement he made on social media, lawyer Özgür Urfa stated that an investigation was opened against the victim families' lawyer Selvi Yüzbaşıoğlu and afterwards against TİP executive Birtan Altan, who went to the hearing to support the families. *"They want to prosecute everyone who follow the Çorlu Train Massacre Case,"* Urfa wrote.

Turkey Free Expression Trial Monitoring Report – July 2019

Report finds no significant improvement of courts' protection of journalists' rights

Jul 30, 2019



IPI and MLSA launch “Case Monitoring Report”

The case monitoring report, prepared by the International Press Institute (IPI) in collaboration with Media and Legal Studies Association (MLSA), was launched for the lawsuits between the dates, February 20 - May 31, 2019. 86 hearings of 492 defendants in seven provinces were tracked. 60 of the charges in tracked hearings were in accordance

with laws of terrorism. 40 people are arrested in remand in these lawsuits. 26 of these names have previously remained arrested for more than 12 months until their first hearings. 80% of the evidence presented for the charges are directly related to the profession of the defendants, like the news and columns they have written. Verdicts were issued in 18 of these hearings, with 11 concluding with conviction. Sentences of 25 people, who were convicted in two of these 11 lawsuits, were not deferred. The report further includes evidence in case files as well as data on hearing rooms. [Please click here](#) for the full report.



Prosecutor’s Office calls SETA report targeting journalists “freedom of expression”

The criminal complaint made against the report, “International Media Outlets’ Extensions in Turkey” by the Foundation for Political, Economic and Social Research (SETA), concluded with non-prosecution. Media and Legal

Studies Association (MLSA) has made a criminal complaint against the report due to tagging and targeting journalists. Ankara Chief Public Prosecutor’s Office evaluated the report within *“the freedom to express thoughts.” “It is very ironic that a verdict was issued based on freedom of expression. For Prosecutor’s Offices constantly file lawsuits against journalistic activities purely based on their profession, prosecuting them with charges of terrorism. Now, this verdict reveals that the Prosecutor’s Offices think that freedom of expression is only a right that is for pro-government institutions and media outlets,”* MLSA Co-Director Veysel Ok stated.



Investigation against HDP District Co-Chair after visiting husband’s grave

An investigation was started against People’s Democratic Party (HDP) District Co-Chair Güler Tunç, who visited the graves of her husband, Orhan Tunç, and her brother-in-law, Mehmet

Tunç, with the allegation of “praising the offense and the offender.” The Tunç brothers were killed in the basement they took shelter in during the curfew in Cizre. Party executives and members, including Democratic Regions Party (DBP) District Co-Chair Selahattin Kolanç, are among the suspects of the investigation as well.



Penalty fines against architect Alev Şahin reversed

The penalty fines issued against architect Alev Şahin due to performing a sit-in protest after being dismissed from public service in Düzce with a Statutory Decree were reversed by the court. Indicating that “a penalty fine cannot be issued against a peaceful protest,” Düzce 2nd Criminal Judicature of Peace accepted the objections of Şahin, who was sentenced

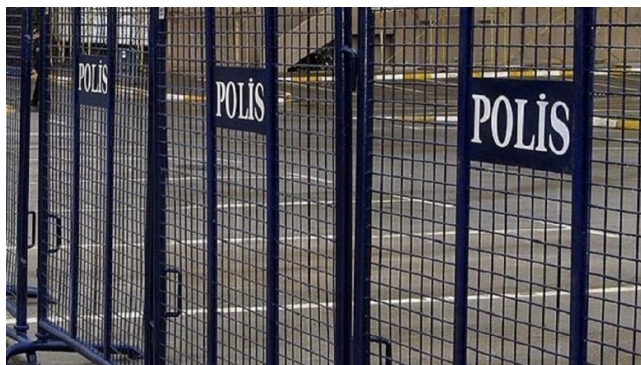
to administrative fines due to her protests in the province.



Police intervention against KESK members in Ankara

Confederation of Public Workers' Unions (KESK) members arrived in Ankara from all around the country to express their demand for mass contract negotiations. The march, to be organised by the members in front of the Ministry of Work, Social Services and Family was prevented. The police intervened in the

group, involving People's Democratic Party (HDP) MPs Murat Çepni and Abdullah Koç as well as Republican People's Party (CHP) MP Murat Emir, with tear gas and shields. At least six people were detained.



Van Governorate extends ban: Protests banned for 980 days

Banning events like demonstrations, marches, rallies and sit-in protests for “security,” Van Governorate extended the ban for another 15 days. Protests are banned for already 980 in the province. The first protest and demonstration ban was issued in Van on November 21, 2016

within the State of Emergency issued after the coup attempt. The Governorate extends the ban since then, sometimes with periods of one month and sometimes 15 days.



