

Think, think...



Freedom of Expression Weekly Newsletter (Issue 51/20 - December 25, 2020)

What happened last week?

- Amendments will be made in the Law of Associations No.5253 within the “Law Draft on the Prevention of Financing of the Distribution of Mass Destruction Weapons” that was presented by the Justice and Development Party (AKP), supported by the Nationalist Movement Party (MHP) and was accepted at the Justice Commission. With the amendments, those convicted of charges related to terrorism, narcotics and money laundering will not be able to be association managers or auditors. Those facing investigations related to the aforementioned crimes will be able to be taken off duty with an Interior Ministry decree, without waiting for a court decree. The ministry will be able to appoint a trustee to the association’s administration. According to the draft, that brings new regulations within the “Law of Collecting Aid” No. 2860, organizing online aid campaigns will be bound to new rules and the penalty of illegal collecting of aid may be as high as 200 thousand Turkish Liras. Non-governmental organizations announced that the omnibus bill seriously restricts freedom of organisation contrary to its purpose and name, and involves new regulations that will provide the political tutelage of the Interior Ministry on associations, starting a petition campaign against the draft. Around 600 NGOs warned that the new regulation will lead to associations and foundations facing the risk to be shut down with one signature and that this will create a sort of “fast shut-down” procedure.
- The ECtHR Grand Chamber has decided for Selahattin Demirtaş to be released immediately. In its decree dated November 20, 2018, the court had identified a rights violation in the arrest of Demirtaş and had decided for Demirtaş to be released pending prosecution. After the decree, the imprisonment sentence issued against Demirtaş due to “making terrorist organisation propaganda” on December 4, 2018 was approved and thus the ECtHR decree for him was rendered null and void. President Erdoğan evaluated the decree: “*They’re protecting their own men, the decree doesn’t bind us...*” ***Details in the newsletter...***
- Can Dündar was sentenced to 27 years and six months of imprisonment in the Turkish National Intelligence Trucks Case. ***Details in the newsletter...***
- Democratic Society Congress (DTK) Co-Chair Leyla Güven was sentenced to 22 years and three months of imprisonment. ***Details in the newsletter...***
- Bursa businessman Cavit Çağlar’s Olay TV, which started to broadcast once again in Istanbul with its new broadcasting policy, lasted only a month. The TV’s employees included reporters like Nevşin Mengü, who were previously targeted by the government. It is asserted that the TV’s shut-down was decided after the threat that the Savings Deposit Insurance Fund (TMSF) might seize Cavit Çağlar’s companies.
- The duty period of the State of Emergency Applications Committee was extended for another year. Even though 4 years have passed after the establishment of the

committee, there are still 16,050 files not concluded. The committee is considered to be an “effective domestic remedy” (!) by the European Court of Human Rights (ECtHR) and denied 88.5 percent of 110,250 objections so far.



ECHR Grand Chamber: Release Demirtaş immediately

The European Court of Human Rights (ECHR) Grand Chamber established the final decree on Selahattin Demirtaş and repeated the identifications announced initially on November 20, 2018 once again, stating that Demirtaş must be “released immediately.” The

ECHR Grand Chamber decided that since the arrest isn’t based on legal reasons but is based on political reasons, Turkey is violating Article 18 of the European Convention on Human Rights as well as the right to freedom of expression in accordance with Article 10 of the Convention, right to freedom and security as well as the arrest having to be bound to reason in accordance with Article 5 as well as the right to election in accordance with Article 3. The decree emphasized that the immediate release of Demirtaş is a legal responsibility for Ankara and that as long as he isn’t released, the rights violations against him will be made permanent.

The decree emphasized that the “immediate release” of Demirtaş is a legal liability of Ankara and that his lack of release will make rights violations against him permanent. However, targeting Demirtaş by calling him a “terrorist,” President Erdoğan stated that they will not recognise the European Court of Human Rights Decree and stated, “*The European Court of Human Rights may not replace our courts and decide.*” The small partner of the ruling party, Nationalist Movement Party Chairman Devlet Bahçeli also stated that they “*do not recognise and care about the European Court of Human Rights.*”

As we may all recall, Erdoğan had previously stated right after the ECHR decree on Demirtaş in 2018, “It doesn’t bind us. We will do our counter move and finish the matter.” Let’s see if the ECHR decree really binds Erdoğan or not...

Turkey has accepted and promised to have recognised the rights and freedoms stated in the European Court of Human Rights, as well as the use of these rights and freedoms, in 1954. Turkey has also recognised the compulsory judicial authority of the European Court of Human Rights in 1989. So Turkey has accepted to be bound to the European Court of Human Rights decree in any case it is a party of.

