



Think, think...

Freedom of Expression Weekly Bulletin

(Issue 9/19, 1 March 2019)

What happened last week?

*** As a potential military operation against the Kurds in Syria losing attention in the government agenda, the President targeted People's Democratic Party (HDP) municipalities again and threatened them with trustees. *"The trustees would be assigned immediately, at an unexpected time, by us, again,"* Erdoğan said.

*** Rumors increase on the oppositions inside the Justice and Development Party (AKP) will establish another party. Erdoğan previously spoke on the allegations and said, *"There were those who established another party in the past, but what happened is obvious."* Erdoğan further stated, *"If you are a man of your cause, you shouldn't be able to betray your cause."*

*** Erdoğan shared a visual on Twitter with the title, *"Today, two alliances stand against each other in Turkey."* The President, who accuses every citizen not supporting him with relations to terrorist organizations and shows all political opposition as the "enemy", has almost divided the country into two with this post.

*** Following the resignation of Binali Yıldırım from his position as the Parliamentary Spokesman due to his candidacy for Istanbul Metropolitan Mayorship, Justice and Development Party (AKP) MP Mustafa Şentop was elected as the new Parliamentary Spokesman.

*** Selahattin Demirtaş applied to the European Court of Human Rights' Grand Chamber due to the ECHR verdict on his release not being executed, further requesting the file to be examined in regards to violations of freedom of expression.

*** As many citizens are kept in prison for months without indictments against them, including Osman Kavala, the Constitutional Court stated, *"The complication of the lawsuit and the high number of defendants or complainants can not be accepted as a rightful reason for not being prosecuted for such a long time."*

*** Human rights associations organized a common press meeting on the indictments and allegations against Osman Kavala and 15 NGO representatives. *"We stand together against the attempt to vanish civil society,"* stated the organizations.

*** As the Cumhuriyet Case was appealed, the appeal further claimed a lawsuit to be filed at the Constitutional Court for the revocation of the article that prevents those receiving imprisonment sentences below five years from appealing for correction and for the case to be deferred until further decree by the Constitutional Court. Court of Cassation Chairman İsmail Rüştü Cirit said, *"The finalization of sentences below five years at appeal courts might lead to loss of rights. However, this matter must be resolved with the amendment of law."*

*** Journalist and painter Zehra Doğan was released from Tarsus Women's Closed Prison after serving her sentence for more than two years due to *"making terrorist organization propaganda."* According to the data by Turkish Journalists Union, there are 135 journalists in Turkish prisons by February 26th. According to the data shared by 26th Session Republican People's Party (CHP) MP Barış Yarkadaş, 46 journalists have stood trial in the last month and

four of them were sentenced to a total of 6 years, 8 months and 15 days of imprisonment. Access to 41 news content was banned.

*** The number of academics sentenced to imprisonment due to signing the “Peace Petition” reached 137. In the prosecutions of the academics that has been going on for one and a half years, a member judge put an objection annotation to the unanimous verdict of the court for the first time and stated that the academics must be acquitted.



“We Stand Together Against the Attempt to Vanish Civil Society”

Human rights associations organized a common press meeting on the indictments and allegations against Osman Kavala and 15 NGO representatives. The common press statement, read by Amnesty International Turkey Campaign-Advocacy Director Ruhat

Sena Akşener, called for an end to criminalize the civil society as well as increasing pressure on the civil society against baseless allegations such as the ‘attempt to overthrow the government.’ The press declaration messaged that the rights advocates will be supported against all attacks they face.

It was further indicated that the lawsuits filed against the right advocates are used in order to silence them, underlining that the government is responsible of protecting all rights, including the freedom to peaceful meeting and organization as well as freedom of expression. Here are the NGOs signing the text, entitled, “*We Stand Together Against the Attempt to Vanish Civil Society*”: Civil Rights Defenders, Monitoring Association for Equal Rights, Rights Initiative Association, Truth Justice Memory Center, Human Rights Association, Human Rights Agenda Association, Reporters Without Borders, Human Rights Foundation of Turkey, Amnesty International and Citizenship Association.



