

# Think, think...



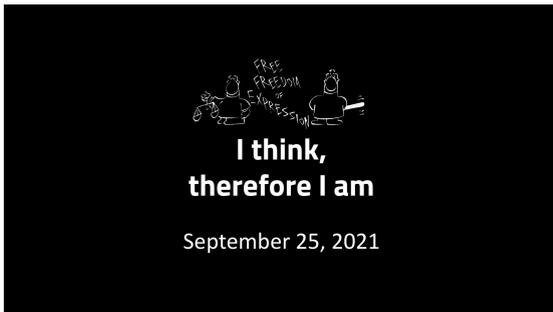
## Freedom of Expression Weekly Newsletter (Issue 37/21 - September 24, 2021)

### What happened last week?

- Middle East Technical University's Marine Sciences Institute shared the results of the current research conducted in the Marmara Sea. According to the statement, there is no oxygen in the Marmara Sea below 22 meters; nor is there life... All the wastewater of the region, which hosts industrial zones such as Istanbul, Bursa, Kocaeli and Tekirdağ, has been discharged into the depths of the Marmara Sea for decades. While the government could not find resources for advanced biological treatment plants that urgently need to be established, Turkey built a 35-story Turkish House in New York for 291 million dollars. Erdogan announced at the UN General Assembly that Turkey could submit the Paris Climate Agreement for Parliamentary approval. Turkey is the only OECD and G-20 country that has not ratified the agreement.
- According to the data of the Ministry of Health, deaths due to the COVID-19 pandemic are around 250 per day; and the number of cases is around 30 thousand.... The figures obtained from the burial process data of Republican People's Party (CHP) municipalities show that the number of deaths from the epidemic - only within the borders of these municipalities - between March 2020 and August 2021 is 8,087 more than the number announced by the ministry.
- Serdar Izol joined those who "seek justice" in front of the courthouses after losing their relatives in the Siverek Massacre. Izol stated that "justice has not been served in the past 2 years" and announced that he and the Şenyaşar Family will stand watch in front of the Urfa Courthouse one day a week.
- A warrant was issued for the arrest of former Korkut District Gendarmerie Commander Bülent Karaoğlu in the prosecution started at Kırıkkale 1st Assize Court after the reversal decree of the Court of Cassation on the lawsuit regarding the Vartinis Massacre, which caused the deaths of 9 people, including 7 children, from the same family on October 3, 1992 in Vartinis (Altınova) region of Korkut district in Muş. Although the next hearing was scheduled for November 4, the prosecution is under the risk of time limitation...
- The US-based rights organization Freedom House published the "Freedom on the Net 2021" report compiled by Adrian Şahbaz and Allie Funk. In the report, which noted that "the global internet freedom index has been declining for 11 years", it was stated that the dominant problem continued in the issue of user rights between governments and companies. China has become "the country with the worst environment for internet freedom" for the 7th year in a row, and Turkey was in the category of "countries where the internet is not free" with 34 points out of 100. [Please click here](#) for the full report.
- The blockade of Galatasaray Square, that has been ongoing since the police intervention against the 700th week meeting of the Saturday Mothers on August 25,

2018 to demand justice for their relatives, who disappeared under custody, was lifted. The square was blocked to the mothers for the past 160 weeks...

- Despite the Forensic Medicine report of the Antalya Chief Public Prosecutor's Office, the Constitutional Court ruled that the verdict of non-prosecution issued in the torture application based on the police statement that a person "fell down the ladder" was a violation of rights. The Constitutional Court recalled the constitutional and international rule regarding the torture ban in the application of Eyüp Birinci, who was detained and tortured on July 27, 2016, that says: *"The mistreatment ban is an absolute ban that cannot be suspended, even in the case of a general danger threatening the existence of the nation. Even in the most difficult conditions, such as the battle against terrorism and organized crimes, mistreatment is strictly prohibited."*
- On May 31, 2011, on the day that then Prime Minister Recep Tayyip Erdoğan went to Hopa for his election rally, Metin Lokumcu lost his life due to the tear gas used during the protests in the district square against the hydroelectric power plants (HES) planned to be constructed in the region. The case on the death of Metin Lokumcu was accepted to be heard at the Assize Court and the objection of the defendant police officers was denied.