On the other hand, international conventions are considered law according to Article 90 of the Turkish Constitution. According to the same article, in case of conflict between international conventions and law in terms of basic rights and freedoms, international conventions supersede.

We should also remind that Erdoğan himself, who said that the ECHR may not decide on behalf of our courts, has once applied to the ECHR.

Erdoğan applied to the ECHR for the first time with a claim of “fair trial” due to the imprisonment sentence and penalty fine he received based on “public incitement towards resentment and hostility” through reading a poem. Afterwards, he applied to the ECHR after his claim for his legal records to be erased in order to become a

Parliament member in 2001, stating that the judicial decree had “prevented people’s will through a political decree.” Even afterwards, he carried the Higher Electoral Board decree that stated that he couldn’t be a Parliament member, to the ECHR in 2002.

So, perhaps the time and location changes but it shouldn’t be forgotten that everyone needs justice and law.



Interior Ministers targets HDP MP over bringing torture to agenda

People’s Democratic Party Kocaeli MP and the Grand National Assembly of Turkey Human Rights Monitoring Committee member Ömer Faruk Gergerlioğlu had announced that 30 university student women were exposed to naked search at Uşak Security Directorate. Gergerlioğlu indicated that after this statement, many other allegations of naked search came to

him. Speaking on the torture allegations, Interior Minister Soylu called Gergerlioğlu a “terrorist” and didn’t refrain from ordering the judiciary to do “what is necessary.” Gergerlioğlu replied to him by saying, “*In case he is a victim sometime in the future, I’ll ask for account for that too. I am a human rights advocate.*”



Investigation against posts on “naked search”

Ankara Chief Public Prosecutor’s Office announced that an examination was started against those making social media posts on the application of “naked search” at the entrances of prisons, which was brought to the agenda by People’s Democratic Party (HDP) MP Ömer Faruk Gergerlioğlu. Even though the Chief Public Prosecutor’s Office claims that the

related news articles are “intentional FETÖ propaganda,” hundreds of people having things to do in prisons continue to announce that they were exposed to the same torture.



27-year 6-month imprisonment sentence against Can Dündar

Can Dündar was sentenced to 27 years and six months of imprisonment in the lawsuit on “the news of Turkish National Intelligence (MIT) Trucks being stopped” at Istanbul 14th Assize Court. Dündar’s lawyers had previously announced that they will not attend the final hearing due to “lack of fair trial.” A red notice was issued against Dündar and a letter was

written to the authorities to send him back. Dündar hakkında kırmızı bülten çıkarılmasına ve iade talepnamesi yazılmasına karar verildi. Can Dündar said, *“You can’t silence us.”*



Decree issued in Leyla Güven Case

A decree was issued in the lawsuit filed against Leyla Güven, who is charged with “managing an illegal organisation” at Diyarbakır 9th Assize Court due to her statements and her activities within the Democratic Society Congress (DTK). Facing 18 separate charges, DTK Co-Chair Leyla Güven was sentenced to 22 years and three months of imprisonment and it was decided for Güven to be arrested once

again. On the other hand, the police intervened against those protesting Güven’s arrest in Istanbul; Provincial Co-Chairs and party members were detained. In the turmoil during the intervention, the police used violence against People’s Democratic Party Istanbul Parliament Member Musa Piroğlu as well, kicking him off his wheelchair. [Please click here](#) for the visuals.



Lawsuit filed against Müjdat Gezen and Metin Akpınar due to “insulting Erdoğan”

The prosecution of actors Müjdat Gezen and Metin Akpınar started due to “insulting the President” with a claim of imprisonment against them for 4 years and eight months each based on the speeches they gave on a TV show they attended in December 2018. Istanbul Anatolian 8th Criminal Court of First Instance

accepted the claim for Erdoğan’s lawyers to take part in the case and scheduled the next hearing for a later date.



15-year imprisonment claim against journalist Karataş

The indictment prepared against Mesopotamia Agency (MA) reporter Dindar Karataş, who was arrested in Erzurum after being detained in Van on November 24 due to “illegal organisation membership”, was concluded. The journalist faces an imprisonment sentence for up to 15 years, with the news he reported considered crime evidence. The first hearing of

the lawsuit will be held at Erzurum Assize Court on February 9, 2021.



Lawsuit against union member Başaran Aksu

The hearing of the lawsuit filed against Independent Mine-Labour Union Organisation Expert Başaran Aksu due to “incitement to commit crimes” through his speeches in front of the Turkish Coal Administration during the miners’ protests for their unpaid compensations and salaries in Soma, Manisa was held at Soma 2nd Criminal Court of First Instance. The next hearing was scheduled for April 13.



