



# Think, think...

## Freedom of Expression Weekly Bulletin

(Issue 06/18, 9 February 2018)

### What happened last week?

\*\*\* As the 'Afrin Operation' left 21 days behind, Ankara is reacting against criticisms and calls for moderation from abroad. Government authorities, especially President Erdoğan, announce the next step to be Manbij. Erdoğan demanded U.S. units to leave Manbij. The U.S. government announced that the units will not retreat.

\*\*\* President Erdoğan spoke to Italian La Stampa Newspaper. Editor-In-Chief Maurizio Molinari asked Erdoğan how he would like to address those who protest him. *"I address terrorists as I did in Afrin, because that is the language that they understand. I will continue addressing them in the same language,"* said Erdoğan.

\*\*\* Turkish Medical Association (TTB) Central Council member physicians, who were taken into custody due to the notice they launched following the military operation in Afrin, were released with judicial control. **(Details below...)**

\*\*\* Nationalist Movement Party (MHP) leader Bahçeli and President Erdoğan continued to target the Turkish Medical Association (TTB) this week. The government started preparing for a regulation that would restrict authorities of professional organizations, which are public institutions. **(Details below...)**

\*\*\* Ministry of Internal Affairs announced 449 people, who posted on the social media related to the operation started in Afrin by the Turkish Armed Forces (TSK), as well as 124 others, who participated in protest demonstrations, were taken into custody due to "making illegal organization propaganda." According to the data we compiled from the press, at least 41 people were arrested due to their social media posts. Custodies and arrests continue to increase every day.

\*\*\* Netherlands Foreign Ministry announced the official retreat of their ambassador in Turkey, who was not allowed to enter Turkey for a year after the tensions before the referendum. It was further indicated that Turkey will not be permitted to assign a new ambassador to the Netherlands.

\*\*\* The Parliament membership of arrested People's Democratic Party (HDP) Şırnak MP Ferhat Encü was taken off due to the definitive sentence of imprisonment against him. The number of HDP MPs, who lost their membership in the legislative power, found seven. On the other hand, 114 more summaries arrived at the Parliament against 57 MPs, including Republican People's Party (CHP) leader Kılıçdaroğlu and HDP leader Demirtaş. The number of files on Parliamentary immunities increased to 524.

\*\*\* The Turkey-EU summit was announced to be held in Bulgaria on March 26th and that President Erdoğan will participate in the summit. The parties will discuss the Turkey-EU relations, which was on hold for a long time, as well as regional issues.

\*\*\* European Parliament accepted the resolution text, reprimanding the incidents in Turkey related to the violation of human rights and the principle of the supremacy of law. *"The State of Emergency is used to further suppress the legitimate and peaceful*

opposition and to prevent the media and the civil society's right to freedom of expression," stated the Parliament.

\*\*\* Deputy Prime Minister Bekir Bozdağ announced that all broadcasts made on the Internet will be monitored by the Radio and Television Higher Council (RTÜK). In the regulation sent to the Parliament, RTÜK is given the authority to give and annul licences to Internet publications as well as to ban access to content through Criminal Judicatures of Peace.



## TTB Central Council members released with judicial control

Eight Turkish Medical Union (TTB) Central Council member physicians, including TTB Chairman Prof. Dr. Raşit Türkel, were taken into custody due to the notice they launched following the military operation in Afrin. The physicians were released a

week later, with judicial control.

An investigation was started against 11 physicians after the "peace call" they launched against the operation in Afrin, with the title, "War is a social health problem." The physicians were taken into custody on January 30 with a house raid. Three of the doctors were released last Friday with judicial control. Türkel spoke while leaving the courthouse, saying, "We defend the values of medicine. We defend this under any circumstance, in any environment. The values of medicine are on the side of life, of creating an atmosphere of peace. We repeat what we have said before, and we will continue stating it."



## "Afrin must be destroyed, TTB must be shut down"

During the group meeting of his party, Nationalist Movement Party (MHP) Chairman Devlet Bahçeli targeted the Turkish Medical Union (TTB) after their call for peace. "They are the enemies of Turks, a disgrace to medical practice. An immediate legal action must be made against them, or

a seal must be put on their door," said Bahçeli. Accusing the physicians of 'trason', Bahçeli further stated, "either Afrin must be destroyed, or the terrorists must be burned down."

