



Think, think...

Freedom of Expression Weekly Bulletin

(Issue 12/18, 23 March 2018)

What happened last week?

*** Afrin was taken under control on the 58th day of the Olive Tree Operation. President Erdoğan announced that the operation will continue with Manbij, Kobani, Tell Abyad, Ras al-Ayn and Qamishli; sending an operation message to Shingal. The General Staff announced 46 Turkish Armed Forces (TSK) members died during the operation.

*** International news agency Agence France-Presse announced that Free Syrian Army units were looting in Afrin. The news was approved by Ankara as well, an announcement was made that an investigation was started. Erdoğan said, *"Some groups have a looting mentality, it was intervened."*

*** Pentagon announced that the U.S. units will not withdraw Manbij. Presidency Spokesperson İbrahim Kalın, on the other hand, stated that consensus was reached with the U.S. on Manbij. U.S. Foreign Ministry replied to the contradictory statements, saying, *"This is funny, no consensus was reached."*

*** Lot ceremony of judges and prosecutors who will be assigned to the profession was made at the Presidency Palace. Representatives of independent judicial authority greeted the authority of conduct - President Erdoğan and Prime Minister Binali Yıldırım - and applauded them for every word spoken.

*** Constitutional Court issued a second right violation for arrested Zaman Newspaper writer Şahin Alpay. Alpay was released with condition of house imprisonment after 20 days under arrest. **(Details below...)**

*** European Court of Human Rights (AIHM) decided that the 'right to freedom and safety' and the 'right to freedom of expression' of journalists Mehmet Altan and Şahin Alpay were violated. The court indicated that it conflicts the basic principles of the supremacy of law that the violation verdicts of the Constitutional Court are not applied. **(Details below...)**

*** Human rights activist and businessman Osman Kavala is arrested for more than 140 days at Silivri Prison. The indictment against Kavala is still not ready.

*** Ministry of Interior Affairs announced 297 people taken into custody due to their social media posts between the dates 12-19 March. **(Details below...)**

*** Media institutions within Doğan Group were sold to Demirören Group, known with their close relations to the political power. Financial Times presented the sale as, *"Turkish media baron agrees to sell media arm to Erdogan ally."* The newspaper indicated that Turkey has a majority of pro-government newspapers and televisions and that the media will take another major blow with the sell. Republican People's Party (CHP) indicated that the sale will create a major monopoly, saying, *"This is a worrying development."*

*** The law draft bringing a Radio and Television Supreme Council (RTÜK) monitoring to the Internet was enacted as law. Hence, RTÜK will be able to apply a ban on unlicensed broadcasts or inappropriate content. Video and social media platforms, which allow personal content sharing, were not included within the regulation. Service providers, which broadcast content such as movies, series and documentaries, will be able to be prevented from broadcasting content “violating national security” or “conflicting moral order” with the newly enacted law.

*** United Nations (UN) Human Rights High Commissioner launched a report, calling Turkey to end the State of Emergency. “The State of Emergency caused a wide spectrum of human rights violations,” said the Commissioner. Ankara then accused the UN Human Rights High Commissioner of being an organization which “collaborates with terrorist organizations.”



Şahin Alpay released with house imprisonment

Istanbul 13th High Criminal Court released Zaman Newspaper writer Şahin Alpay with a condition of house imprisonment following a second right violation verdict by the Constitutional Court (AYM) regarding the case against the Gülen

structuring.

AYM has previously issued a right violation for Alpay, who was arrested pending trial since 30 July 2016, whereas the local court denied the release claims. In the application made following the denial, the high court has issued another verdict of violation, demanding the end of Alpay’s arrest and eliminate the violation as well as its repercussions by means of paying a compensation for 20 thousand TL to Alpay. The verdict indicated that the AYM decree is binding for all persons and institutions.