Acquittal annotation for the first time in conviction decree against academics

Five more academics, who were on trial due to signing the petition, “*We Will Not Partake In This Crime*” petition of the Academics for Peace, were convicted due to “making illegal organization propaganda. In the hearings

held at Istanbul 14th, 36th and 37th Assize Courts, Assoc. Prof. İpek Yürekli from Istanbul Technical University, Asst. Prof. Dr. Özlem Beyarslan from Boğaziçi University, Faculty Member Evren Erlevent from Artuklu University and Prof. Dr. Z.S. were sentenced to 1 year and three months of imprisonment each. Istanbul 33rd Assize Court also sentenced Assoc. Prof. Candan Badem from Munzur University to 1 year, 10 months and 15 days of imprisonment. A member judge put an objection annotation to the unanimous verdict of the court and stated that the academics must be acquitted. This was the first annotation of an

acquittal by a member judge in academic prosecutions. The announcements of the verdicts were deferred.

According to the data we compiled, 135 of the 486 signatory academics standing trial were convicted. The total sentences issued against the academics add up to 205 years and six months of imprisonment, with the sentences against 28 academics (53 years and 8 months of imprisonment in total) not deferred. You may find the data compiled by the Academics for Peace on <https://goo.gl/KGktHa>.



Cumhuriyet Case decree carried to Court of Cassation

An objection was made against the decree issued by the 3rd Criminal Chamber of Istanbul Regional Court within the Cumhuriyet Case at the Court of Cassation. The letter emphasized that the “*convictions are clearly against the law, therefore need to be reversed,*” further claiming for the Court

of Cassation to accept that those receiving sentences below five years of imprisonment have the right to appeal and therefore the execution of their sentences need to be postponed. The letter further claimed a lawsuit to be filed at the Constitutional Court for the revocation of the article that prevents those receiving imprisonment sentences below five years from appealing for correction and for the case to be deferred until further decree by the Constitutional Court.

In the 208-page appeal letter, signed by lawyers Duygun Yarsuvat, Fikret İlkiz, Bahri Bayram Belen, Aynur Tuncel, Tora Pekin, Abbas Yalçın and Halil Kocabaş, the lawsuit was indicated to be a heavy damage on the rights to press freedom/information whose compensation is very difficult, and that in case the decision is finalized, free publication and journalist activities in Turkey will end with the hand of the jurisdiction. The letter further evaluated that “*it is against personal freedom and security that some convictions with sentences of imprisonment are open for appeal and some are not*” as this disrupts the “*right to appeal*” and “*equality.*”



Lawsuit filed against Fikret Başkaya due to “illegal organization propaganda”

A lawsuit was filed against Turkish and Middle Eastern Forum Foundation Founder and Chairman, author Fikret Başkaya related to his article, entitled, “*The Real Terrorism is Government Terrorism.*” The lawsuit was filed due to “*illegal organization propaganda*” through the article, that was

published on the website of Özgür University on November 7, 2016. Özgür University is part of the Turkish and Middle Eastern Forum Foundation. The first hearing of the case will be held at Ankara 21st Assize Court on March 21, 2019, starting at 09:30. You may find the related article on <http://ozguruniversite.org/2016/11/07/asil-teror-devlet-terorudur-fikret-baskaya/>.



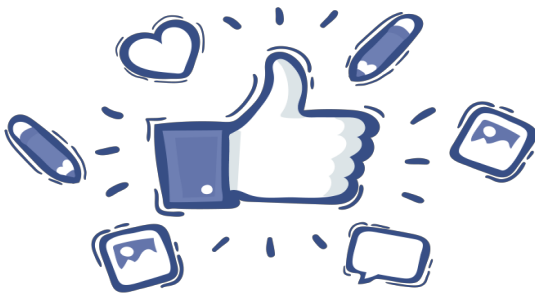
“Insulting Erdoğan”

Diyarbakır 13th Criminal Court of First Instance sentenced former People’s Democratic Party (HDP) Co-Chair Figen Yüksekdağ to 1 year and six months of imprisonment due to “*insulting the President.*” Yüksekdağ has been arrested within the operations started in November 2016 against HDP MPs and was on trial due

to her statements under custody. In her related statement, Yüksekdağ had mentioned that Erdoğan has a “*political past with lots of ambiguities.*” Yüksekdağ is still arrested.