*Our weekly video programme, "[COGITO ERGO SUM](#)," in which we track Turkey's freedom of expression and thought agenda, is on our [YouTube channel](#) every week...*

*[Please click here](#) for all video newsletters...*

*The second "[Civil Society Is Watching](#)" video programme, which is our monitoring report for the Human Rights Action Plan, is available on our [YouTube channel](#)...*

*[Please click here](#) for the full playlist of the report...*



### **Concert banned in Adana**

The Adana Governorate announced a ban against the "Public Gathering Concert" event, which will be held at Yaşar Kemal Cultural Center, where Grup Kaldırım and Grup Munzur will take the stage, due to the notice that "...the organizers will

come to the concert and they will come to Adana to stir up trouble...".



### Ilker Başbuğ faces 4-year imprisonment

The indictment prepared after 6 Justice and Development Party (AKP) Parliament Members filed a criminal complaint against İlker Başbuğ due to his statement "If we said that the Fethullah Terrorist Organisation (FETÖ) has no political limb, it would be denial" in the TV show in which he participated, claimed an imprisonment sentence against Başbuğ for up to 4 years on the charge of "insulting a public official".



### 62.3 percent of individual applications to Constitutional Court are due to violation of 'right to a fair trial'

According to the individual application statistics announced by the Constitutional Court quarterly, 62.3% of the individual applications concluded between 2012 and 2021 were identified to be violations of the right to a fair trial. "Violation of the right to property" was in second place with 19.3 percent and "violation of freedom of expression" was in third place with 4.2 percent. The Constitutional Court decided that at least one right violation happened in 14,973 of the total 271,727 applications. Deciding that at least one right was violated in 5,658 individual applications in 2020, the court ruled that at least one right was violated in only 667 applications in the first six months of 2021.



### Constitutional Court issues violation decree in Özgür Gündem Daily's temporary shut-down

The Constitutional Court issued a decree regarding the application of Özgür Gündem Daily, which was "temporarily shut-down" with a court decree in 2016 due to the ongoing proceedings against its executives. The court ruled that the "temporary shut-down decree" violated the freedoms of expression and press, guaranteed in Articles 26 and 28 of the Turkish Constitution. Objections of newspaper executives against the "temporary shut-down" were rejected. In 2016, the newspaper was "shut down permanently" with the Statutory Decree No. 675 issued within the State of Emergency. There is still no response regarding the application made in 2017 to the Parliamentary State of Emergency Procedures Investigation Commission regarding the permanent closure.



### **#Impunity in lynching attempt case**

15th Criminal Chamber of Izmir Regional Court of Justice found it lawful to “finalize” the administrative fines issued against 7 of the defendants on trial in the case of İbrahim Çay, who was attempted to be lynched in September 2015 in Seydikemer district of Muğla. The Prosecutor's Office had previously issued a verdict of "non-prosecution" for 16 people, who were alleged to be in the lynching group.

İbrahim Çay, whose neighbor and his companions wanted to lynch him on the pretext of sharing a photo of Kurds in local clothes with the note "It is an honor to even wear this outfit" on his social media account, was sentenced to 5 months in prison in the case where he was tried on the charge of "threatening" his neighbor, who had participated in the lynching.



### **#Impunity in case of baby Mehmet Uytun's death**

The three-year prison sentence issued against defendant soldier Hakan Alkan in the trial of 18-month-old Mehmet Uytun, who was shot to death with a tear gas shell on the balcony of his house in Cizre, Şırnak in 2009 as he was in the arms of his mother, was commuted to a fine of 18,200 TL.



### **Imprisonment sentence against five journalists**

The lawsuit filed against former employees of previously shut-down Cihan News Agency and Zaman Daily, as well as local journalists on charges of "illegal organization membership" and "aiding an illegal organization" was heard at the Antalya 2nd Assize Court. The court sentenced journalists Cihat Ünal, Ömer Özdemir and Serhat Şeftali to 6 years and 3 months of imprisonment due to “illegal

organisation membership” and sentenced Olgun Matur and Osman Yakut to 3 years, 1 month and 15 days of imprisonment due to "aiding an illegal organisation without membership". The court further issued the acquittal of journalists Ali Orhan, Hasan Yavaşlar, Özkan Mayda, Kenan Baş and Onur Fazıl Soydal of all charges.