President Erdoğan also stated that the word "Turkish" will be removed from the names of the Turkish Medical Union and the Turkish Bar Associations Union, by the Council of Ministers. "They have no intention of standing beside us in our fight to protect our nation;

*on the contrary, they have the intention to stand against us, to protect terrorists and to support them,” said Erdoğan.*

The government took action immediately after these statements, taking related amendment resolutions into agenda. According to the news by Anadolu Agency, the conditions to be listed in the Bar Association to practice as a lawyer as well as a membership to TTB to practice medicine will be removed. According to this, medical doctors, engineers and lawyers will be able to be members of whichever professional organization they please. The regulation also ends applications like transferring public resources to the related organizations.



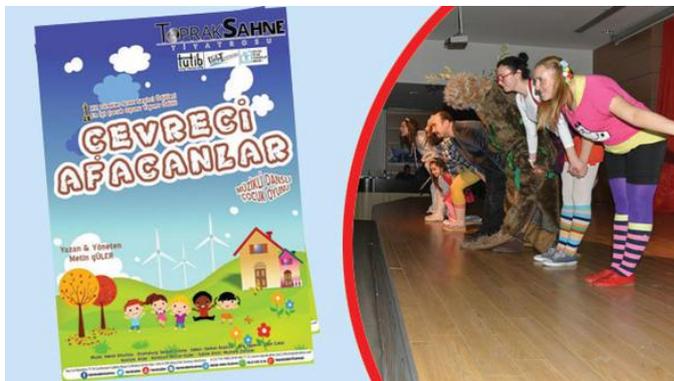
## **Custody warrant issued against HDP Co-Chair Kemalbay, DBP Co-Chair Arslan arrested**

Custody operations continue against People’s Democratic Party (HDP) before the 3rd Great Ordinary Congress to be organized in Ankara

on February 11th. Anadolu Agency announced a custody warrant against HDP Co-Chair Serpil Kemalbay as well. The reason for the custody warrant is the notice launched by HDP against the operation in Afrin.

Many political party and institution representatives related to HDP in Istanbul, Ankara and İzmir were taken into custody with operations at their residence addresses. According to the news by Anadolu Agency, the reason for custodies are “to call people on the streets to protest the Afrin Operation.” The list was indicated to have 17 names on it, including Kemalbay.

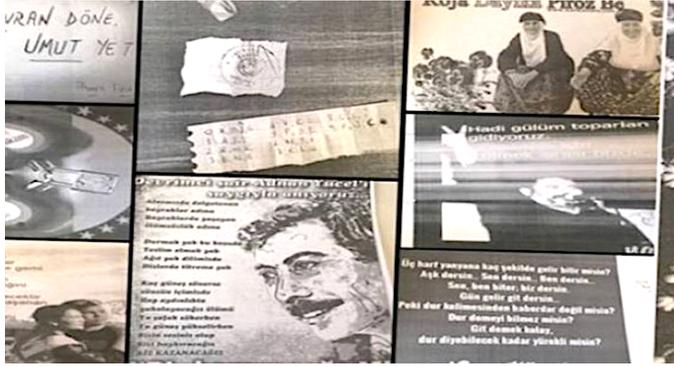
On the other hand, Democratic Regions Party (DBP) Co-Chair Mehmet Arslan, who was taken into custody on February 6th due to his statements and social media posts against the operation of the Turkish government in Afrin, was arrested due to “illegal organization membership.”



## **Children’s play banned due to being ‘against war’**

The theater play, “Environmentalist Rascals,” prepared by İzmir Toprak Stage Theater, was banned due to “being against war and violence.” Denying the application to stage the play in Manisa, Akhisar District National Education Directorate

decided that “it is inappropriate for our children to be presented political expressions like ‘anti-war’ in the sensitive period the country is in.” The Directorate did not permit the advertisement and posters of the play in schools.



## Court considers poem evidence for illegal organization membership; sentences defendant to 9 year-9 month imprisonment

Urfa 6th High Criminal Court sentenced İsa Kutay to nine years and nine months of imprisonment due to “illegal organization membership.” Kutay was arrested in remand due to possessing poems and quotes by Aziz Nesin, Cemal Süreya, Ahmed Arid, Ataul Behramoğlu, Adnan Yücel, Can Yücel, Yılmaz Güney, Che Guevara and former Uruguay President Jose Mujica on his cell phone. The indictment of the case included a paper besides poems and photographs, which depicted the Kurdish alphabet. The paper was described as “the table on which future protests and activities were encoded.”