Labour Party (EMEP) member Adnan Karataş, who was on trial due to his social media posts during the Gezi Park protests, was convicted due to “*insulting Erdoğan.*” Karataş was under 18 years old at the time, therefore was sentenced to 5800 TL judicial fine following the prosecution at the juvenile court.

The lawsuit filed against Cinema Workers Union (Sine-Sen) Chairman Zafer Ayden and Beyoğlu City Defense member Deniz Özgür due to the protest against October 10 Ankara Train Station Massacre organized at Istanbul Galatasaray Square on October 12, 2015, was concluded with acquittal. The two names, on trial at Istanbul 32nd Criminal Court of First Instance, have been charged with “*insulting Erdoğan*” due to the slogans chanted during the protest.



Social media users on trial

A summary was prepared against Republican People’s Party (CHP) Istanbul MP Mehmet Bekaroğlu after he reacted against Interior Minister Süleyman Soylu through his social media account. Soylu spoke on the armed fight in Suruç before the general elections, that led to four people losing their lives and

10 people being injured; saying, “*The reason for the incidents in Suruç is Muharrem İnce.*”

Diyarbakır 11th Assize Court sentenced Aziz Turay, who was on trial due to two photographs he liked on Facebook four and five years ago respectively, to 1 year and seven months of imprisonment due to “*making terrorist organization propaganda.*” The announcement of the verdict was deferred for five years.

Istanbul 27th Assize Court sentenced citizen Sedat K., who was on trial due to his Facebook posts, to 3 years, 1 month and 15 days of imprisonment due to “*illegal organization propaganda*” as well as to 2 years, 5 months and 5 days of imprisonment due to “*insulting the President.*” Sedat K. was stopped by the police in January 2018 for an identity check in Istanbul. His Facebook account was then examined by the police and legal action was taken against him.

Ankara West Chief Public Prosecutor’s Office prepared an indictment against retired teacher Ü.N. with the charge of insulting the President through seven different Facebook posts

including comics, photos and comments. The Prosecutor's Office further opened two different investigations against the retired teacher due to "public denigration," "public denigration of religious values adopted by a part of society" and "insulting public officers working as a council due to their duty."



Right to meeting and demonstration

Educators Nursel Tanrıverdi and Selvi Polat, who protested at Bakırköy Square for their re-employment since February 20, 2017 after their dismissal from public service with emergency decrees, were arrested by Bakırköy 1st Criminal Judicature of Peace due to "organizing illegal meetings and

demonstrations." The two names were previously arrested and were put on trial and were acquitted on February 14th. The decree that stated that the two names "cannot approach Bakırköy Square closer than 200 meters" was also reversed by the court. The educators were arrested this time due to noncompliance with the judicial measure decree, "not approaching the square closer than 100 meters" issued against them.

A lawsuit was filed against six people, who were detained during the 2018 Istanbul LGBTI+ Pride March due to "violating the Law on Meetings and Demonstrations No. 2911," "resisting to prevent duty" and "endangering traffic safety." The first hearing of the case will be held on April 18th.



Impunity

A verdict of non-prosecution was issued for the police officers, who broke the arm of Berkin Elvan's mother, Gülsüm Elvan, while detaining her during the protest to support educators Nuriye Gülmen and Semih Özakça, who are on a hunger strike for re-employment after being dismissed from public service with emergency decrees. The

Prosecutor's Office claimed that the police have used their authority to use force that that the reason for the break in Elvan's arm is unknown, therefore claiming that Elvan might have broken her arm herself with a twisted motion during the detainment.