ECtHR issues violation decree for Şahin Alpay and Mehmet Altan

European Court of Human Rights (ECtHR) decided for the rights to freedom of expression and safety as well as the rights to freedom of expression of journalists Mehmet Altan and Şahin Alpay, who were arrested following the July 15 coup

attempt. The court issued a moral compensation of 21.500 Euros each to be paid to the journalists.

Emphasizing that Altan was not released and remained in the status of “victim” despite the Constitutional Court (AYM) decree on both Altan and Alpay, the European Court of

Human Rights pointed out the deterrent influence of related violations on press freedom and freedom of expression. ECtHR further indicated that the local court's denial to apply the Constitutional Court decree casts a shadow on the effectivity of the Constitutional Court and violates the basic principles of the supremacy of law. However, ECtHR will still accept the right to individual application to the Constitutional Court as a domestic legal remedy.

Constitutional Court had issued a right violation against the two names, whereas the local courts denied to apply the release decree. Following a re-application, the Constitutional Court issued a second verdict of violation on Alpay, leading to the journalist's release after 20 months under arrest. Altan is still arrested.



Seventh hearing in 'Cumhuriyet Case'

The seventh hearing of the Cumhuriyet Case was held in the hearing room at Silivri Prison with 20 defendants, two of them arrested including the Chief Executive Officer of the newspaper, Akın Atalay, who is arrested for 502 days. In the hearing, the Prosecutor presented an opinion

on the basis and claimed that the newspaper is legitimizing illegal organization activities by hiding behind the notion of press freedom. The Prosecutor further claimed 13 defendants, including Ahmet Şık, Murat Sabuncu and Akın Atalay to be imprisoned up to 15 years each due to "aiding an illegal organization without being a member." Istanbul 27th High Criminal Court board issued that Akın Atalay and Ahmet Kemal Aydoğdu to remain arrested, scheduling the next hearing to 24 April 2018.



Reason for sentence against 'Peace Academic'

The reasoned decision against academic A.A. was announced after the sentence of imprisonment for 1 year and three months due to 'making terrorist organization propaganda' by signing the "We will not partake in this crime" petition.

Istanbul 32nd High Criminal Court used the expression, "so-called responsible intellectual" to describe the academic in the 21-page reasoned decision. The text further claimed, "Not issuing a petition of the same quality and worth against a terrorist organization does not match his identity as an intellectual, as well as a peace-loving, democratic, responsible and unbiased academic." The text further claimed that the force used by the security was proportionate as well as compatible with both the internal and the international law at the time when the petition was launched; defending that the petition prepared by the academics was a PKK activity to create false perception.

First hearings of 164 academics were held during the proceeding period, which started on December 5th, of the lawsuits filed separately against scientists signing the “We will not partake in this crime” petition. Three academics were sentenced to 1 year and three months of imprisonment each in the cases, all deferred.



Appeal Court: “Erdoğan uses freedom of expression to target academics”

The lawsuit of insult filed by Candan Badem from ‘Peace Academics’ against the expressions of President Erdoğan following the petition, “We

will not partake in this crime”, “*sinister, tyrant, dark as night, ignorant, disgusting, traitor, lumpen, tool of terrorist organization, insolent, cattle waste, dirty souls,*” was denied by the Court of Appeals as well.

A lawsuit of moral indemnity for 10 thousand TL was filed against Erdoğan due to “attacking personal rights by means of heavy insult and denigrating descriptions” through his words describing the academics, whereas the court denied the application. Following the denial, the file was sent to the Court of Appeals. The court decided that the expressions of Erdoğan addressing the academics were within freedom of expression and thought.



Zuhall Olcay sentenced to imprisonment due to ‘insulting President’

Movie and theater actress-artist Zuhall Olcay was sentenced to 10 months of imprisonment with the allegation that she has insulted President Recep Tayyip Erdoğan. Istanbul Anatolian 46th Criminal

Court of First Instance did not defer the sentence against Olcay due to the previous charge against her, of insulting a public officer.