## Lawsuit against lawyers on Justice Watch



A lawsuit was filed against nine lawyers, who were attacked by the police and were taken into custody at the meeting of the Justice Watch on 6 April 2017 to protest against unrightful arrests. The proceeding of the lawyers will start on 12 July 2018

at Istanbul 50th Criminal Court of First Instance with claims of imprisonment for 3 years each due to resisting security forces despite warnings.

The indictment of the case asserted the defendant lawyers have organized meetings and demonstrations inside a public building without permission by organizing a sit-in protest in front of the Themis statues at the entrance of the courthouse. The Prosecutor’s Office claimed that the police used “proportionate force” to disperse the protesters during intervention. In the police summary within the investigation file, the protest inside the courthouse was claimed to have been intervened due to “*protection of government authority against disruptions.*”



## Lawsuits against social media posts in Artvin

The proceeding of Nurcan Vayiç, who was arrested due to “making terrorist organization propaganda” with her social media posts in Hopa, Artvin, started this week. Socialist Party of the Oppressed (ESP) Hopa District

Executive Vayiç remained under arrest for 45 days and was later released on 8

December 2017. The indictment of the case at Artvin High Criminal Court includes an article on the cultural destruction in Sur district of Diyarbakır, news on the fight against ISIS in Syria and Iraq as well as a news article on the release of those arrested due to carrying photographs as crime evidence.

On the same day as Vayıç, her husband researcher-writer Cemil Aksu stood trial due to “making terrorist organization propaganda” through his social media posts. Also the Hopa District Chairman of the People’s Democratic Party (HDP), Aksu was arrested in October due to sharing a note, titled, “Giggles of Kazlıçeşme Cockade,” initially published by a Facebook account; and was later released after 59 days under arrest. The second hearings of both cases were scheduled to 16 February 2018.



## 11 acquitted of protesting against ‘Green Road’

One of two lawsuits filed due to the protests against the 8-kilometer connection road planned to be constructed between valleys in Çamlıhemşin district of Rize within the ‘Green Road’ project concluded with acquittal. Pazar Criminal Court of First Instance issued the acquittal

of 11 defendants on trial due to “violating the freedom to work.” The lawsuit against 13 defendants, on trial with the same charge at the same court, was postponed to 8 May 2018.



## Trustee assigned at Furkan Foundation

Adana Criminal Court of First Instance assigned trustees to Furkan Education and Service Foundation after the custody of 28 executives and members, including the Founder-Chairman Alparslan Kuytul with police raids. Adana Chief Public

Prosecutor’s Office filed an investigation against the foundation due to “conducting activities against public safety by acting in unity of opinion and action contradicting the Constitutional order” and “establishing a criminal organization.” Adana Governorate then announced a temporary ban on the foundation’s activities.

On the other hand, five people, including Kuytul, were arrested due to “willfully aiding and abetting FETÖ/PDY, PKK/KCK, Al Qaida and DAES armed terrorist organizations,” “establishing and managing a criminal organization” and “forgery of private documents and major corruption within organizational activities.”



## Two journalists arrested

Journalist Mete Cem Bahtiyar, who was taken into custody in Balıkesir due to his social media posts and news he reported for BirGün Newspaper, was arrested due to “making illegal organization propaganda.” Indicating that he is not performing active journalism for the

last three years, Bahtiyar stated, *“I was previously a reporter at the national BirGün Newspaper. The charges imposed on me are posts I made through related sources.”*

Etkin News Agency (ETHA) reporter Ali Sönmez Kayar, who was taken into custody on February 1st, was arrested due to “illegal organization membership.” Five more people, who were taken into custody together with Kayar, were arrested. Those arrested include Socialist Party of the Oppressed (ESP) Deputy Chairman Sıtkı Güngör and Socialist Youth Associations Federation (SGDF) Central Executive Board member Ali Deniz Esen.