The prosecution of the lawsuit filed on the death of Berkin Elvan, who was shot dead with a tear gas shell in Okmeydanı, Istanbul during the Gezi Park protests, continued at Istanbul 17th Assize Court. The court decided for a discovery research to be made on the crime scene, accompanied by an expert, six years after the incident. The claim for defendant police officer Fatih Dalgacı to be arrested was denied once again. The next hearing was scheduled to May 8, 2019.

The fifth hearing of the lawsuit on the death of university student Kemal Kurkut due to the fire opened by police officer Yakup Ş. during the Newroz celebrations in Diyarbakır in 2017 was held at Diyarbakır 7th Assize Court. The National Criminal Bureau report arriving at the

court indicated that the defendant police officer “has directly targeted Kurkut while shooting” and that “the person who killed Kurkut is indeed defendant police officer Y.Ş.” However, the court denied the arrest claim against the defendant police officer. The next hearing was scheduled to May 30, 2019.



Media blackout against sexual abuse cases

Criminal Judicatures of Peace brought media blackouts against the news on the murder of nine-year-old Sedanur Güzel, whose corpse was found 7 days after she was lost in Kars, as well as on four different cases of sexual abuse in Bingöl, Antalya, İzmir and Kırşehir.

The blackout includes internet publications on incidents with ongoing investigations against them, based on Article 3/2 of Press code No. 5187. The related article predicts a restriction on press freedom due to reasons such as “the protection of the reputation and rights of others, social health and morality, national security, public order, public security and territorial integrity; as well as the prevention of revealing government secrets or crimes and the protection of the authority and the objectivity of judicial power.”



Constitutional Court decrees

The Constitutional Court (AYM) decided that the rights of freedom and security of the citizen, who acquitted in the first hearing of the lawsuit filed against him after staying under arrest for 13 months, were violated due to the citizen not being prosecuted “within a reasonable time.” The court stated, “The complication of the lawsuit and the

high number of defendants or complainants can not be accepted as a rightful reason for not being prosecuted for such a long time.” The court issued 5 thousand TL compensation to be paid to the citizen. The applicant has been detained and arrested on April 4, 2012 with a public lawsuit filed against him due to “membership to an armed terrorist organization, damaging property, making terrorist organization propaganda and violating the Law on Meetings and Demonstrations.” In the first hearing held 13 months after his arrest, a verdict of acquittal has been issued for the citizen.

The Constitutional Court (AYM) decided for violation of freedom of expression in the applications of independent accountant and financial advisor Metin Yalçın as well as theater actor Tuncer Yiğci, who were sentenced due to their writings that criticised the institutions they worked for. The Court pointed out that criticism and expressing opinions is “indispensable for democratic participation.” A warning penalty was sentenced against Balıkesir Independent Accountant Financial Advisors Chamber member Yalçın due to his article, entitled, “We Ask!” in the bulletin, “Fername” issued by a group named, “Democratic Accountants and Financial Advisors.” Yiğci, on the other hand, who worked at Ankara State Theater Directorate, was penalized due to a writing he only shared with the members of an email group with members that are state theater workers only, with the title, “How did I obtain the three-year decisions of the Arts and Executive Council?”



It has been four years since Yaşar Kemal, the great author of our literature whose works have been translated to more than 40 languages with numerous awards, has left our world. We respectfully remember our great author, who has also led to the birth of our initiative with his prosecution at the State Security Court (DGM) due to his article, entitled, “*Campaign of Lies*,” published on the German Der Spiegel Magazine 24 years ago.

Did the DGM prosecute Yaşar Kemal, or did he prosecute the DGM?