Allegedly insulting Erdoğan by interpreting a song during a performance on stage in Kadıköy on 5 August 2017, Olcay testified that she has changing the lyrics of the song, named, “I give up the world,” to: “*Recep Tayyip Erdoğan, all is empty, all is a lie, one day life will end, you will say I dreamed.*”



10-month imprisonment sentence against Aysel Tuğluk

Kurdish politician Aysel Tuğluk was sentenced to 10 years of imprisonment at Ankara 17th High Criminal Court due to “illegal organization membership” and “making illegal organization propaganda.” Tuğluk has been

arrested together with seven politicians from the People’s Democratic Party (HDP), Democratic Regions Party (DBP) and Democratic Society Congress (DTK) within the investigation against DTK on 29 December 2016, while she was the HDP Deputy Co-Chair.



Social media operations

Ministry of Interior Affairs announced legal actions were taken against 297 people within the past week (12-19 March) with charges of “making illegal organization propaganda,” “insulting government authorities,” “inciting people towards hatred, resentment and hostility” due

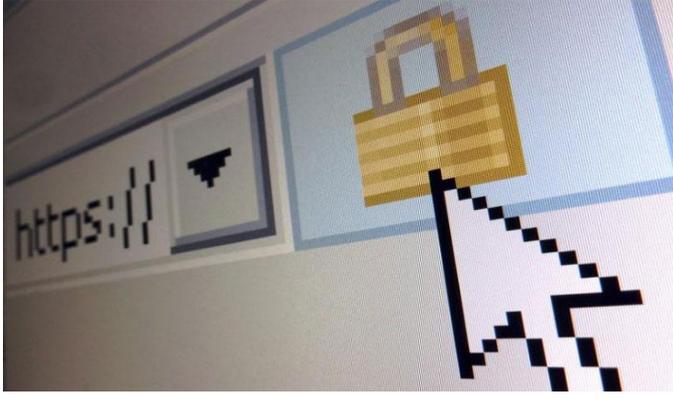
to their social media posts. 1114 people were further announced to have been taken into custody with charges related to ‘terrorism’ within domestic security operations organized in the same time period. As operations continue with full speed, a total of 149 people were taken into custody in Kayseri, Muş, Şırnak, Antalya, Manisa, Zonguldak, Kocaeli and Izmir only on March 20th and March 21st due to their social media posts.



Ministry of Justice demands measure against TV series yet to be broadcasted

Ministry of Justice applied to Radio and Television Supreme Council (RTÜK) concerning the TV series, “Avlu” [“Yard”] whose pilot episode will be broadcasted on March 29th

on Star TV Channel for the first time. The Ministry claimed that prison personnel are exhibited as “torturers” and penitentiary institutions are exhibited as “torture centers” in the series, and that this will serve terrorist organizations’ purposes. The ministry demanded RTÜK to “take necessary measures before the broadcasting begins.”



Access ban on programs surpassing access bans

The Internet is being censored with different reasons in Turkey; and now the VPN services used to surpass the access bans are being banned to access as well.

Access providers were held responsible with “taking necessary measures to prevent alternative ways to access content with access bans on them” with the amendment made in the Law No. 5651 in 2014. As a result of the access bans made based on this clause, the number of banned VPN providers reached 20, together with the latest ban on ‘cyberghost.com’. It is also impossible to access encrypted email provider ProtonMail from Turkey.

Making a statement on the matter from his Twitter account, Prof. Dr. Yaman Akdeniz said, “More than 174 thousand websites and 100 thousand site content are banned to access with both judicial decisions and the order of the Information and Communications Technologies Authority (BTK). It is suspicious and a new dimension of censorship to attempt to ban the use of VPNs on top of the already banned content.”