### **Police intervention against protest for right to shelter**

The police intervened against the protest of students, who built a tent at İlhan Erdost Park in Ankara on September 20 to draw attention to the insufficient public shelter opportunities for students with the rising rental flat and private dorm prices. The police intervention was based on the “occupation of the

park.” The police intervention against the protests continued all week. Students, who were prevented from staying at parks in Izmir, Istanbul and Ankara, were threatened by the police with detainment. Six students were detained in Eskişehir.



### **Constitutional Court issues violation decree for expression, “court jester”**

The Constitutional Court unanimously ruled that the conviction of Şaban Sevinç, who was a Parliament member candidate from the Republican People's Party (CHP) in Samsun at the 1 November 2015 General Elections due to the expression "court jester" used against the then-minister Suat Kılıç, was a "violation of freedom of expression".

The decision will be sent to the Ankara 30th Criminal Court of First Instance with a request for a retrial. The local court had sentenced Sevinç to 4,700 TL of judicial fine on the charge of "publicly insulting a public official" and deferred the announcement of the verdict.



### **Court of Cassation reverses Aziz Oruç's conviction**

Journalist Aziz Oruç's sentence due to "committing a crime on behalf of an illegal organization without membership" was reversed at the Court of Cassation. Performing a folk dance accompanied by Kurdish music as well as his participation in the office opening events of the Democratic Regions

Party (DBP), events for the International Women's Day on March 8 and “tree planting events” on behalf of an illegal organisation were cited among the evidence for the sentence. Journalist Oruç had been prosecuted on the grounds of the demonstrations he attended in 2010 and 2011. 36 students, including Oruç, had been sentenced to 226 years of imprisonment in total as a result of their prosecution.



### **Constitutional Court rules no violation despite ECtHR precedent**

The Constitutional Court ruled that the freedom of expression of student Erhan Urak, who was convicted of "making terrorist organisation propaganda" due to folk dancing and chanting slogans in some meetings and demonstrations he attended, was not violated.



### **1-year 8-month imprisonment against journalist Yelda Çiçek**

Journalist Yelda Çiçek, who was detained while following the demonstration on the trustee operation against Diyarbakır Metropolitan Municipality, was sentenced to 1 year and 8 months of imprisonment on the charge of "violating the Law on Meetings and Demonstrations No. 2911". The court adjourned

the sentence by deferring the announcement of the verdict.



### **Workers detained over wanting to meet Governor**

AdkoTurk workers, who were fired from work due to organising at the Tek Gıda Professional Union, as well as Bel Karper workers, who were on strike for 130 days, wanted to meet the Tekirdağ Governor. Afterwards, they were beaten and detained by the police in front of the Governorate building.



### **Journalist Süleyman Gençel detained**

A3 News Editor-in-Chief Süleyman Gençel was detained upon the complaint of Dokuz Eylül University Rector Nükhet Hotar. Gençel was attacked in Izmir in 2013. It was then claimed that Hotar, who was the Deputy Chair of the Justice and Development Party (AKP) at that time, instigated the attack. Gençel has applied to the Constitutional Court about Nükhet Hotar last week, before the

detainment.



## Court denies lawsuit filed against Yaman Akdeniz by Serhat Albayrak

Istanbul 7th Civil Court of First Instance denied the lawsuit for compensation of 100 thousand TL against lawyer Yaman Akdeniz, who announced on social media the access ban on the news about the rejection of the lawsuit filed for the news on Paradise Papers. The lawsuit in question was filed

by Serhat Albayrak, the elder brother of President Erdoğan's son-in-law, Berat Albayrak.