## Constitutional Court decrees

Constitutional Court (AYM) decided for a violation of freedom of expression in the case of the citizen, who was sentenced to judicial fine due to “insulting a public officer due to his duty” through his expressions criticizing the judiciary in the email he sent to a Chief Public Prosecutor

of the Court of Appeals. Defendant Arif Altın, who used the expressions, *“... You have zero reputation in the eyes of an ordinary citizen like myself,”* had been sentenced to 12 thousand TL judicial fine at Ankara 2nd Criminal Court of Peace.

On the other hand, the conviction of defense lawyer Keleş Öztürk was decided to be a violation of freedom of expression. Öztürk was sentenced to 6080 TL judicial fine by Istanbul 2nd High Criminal Court due to “insulting a public officer due to his duty.” Öztürk criticized the opinion of the hearing Prosecutor on the basis of a case in 2009, saying, *“The Prosecutor either did not graduate from the faculty of law, or he didn't read the case file... I am a graduate of Istanbul University Faculty of Law, and I do not know which faculty of law the Prosecutor is a graduate of.”*

AYM issued another verdict of “violation of freedom of expression” regarding a news article on the webpage of Manşet Newspaper, publishing local in Bartın. Bartın 1st Criminal Court of First Instance previously sentenced Hulusi Elmas, who reported the defeat of a boxer with the headline, “He left the ring crawling,” to judicial fine due to “insult.” AYM issued the verdict to have violated freedom of expression.

In the application of Dilan Ögüz Canan, who was on trial due to “organizing and participating in illegal meetings and demonstrations” due to participating in a protest

demonstration in 2008, AYM issued a violation of the right to meeting and demonstration as well as the right to trial in a reasonable period of time. Canan was convicted twice in the long trialing period, the verdicts were revoked by higher courts and then the case was postponed with three years of monitored release. The Higher Court indicated that the applicant was sentenced only due to participating in a meeting and demonstration.



## **'Partial' annulment of BTK's authority to ban access**

Constitutional Court (AYM) annulled the authority of the Information and Communication Technologies Authority (BTK) to ban access to content on the Internet constituting "the crime of explicit content." The High Court decided that it is against the Constitution to provide an

authority to the administration to ban access to content without clear extent and limits. Stating that the verdict is positive, Prof. Dr. Yaman Akdeniz reminded that Twitter and YouTube were shut down with the authority from the debated article.

An administrative measure can be applied on websites, without court decrees, within catalogue crimes such as "encouragement of suicide, child pornography, prostitution, explicitness, crimes against Atatürk" etc. in accordance with the Law No. 5651. Only the "explicitness" regarding this authority was annulled and the decision will be enacted only a year later - which means BTK will be able to use the authority (which is against the Constitution) for another year. AYM, on the other hand, did not make any changes on the authority of the BTK Chairman to officially decide on banning online content within other catalogue crimes.

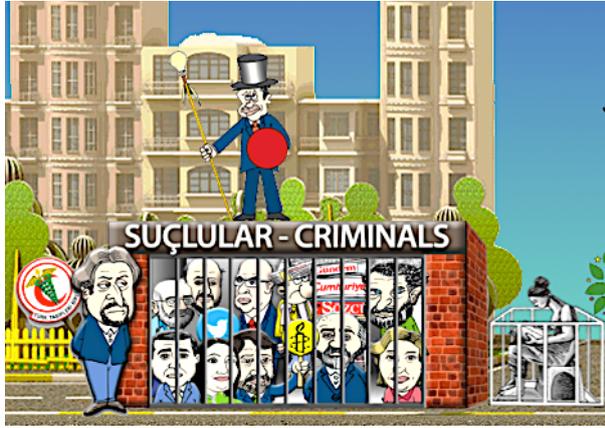
Access bans continue with full speed. Four more news websites were banned to access this week, including the website of 1HaberVar Platform and the website of Mesopotamia Agency. 1HaberVar Platform was established by workers of TV and Radios, which were previously shut down with emergency decrees.

## **THIS WEEK ON THE MUSEUM OF CRIMES OF THOUGHT**



Erdogan said "The Afrin operation has actually started on the scene, and Menbic will follow it." on January 20.

Kılıçdaroğlu said, "We have full support for the Afrin operation" after the statement of Devlet Bahçeli "It is our legitimate right to enter Afrin" and on the 20th day of the operation, Kılıçdaroğlu said "he did not find it right to enter the city."