Governorate bans screening of ‘Yeva’

The screening of a movie on women’s rights was banned by Istanbul Governorate following a written notice sent by the Ministry of Interior Affairs due to a request from Azerbaijan, on the last day of the 16th Filmmor Women’s Movie Festival in Istanbul. The movie ‘Yeva’

tells the story of a woman escaping Iran, from her former husband, to take refuge in an Armenian village in Karabağ.



ECtHR decides for violation of freedom of expression in penalty against ‘insulting Erdoğan’

Businessman and politician Cem Uzan, who was convicted due to insulting Recep Tayyip Erdoğan, made an application at the European

Court of Human Rights (ECtHR). The court decided that his conviction was a violation of freedom of expression.

Uzan was the Chairman of Young Party at the time; using the expressions, “You have no more fear of God. You are without God now. Man without god,” referring to Erdoğan when he was the Prime Minister. Uzan was sentenced to a deferred sentence of imprisonment for eight months and an additional 688 TL judicial fine by Bursa 3rd Criminal Court of First Instance due to his expressions during a rally organized in Bursa in 2007. The rally’s organizing committee members, who stood trial in the same case with the same charge, were acquitted. As the penal case resulted like this, the case of indemnity filed by Erdoğan against Uzan at Bursa 5th Civil Court of First Instance concluded with the verdict for Uzan to pay 10 thousand TL of compensation.



UN calls for “*immediate end of State of Emergency*”

United Nations (UN) Human Rights High Commissioner launched a 28-page report, calling Turkey to end the State of Emergency. *“The routine extension of the State of Emergency has lead to extensive and in-depth human rights violations against*

hundreds of thousands,” stated the report. The report further points out the environment created after launching more than 20 emergency decrees leading to torture under custody, protection of perpetrators with immunity and judicial intervention.

The report indicates the human rights violations experienced during the State of Emergency include ‘arbitrary custodies, torture and other mistreatment, arbitrary seizure of the right to work and freedom to move, attacks against the rights to freedom of expression and meeting.’ It further criticizes the government with “using the authorities given with the State of Emergency to suppress all criticism and oppositional views.”

United Nations High Commissioner for Human Rights Prince Zeid bin Ra’ad Zeid al-Husseini indicated the number of people taken into custody, arrested and dismissed from profession is “striking”; that 160 thousand people were taken into custody and 152 thousand public workers were dismissed from profession “mostly arbitrarily.” *“Teachers, judges, attorneys were dismissed from profession with investigations against them; journalists were arrested; media institutions were shut down; websites were banned. The state of emergency declared in Turkey was heavily used to arbitrarily ignore many people’s rights,”* said al-Husseini.

Ankara claimed that the report “contains unfounded allegations, serving the exact purpose of terrorist organization propaganda,” accusing the UN Human Rights High Commissioner with “being an organization which collaborates with terrorist organizations.”

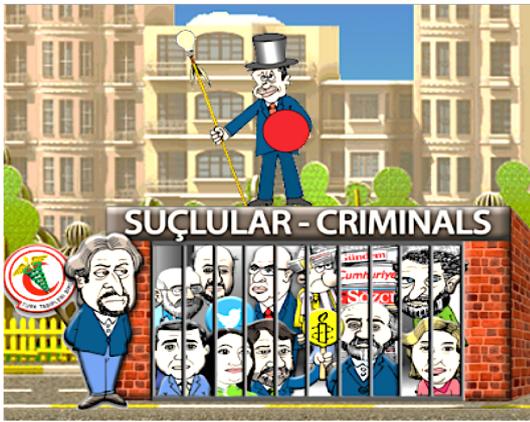
For the full report; [http://www.ohchr.org/Documents/Countries/TR/2018-03-19 Second OHCHR Turkey Report.pdf](http://www.ohchr.org/Documents/Countries/TR/2018-03-19%20Second%20OHCHR%20Turkey%20Report.pdf)

This Week On The Museum Of Crimes Of Thought



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Freedom of Expression

Constitutional Court has made a second “violation of rights” decision both for Şahin Alpay and Mehmet Altan while waiting for the ECHR decision. The domestic court has released Şahin Alpay on house arrest. ECHR ruled that the right of liberty and the right of freedom of expression of Şahin Alpay and Mehmet Altan have been violated and the ‘victim’ position of Mehmet Altan did not change.