## Rojbin Bor acquitted

Rojbin Bor, the founder of the Star Women's Association, was acquitted in her prosecution at the Van 7th Criminal Court of First Instance on charges of "insulting state organs" and "public incitement towards resentment and hostility" through her social media posts about soldier Musa Orhan, who raped a young woman named İpek Er

and dragged her to suicide. In the second hearing, the court ruled that Bor's post "must be evaluated within the scope of freedom of expression".



## TRIALS OF FREEDOM OF EXPRESSION

### Lawyer Oya Aslan Case

The lawsuit filed against Contemporary Lawyers Association member and lawyer Oya Aslan due to "armed terrorist organisation membership"...

**Court:** Istanbul 37th Assize Court

**Verdict:** The court ruled for Aslan to remain arrested. The next hearing was scheduled for December 13.

### Durket Süren Case

The lawsuit filed against journalist Durket Süren on charges of "wilfully aiding an illegal organization" and "making illegal organisation propaganda"...

**Court:** Diyarbakır 11th Assize Court

**Verdict:** The court decided to wait for the report requested from the Diyarbakır Security Directorate regarding the confiscated digital materials, scheduling the next hearing for 13 December.

### Mesopotamia News Agency Reporters Case

The lawsuit filed against Mesopotamia Agency reporter journalists Sadiye Eser and Sadık Topaloğlu on charges of "illegal organisation membership"...

**Court:** Istanbul 22nd Assize Court

**Verdict:** The court decided for the travel ban against the journalists to continue. The next hearing was scheduled for November 18.

**Writer Meral Şimşek Case**

The lawsuit filed against poet and writer Meral Şimşek due to “illegal organisation membership” and “making illegal organisation propaganda”...

**Court:** Malatya 2nd Assize Court

**Verdict:** The court adjourned the prosecution to October 5 due to the missing expert report.

**Journalist Fatih Gönül Case**

The lawsuit filed against journalist Fatih Gönül due to “armed terrorist organisation membership” and “making terrorist organisation propaganda”...

**Court:** Ankara 25th Assize Court

**Verdict:** The next hearing was scheduled for November 9.

**Cameraman Rojhat Doğru Case**

The lawsuit filed against Gelî Kurdistan TV’s former cameraman Rojhat Doğru due to “illegal organisation membership” and “making illegal organisation propaganda”...

**Court:** Diyarbakır 8th Assize Court

**Verdict:** The next hearing was scheduled for December 14 for the witnesses to testify.

**KCK Main Case**

The latest hearing of the KCK Main Case filed against 36 Kurdish politicians, including People’s Democratic Party (HDP) Parliament Members Tayip Temel and Pero Dündar after the verdict on the file was reversed by the Court of Cassation...

**Court:** Diyarbakır 2nd Assize Court

**Verdict:** The court denied the request of Temel and Dündar, who have Parliamentary immunity, for the stay of their prosecution. The next hearing was scheduled for December 23.

**Rüstem Batum Case**

The lawsuit filed against journalist Rüstem Batum on charges of “insulting the President” and “public incitement towards resentment and hostility” through 20 Twitter posts he made in 2016 and 2018...

**Court:** Istanbul 5nd Criminal Court of First Instance

**Verdict:** Batum and his lawyers were excused from the hearing. The next hearing was scheduled for January 20, 2022.

**Ferhat Tunç Case**

The lawsuit filed against artist Ferhat Tunç on charges of “public incitement towards resentment and hostility” through his social media posts...

**Court:** Büyükçekmece 14th Criminal Court of First Instance

**Verdict:** The court issued the warrant against Tunç to remain and adjourned the hearing to February 2, 2022.

**Ramazan Ölçen Case**

The lawsuit filed against previously shut-down Azadiya Welat Daily's owner Ramazan Ölçen with a claim of imprisonment for up to 15 years due to "illegal organisation membership"...

**Court:** Diyarbakır 11th Assize Court

**Verdict:** The court decided to wait for a reply to the letter written to the Ministry of Justice for Ramazan Ölçen, who resides in Belgium, to testify through rogatory. The next hearing was scheduled for February 2.