Erdoğan files 250 thousand TL compensation case

President Erdoğan filed a 250-thousand-TL compensation lawsuit against Republican People’s Party (CHP) Deputy Chairman Özgür Özel due to him resembling Erdoğan to a dictator. Referring to Erdoğan implying that the opposition is a “fifth limb,” Özel took the floor during the budget negotiations at the

Parliament and said that the term fifth limb belongs to Spanish dictator Francisco Franco, who remained in power for 36 years, and that Erdoğan is in power for 18 years now.



Evrensel Daily writer Özcan Yaman sentenced to 10 thousand TL fine


Istanbul 2nd Civil Court of First Instance sentenced Evrensel Daily writer Özcan Yaman to 10 thousand TL fine due to his article, “The difference between a photographer and a photoreporter” that was published in April 2014. An investigation had been started against the related article with the allegation of “insulting Bilal Erdoğan and violating the

privacy of investigation” but was concluded with non-prosecution. Bilal Erdoğan, on the other hand, had filed a 50-thousand-TL moral compensation lawsuit against the writer.



Compensation case against news on “Paradise Papers” denied

The compensation lawsuit filed by Çalık Holding against journalist Pelin Ünker and former Cumhuriyet Foundation Executive Board Chairman Orhan Erinc due to the article series, “Paradise Papers” on the offshore accounts of Berat and Serhat Albayrak in

 **Cenk Yiğiter**
@cenkyigiter

"Ben ülkemi adeta pazarlamakla mükellefim"
Recep Tayyip Erdoğan, 2005.

ÖS 2:13 · 27 Ara 2019 · Twitter for Android

Academic Cenk Yiğiter testified at the Security office due to his Twitter posts after having been dismissed from his duty at Ankara University Faculty of Law with a Statutory Decree. One of

Jinnews 27. defa erişime engellendi

JINNEWS

EngelliWeb | Hade Özgürlüğü Derneği

Three separate websites of JinNews were banned from access with three different decrees issued within the same day (December 21) by Diyarbakır 2nd, 4th and 5th Criminal Judicatures of Peace due to the protection of national security and public order. Thus, websites belonging to the news agency were censored for the 27th time since 2017.

News on the revocation of the verdict of non-prosecution issued in the investigation opened against Republican People's Party Istanbul Provincial Chair Canan Kaftancıoğlu as well as news on 100 kgs of heroine being found in the car of former Brussels Embassy Press Consultant Veysel Filiz were censored due to violation of personal rights.



Istanbul Metropolitan Municipality (İBB) Mayor Ekrem İmamoğlu answered the questions of press organisations in the information meeting, “*18 Months Towards a Fair, Green and Creative Istanbul.*” İmamoğlu refused to answer the question of a Yeni Akit Daily reporter, saying, “*I don’t think where*

you work is a newspaper. I wouldn't deign to answer a question of your organisation."



TRIALS OF FREEDOM OF EXPRESSION

ETHA Case

The lawsuit filed against ETHA editor Semiha Şahin and reporter Pınar Gayip due to “illegal organisation membership”...

Court: Istanbul 23rd Assize Court

Verdict: The next hearing was scheduled for February 11, 2021 for missing reports and documents to be completed.

Özgür Boğatekin Case

The lawsuit filed against Adıyaman’s local Gerger Fırat Daily News Director Özgür Boğatekin due to “targeting those taking part in the fight against terrorism” and “making terrorist organisation propaganda” through his Facebook posts in 2017...

Court: Adıyaman 2nd Assize Court

Verdict: The Prosecutor’s Office claimed for the journalist to be sentenced. The next hearing was scheduled for January 12, 2021 for the defense against the Prosecutor’s opinion.

Mazlum Dolan Case

The lawsuit filed against previously shut-down Dicle News Agency (DIHA) reporter Mazlum Dolan due to “illegal organisation membership” after being stuck in Sur district of Diyarbakır, where he was for reporting, for 79 days due to the curfew and being arrested afterwards...

Court: Diyarbakır 5th Assize Court

Verdict: The next hearing was scheduled for December 29 due to the hearing date (December 22) was recorded in the system incorrectly.

Case Against Roboski Commemoration

The lawsuit filed against the relatives of 34 citizens, who lost their lives in the Roboski Massacre, due to “illegal organisation membership” based on the commemoration organised on the fourth anniversary of the massacre on December 28, 2015...

Court: Şırnak 2nd Assize Court

Verdict: The hearing started with identity check and the court board scheduled the next hearing for April 5, 2021 in order to complete the missing documents.

Özgür Gündem Case

The lawsuit filed against previously shut-down Özgür Gündem Daily’s Owner Kemal Sancılı, Editor-In-Chief Zana Kaya, Managing Editor İnan Kızılkaya and Eren Keskin...

Court: Istanbul 23rd Assize Court

Verdict: The court board decided for time to be allowed for the newly-assigned member judge to examine the file and scheduled the next hearing for February 15, 2021.