124 people who participated in the protest actions and 449 people sharing social media posts related to Afrin operation were taken into custody for 'propaganda of the organization'. At least 41 people were arrested for social media sharing.

President Recep Tayyip Erdoğan has declared the intellectuals and TTB, who oppose the Afrin operation and made a peace call, a "traitor".



The Syrian Human Rights Observatory announced that during the Afrin operation, nine-day bombing of the Turkish Armed Forces resulted in the deaths of 42 Kurds, Arabs and Armenians, including 12 children and 7 civilian women.

As Turkish Armed Forces made statements regarding the number of those killed, the coffins of the soldiers wrapped with flags began to come.



**TRIALS OF FREEDOM OF EXPRESSION**

- Ertuğrul Mavioğlu testified at the 37th High Criminal Court on February 5th, within the lawsuit filed against the directors of Bakur/Kuzey documentary due to “making illegal organization propaganda.” Çayan Demirel, who was expected to testify on February 8th, could not attend the hearing due to health issues. Demirel will testify in Batman.
- The “Media-FETÖ” Case with 29 defendants, including Murat Aksoy and Atilla Taş, continued on February 6th, Tuesday, at the 25th High Criminal Court. The court decided for arrested defendant Halil İbrahim Balta to be released with judicial control due to health reasons. The Prosecutor claimed the release of Gökçe Fırat Çulhaoğlu; whereas the court decided for all other arrested defendants to remain arrested, including Çulhaoğlu. The next hearing of the case was scheduled for 22 February 2018.
- Lawsuits continued against the Academics for Peace. The hearings of the academics on trial were held at the 34th High Criminal Court on February 6th, Tuesday. The lawsuits of other academics, on trial at 33rd High Criminal Court, were held on February 8th, Thursday. The next hearings will be held on 19 June, 5 July and 10 July 2018.
- The case against those who performed a protest of civil disobedience to support the Academics for Peace stood trial on February 8th at Aydın Söke 2nd High Criminal Court. We could not yet reach the result of the hearing.

### **Trials Next Week**

- The “FETÖ- Coup Attempt Media Structuring” Case will be held at the 26th High Criminal Court on February 12th with defendants Ahmet Altan, Mehmet Altan, Nazlı Ilıcak and others. The hearing will start at 10:00.
- The second hearing of the case filed against artist Suavi due to “insulting the President” will be held at Izmir 33rd Criminal Court of First Instance on February 13th.
- Cases continue against Academics for Peace. The hearings of academics on trial will be held on February 13th and 15th at Istanbul 34th and 36th High Criminal Courts.
- Photoreporter Çağdaş Erdoğan had been taken into custody and arrested while taking photographs at Kalamış beach due to “taking photos of social facilities belonging to the National Intelligence Agency.” The first hearing of the case against Erdoğan will be held at Istanbul 33rd High Criminal Court on February 13th, Tuesday, with an imprisonment claim against him up to 22,5 years. The hearing will start at 11:15.
- The third hearing of the case against Republican People’s Party (CHP) Istanbul MP Enis Berberoğlu at the 2nd Penal Department of Istanbul Regional Court will continue on February 13th. Berberoğlu was recently sentenced to 25 years of imprisonment by Istanbul 14th High Criminal Court due to providing former Cumhuriyet Newspaper Editor-In-Chief Can Dünday with visuals of trucks belonging to the Turkish National Intelligence.
- The case against People’s Democratic Party (HDP) Co-Chair Selahattin Demirtaş due to “administering an armed terrorist organization” will continue on February 14th, Wednesday at Ankara 19th High Criminal Court.
- The case against İnan Ketenciler and Perihan Mağden due to insulting the President will be heard on February 15th at Istanbul 2nd Criminal Court of First Instance. The hearing will start at 10:50.

- The case against Republican People's Party (CHP) Istanbul MP Enis Berberođlu, Cumhuriyet Newspaper's former Editor-In-chief Can Dündar and the newspaper's Ankara representative Erdem Gül
- CHP İstanbul Milletvekili Enis Berberođlu, Cumhuriyet Gazetesi eski Genel Yayın Yönetmeni Can Dündar ve gazetenin Ankara temsilcisi Erdem Gül'ün MİT tırlarının görüntülerinin yayınlanmasına ilişkin yargılandığı dava 16 Şubat günü 14. Ağır Ceza Mahkemesi'nde görülecek.