**Leyla Güven Case (Arrested within another file)**

The lawsuit filed against the Democratic Society Congress (DTK) Co-Chair Leyla Güven on charges of "dishonouring the State of the Republic of Turkey, public incitement towards resentment and hostility as well as praising the crime and the criminal" through calling PKK leader Abdullah Öcalan, "Mr Öcalan" during her statement, "Call for Peace" in front of the People's Democratic Party (HDP) Hakkari Provincial Organisation on September 16, 2020...

**Court:** Hakkari 2nd Criminal Court of First Instance

**Verdict:** There was a technical problem in the Audiovisual Information System (SEGBIS) and the next hearing was scheduled for October 13.

**Madımak Protest Case**

The lawsuit filed against 8 citizens, who were detained due to the protest against the Madımak Massacre in 2020...

**Court:** Ankara 2nd Criminal Court of First Instance

**Verdict:** The next hearing was scheduled for March 9, 2022.

**Cengiz Çandar Case**

The lawsuit filed against journalist Cengiz Çandar due to "praising the crime and the criminal"...

**Court:** Istanbul 30th Criminal Court of First Instance

**Verdict:** The next hearing was scheduled for February 8, 2022.

**Oktay Candemir Case**

The lawsuit filed against journalist Oktay Candemir due to "making illegal organisation propaganda" due to the slogans chanted in the news video he produced 16 years ago as well as four Facebook posts made from his account in 2014 and 2015...

**Court:** Van 5th Assize Court

**Verdict:** The next hearing was scheduled for November 18.

**Beyza Kural Case**

The lawsuit filed against police officers K.A., N.D. and Y.Ş., who prevented journalist Beyza Kural from performing her profession, due to "violation of the right to labour" in accordance with Articles 117/1 and 119/1-e of the Turkish Criminal Code (TCK)...

**Court:** Istanbul 3rd Criminal Court of First Instance

**Verdict:** The court issued a decree for a defendant police officer to testify from Diyarbakır through the Audiovisual Information System (SEGBIS), exempting the police officer, who was said to have dragged and resides abroad, from the hearing. The next hearing was scheduled for December 10.

## HEARINGS NEXT WEEK

### **Nurcan Kaya Case**

The lawsuit filed against writer Nurcan Kaya due to “successively making illegal organisation propaganda” through her social media posts...

**September 27, Monday at Diyarbakır 9th Assize Court**

### **Kenan Kırkaya Case**

The lawsuit filed against journalist Kenan Kırkaya and eight others due to “illegal organisation membership” through moderating the show, “Glance towards Ankara” on Belgium-based Med Nuce TV Channel, which broadcasts in Turkish...

**September 28, Tuesday at Ankara 14th Assize Court**

### **Journalist Nurcan Yalçın Case**

The lawsuit filed against journalist Nurcan Yalçın due to “illegal organisation membership” and “making illegal organisation propaganda” within the investigation filed against the Rosa Women’s Association...

**September 29, Wednesday at Diyarbakır 9th Assize Court**

### **Özgür Gündem Substitute Editing-In-Chief Case**

The lawsuit filed against Özgür Gündem’s Substitute Editing-In-Chief Şebnem Korur Fincancı, Erol Önderoğlu and Ahmet Nesin, after the acquittal decrees issued for them were reversed by the appeal court...

**September 30, Thursday at Istanbul 13th Assize Court**

### **Abdurrahman Gök Case**

The lawsuit filed against journalist Abdurrahman Gök due to “illegal organisation membership” and “making illegal organisation propaganda” through his social media posts and the news he reported, as well as his phone calls with news sources...

**September 30, Thursday at Diyarbakır 5th Assize Court**

### **Eren Tutel Case**

The lawsuit filed against BirGün Daily’s sports editor Eren Tutel due to “insulting a public official” through the news articles on the Turkish Wushu Federation (TWF)...

**September 30, Thursday at Istanbul 2nd Criminal Court of First Instance**

### **Case Against Trustee Protest**

The lawsuit filed against 38 people, including journalists Taylan Öztaş and Tunahan Turhan, who were charged with “violating the Law on Meetings and Demonstrations” through protesting the trustees appointed to municipalities...

**September 30, Thursday at Istanbul 13th Criminal Court of First Instance**