Human rights activist, business person Osman Kavala is in prison for more than 140 days without an indictment.



Afrin

Turkish Army Forces entered Afrin’s city centre on the 58. day of the Afrin Operation. Presidency of the general staff made a statement that 46 soldiers died in the operation. President Erdoğan declared that new targets are Manbij, Kobani, Tell Abyad, Ras al-Ayn, Qamishli and Sinjar.



Erdoğan

In the ceremony for instatements of the new judges and prosecutors by lots, representatives of judiciary power applaud representatives of executive power loudly.



State of emergency

The United Nations, Office of the High Commissioner for Human Rights, made a call to Turkey to end the State of Emergency. The government accused the High Commissioner of being cooperative with terrorist organizations.



TRIALS OF FREEDOM OF EXPRESSION

- Trials of academics from Marmara University were held at Istanbul 37th High Criminal Court on March 20th and 22nd. The upcoming hearings were scheduled to 11 October 2018.
- The proceeding against journalist Mehmet Baransu and Taraf Newspaper's former Managing Editor Murat Şevki Çoban continued regarding the news published on the newspaper on 28 November 2013 with the headline, "The decision to end Gülen was made in 2004 at National Security Council." The newspaper was later shut down on March 21st. The court decided to write a warrant for the prison to allow Baransu to prepare his defense on the computer, scheduling the next hearing to 27 June 2018.
- A lawsuit had been filed against Dicle News Agency (DIHA) former Executive Board Chairman Zekeriya Güzüpek and the Managing Editor Dicle Müftüoğlu with an imprisonment claim for up to 15 years following a criminal complaint made regarding the news published at DIHA before its shutdown with an emergency decree. In the hearing held on March 22nd at Diyarbakır 5th High Criminal Court, the Prosecutor demanded for the deficiencies in the file to be compensated. The court board announced the interim decision, summoning Müftüoğlu after his absence at the hearing with a medical report. The court scheduled the next hearing to 8 June 2018 for deficiencies in the file to be compensated.
- The proceeding against former People's Democratic Party (HDP) Co-Chair Selahattin Demirtaş continued on March 23rd at Ankara 35th Criminal Court of First Instance due to "denigrating the government of the Republic of Turkey, its judicial bodies, its military or security organization." Demirtaş was not brought to the hearing and he did not attend the hearing due to his rejection to connect via the Audiovisual Information System (SEGBIS). The court scheduled the next hearing to 13 August 2018 due to the absence of the expert report requested in the previous hearing as well as the absence of Demirtaş at the hearing.
- The fourth hearing of the case against Diken News Website editor Tunca Öğreten, BirGün Newspaper's finance employee Mahir Kanaat, former Dicle News Agency (DIHA) News Director Ömer Çelik, former DIHA reporter Metin Yoksu, Etkin News Agency (ETHA) News Director Derya Okatan and Yolculuk Newspaper's Managing Editor Eray Sargin was held at Istanbul 29th High Criminal Court regarding the coverage of information included in the email account of Energy and Natural Resources Minister Berat Albayrak after being hacked and leaked by

RedHack. The court decided for the ban on travelling abroad to continue and scheduled the next hearing to 13 September 2018, starting at 10:00.

Trials Next Week

- The next hearing of the case against Ferhat Tunç will be held at Istanbul 36th High Criminal Court on 27 March 2018 with the allegation that he has made terrorist organization propaganda.
- The next hearings of the case against Marmara University Academics will be held on 27 and 29 March 2018 at Istanbul 37th High Criminal Court. The hearings will start at 09:00.