Concert ban in Nusaybin

The open air concert to be organised by Nusaybin Municipality was banned by the District Governorate. The ban was based on past lawsuits filed against artists Azad Bedran and Zinar Sozdar.



Access ban against Mezopotamya Agency

Another access ban was made against the “mezopotamyaaajansi21.com” URL of Mezopotamya Agency after successive access bans. Ankara 1st Criminal Judicature of Peace issued the access ban against the agency’s website.



Attack against protest for refugees

The Istanbul Governorate decision to deport Syrian refugees, who are not registered, was protested by the Free Thought and Education Rights Association (ÖZGÜRDER), Refugee Rights Association, the Association for Human Rights and Solidarity for the Oppressed (MAZLUMDER) and Lawyers Association. The protest was supported with the banner that stated, “Say no to oppressive, repressive

applications by Interior Ministry against refugees.” A racist group attacked the protest with provocative slogans like, “How great is being a Turk” and “Turkey belongs to the Turks.” The protesters reacted against this attack with chants like, “We’re all brothers and sisters,” “Damn racism,” “Long live brotherhood.”



Constitutional Court: Peaceful demonstrations cannot be banned with ‘arbitrary reasons’

The Constitutional Court (AYM) decided that the administrative fine issued against previously dismissed Education and Science Workers’ Union (Eğitim-Sen)

member teacher Erdal Karadaş due to two acts, that are, distributing leaflets and opening a petition booth in order to protest dismissals from public service was a violation of the right to meeting and demonstration. The AYM indicated that peaceful, nonviolent meetings and demonstrations cannot be banned with “arbitrary reasons” and indicated that those losing their jobs trying to make their voices heard is their most natural right.



IHD launches 6-month report: “Violations against right to life increase in the region”

Human Rights Association (IHD) Diyarbakır Office shared the “Eastern and Southeastern Anatolian Region 2019 First Six Months Human Rights Violations Report.” According to the report, torture and mistreatment under

custody continue in a systematic way. At least 65 people in custody and 30 outside of custody (on the street or during house raids) experienced torture and mistreatment. 1334 arrested people in total are ill in prisons, with 458 heavily ill. Violence against women and child abuse increasingly continue.

The report recorded violations against freedom of expression and organisation as following. Investigations were started against 81 people within 7 investigation files. Lawsuits were filed against 79 people in within 10 files. Various sentences of imprisonment and penalty fine were issued against 85 people, including politicians, journalists and public officers, within 20 files. 10 political party buildings and 3 electoral offices were attacked or raided. Closure cases were filed against 4 political parties. 32 mass demonstrations or open air meetings were intervened by security forces. Meetings and demonstrations were banned, indefinitely in some provinces and renewed each month in others. 20 ban decrees were issued within the first six months of 2019. [Please click here](#) for the full report.



233 thousand applications at Constitutional Court in seven years

The Constitutional Court (AYM) announced the statistics on individual applications between the dates June 23, 2012 and June 30, 2019. 223,330 applications were made at the court in total, 21,665 of which were made within the first six months of this year. 186,701 of those applications were concluded. “At least one right violation” was issued in

7,835 applications, 691 concluded in 2019. 53 percent of the decrees of violation (within 4,250 applications) were issued against the right to a fair trial; five percent (440 applications) were issued against the right to freedom of expression. Furthermore, 104 discrimination bans, 55 organisation freedom, 37 right to meeting and demonstration, 159 mistreatment ban violation decrees were issued. Constitutional Court Chief Judge Zühtü Arslan made a

statement last week and indicated that the number of individual applications continue to increase and that some legal amendments are now inevitable. *“The purpose of individual application is not to evaluate each and every rights violation in the country separately, but to make decisions to eliminate the source of those rights violations,”* Arslan stated.



TRIALS OF FREEDOM OF EXPRESSION

WHO: Doç. Dr. Tuna Altinel

CASE: The first hearing of the lawsuit filed against Peace Academic Tuna Altinel, who is arrested since May 10th, due to “illegal organisation membership” because of providing simultaneous translation at a conference organized in France in February during curfews, was held on July 30th, Tuesday.

COURT: Balıkesir 2nd Assize Court

VERDICT: The court issued the release of Tuna Altinel and decided for him to be exempted from the hearings. The next hearing was scheduled for November 19, 2019.

HEARINGS NEXT WEEK

WHO: Suruç Massacre Case

CASE: Those gathering at Amara Cultural Center in Suruç district of Urfa to bring toys to children in Kobanê, under the lead of the Socialist Youth Associations Federation (SGDF) on July 20, 2015 were attacked by the ISIS with a human bomb. The eleventh hearing of the lawsuit filed on the massacre in Suruç, with 33 dead and 104 wounded, will be held at Urfa 5th Assize Court.

DATE: August 7, 2019, Wednesday at 10:00