Hakkı Boltan Case

The lawsuit filed against journalist Hakkı Boltan due to “insulting the President” through the press statement he held on Azadiya Welat Daily’s former Managing Editor Rohat Aktaş, who was killed in Cizre district of Şırnak during the curfew in 2016 as he was tracking news information...

Court: Diyarbakır 12th Criminal Court of First Instance

Verdict: The court board decided for the case file to be sent to the Prosecutor’s Office so that the opinion on the basis can be prepared. The next hearing was scheduled for March 11, 2021.

Özgür Gündem Substitute Editing-In-Chief Case

The lawsuit filed against journalist Can Dündar, who participated in the Özgür Gündem Substitute Editing-In-Chief campaign, due to “publishing or printing terrorist organisation statements”...

Court: Istanbul 22nd Assize Court

Verdict: The court decided for the execution of the warrant issued against Can Dündar within the “MIT Trucks News Case” and to wait for a reply for the rogatory letter sent abroad. The next hearing was scheduled for June 24, 2021.

Eren Keskin Case

The lawsuit filed against Human Rights Association Co-Chair and Yeni Yaşam Daily writer Eren Keskin due to “making illegal organisation propaganda” through her social media posts during the Resolution process...

Court: Istanbul 36th Assize Court

Verdict: The file was merged with the ongoing file against Eren Keskin at Istanbul 13th Assize Court.

Vice News Case

The lawsuit filed against Vice News reporter Jake Hanrahan and his cameraman Philip Pendebury, translator Mohamed Ismael Rasool and guide Abdurrahman Direkçi. Hanrahan and Pendlebury were arrested in Diyarbakır and deported in 2015.

Court: Diyarbakır 8th Assize Court

Verdict: The court decided to wait for a reply to the letter sent to the country they reside in, in order to receive the defense statements of journalists Hanrahan and Pendlebury. The next hearing was scheduled for May 20, 2021.

KCK/Lawyers Case

The lawsuit filed against 45 lawyers with the allegations of “illegal organisation membership” and “illegal organisation management”...

Court: Istanbul 19th Assize Court

Verdict: The court accepted the excuses of the defendants and scheduled the next hearing for May 4, 2021.

Barış Barıştiran Case

The lawsuit filed against previously shut-down Özgür Gün TV’s Executive Board member Barış Barıştiran with the allegation of “making illegal organisation propaganda” due to the live broadcast of the Democratic Society Congress (DTK) Extraordinary Congress held in March 2016 in Diyarbakır...

Court: Diyarbakır 8th Assize Court

Verdict: The court decided for the file to be sent to the Prosecutor’s Office for an opinion to be prepared on the basis. The next hearing was scheduled for February 16, 2021.

Mehmet Şahin Case

The lawsuit filed against Kurdish Xwebun Daily writer Mehmet Şahin due to “establishing and managing an illegal organisation” based on his activities at the Democratic Society Congress (DTK)...

Court: Diyarbakır 5th Assize Court

Verdict: The prosecutor announced his opinion on the basis and claimed for Şahin to be sentenced to imprisonment for up to 15 years due to “illegal organisation membership”. The next hearing was scheduled for January 19, 2021.

HEARINGS NEXT WEEK

Ferhat Tunç Case

The lawsuit filed against artist Ferhat Tunç due to “making illegal organisation propaganda” through his social media posts...

December 29, Tuesday at Istanbul 37th Assize Court

Mazlum Dolan Case

The lawsuit filed against previously shut-down Dicle News Agency (DIHA) reporter Mazlum Dolan, who was stuck in Sur district of Diyarbakır for 79 days during the curfews after going there to track news information, and was arrested afterwards, due to “illegal organisation membership”...

December 29, Tuesday at Diyarbakır 5th Assize Court

Buse Söğütü Case

The lawsuit filed against Gazete Yolculuk reporter Buse Söğütü due to “targeting those taking part in the fight against terrorism” through sharing a news article published on the newspaper’s website...

December 30, Wednesday at Istanbul 23rd Assize Court

Mehmet Çakmak Case

The lawsuit filed against journalist Mehmet Çakmakçı with a claim of imprisonment for up to 15 years due to “terrorist organisation membership” through his interviews with news resources and photos he took...

December 30, Wednesday at Diyarbakır 10th Assize Court

Oktay Candemir Case

The lawsuit filed against 5 people, including journalist Oktay Candemir, due to “violating the Law on Meetings and Demonstrations No. 2911”. Candemir and the others were detained in Van on May 5, 2019 during the police intervention against the press statement organised by the People’s Democratic Party (HDP).

December 31, Thursday at Van 5th Criminal Court of First Instance