Here’s how Yaşar Kemal ended his article, that caused his prosecution: “*Crimes committed against humanity will be illuminated one after another and prosecuted in the 21st century. However, this will not be of the ordinary courts; for the entire nation’s honour and humanity will be put on trial.*”



TRIALS OF FREEDOM OF EXPRESSION

- The second hearing of the lawsuit filed against Mezopotamya Agency reporter Ahmet Kanbal due to his posts on Afrin through his social media posts with the charge of “illegal organization propaganda” was held at Izmir 2nd Assize Court. The next hearing was scheduled to March 19, 2019.
- The second hearing of the lawsuit filed against NRT TV cameraman Rojhat Doğru was held due to “attempting to disrupt the unity and the territorial integrity of state” and “willful injury.” Doğru was released with a travel ban as well as a judicial measure that requires him to submit a signature each Saturday.
- The prosecution of Reporters Without Borders (TSF) Turkey Representative Erol Önderoğlu, writer Ahmet Nesin and Human Rights Foundation of Turkey (TIHV) Chairwoman Prof. Dr. Şebnem Korur Fincancı continued at Istanbul 13th Assize Court due to “making illegal organization propaganda” through participating in the “Substitute Editing-In-Chief” campaign for solidarity with Özgür Gündem Daily, which was shut down with Statutory Decree No. 675 issued within the State of Emergency. The next hearing was scheduled to April 15, 2019 at 10:00.
- The tenth hearing of the lawsuit filed on the death of Berkin Elvan, who lost his life after 269 days in the intensive care unit following a tear gas shell shot by the police hitting his head on June 16, 2017 during the Gezi Park protests in Okmeydanı district of Istanbul, was held at Istanbul 17th Assize Court. A discovery was decided to be

made on the crime scene on April 10th, six years after Elvan's death, and the next hearing was scheduled to May 8, 2019.

- The prosecution of 12 people, including former Republican People's Party (CHP) MP Eren Erdem due to "terrorist organization membership," "aiding and abetting a terrorist organization without being a member" and "violating the confidentiality of investigation" continued within the Karşı Daily Case at Istanbul 23rd Assize Court. No verdict was issued as the bulletin was being prepared.
- Prosecutions of the Peace Academics, who are on trial due to signing the petition, "We Will Not Partake In This Crime" by the Academics for Peace, continued in different courts this week. In the hearings at Istanbul 14th, 36th and 37th Assize Courts, six academics were sentenced to 1 year and three months of imprisonment each; in the hearings at Istanbul 33rd Assize Court, one academic was sentenced to 1 year, 10 months and 15 days of imprisonment. In the prosecutions of the academics that has been going on for one and a half years, a member judge put an objection annotation to the unanimous verdict of the court for the first time and stated that the academics must be acquitted. The announcement of the verdicts were deferred.

TRIALS NEXT WEEK

- The 11th hearing of the lawsuit filed against previous session's arrested People's Democratic Party (HDP) MP Gülser Yıldırım with an imprisonment claim for up to 18 years and three months due to the speeches she gave between the years 2012 and 2016 will be held on March 4, Monday at Mardin 3rd Assize Court.
- The next hearing of the lawsuit filed against seven Confederation of Public Workers' Union (KESK) Central Executive Board (MYK) members due to "public incitement towards hatred and hostility" as well as "making illegal organization propaganda" with the written declaration made during the Olive Branch Operation, entitled, "An Attack Against Afrin Would Deepen the Chaos" will be held on March 7, 2019 at Ankara 4th Assize Court.
- The next hearing of the lawsuit filed against Evrensel Daily's Editor-In-Chief Fatih Polat due to "violating the privacy of communication between persons" following the complaint of Melih Gökçek will be held on March 7, Thursday at Istanbul 2nd Criminal Court of First Instance, starting at 11:05.
- The third hearing of the lawsuit filed against Mezopotamya Agency (MA) reporter Yasin Kobulan with the allegation of "making successive terrorist organization propaganda" will be held on March 8, Friday at Istanbul 30th Assize Court.
- Prosecutions of Peace Academics, who are on trial due to signing the petition, "We Will Not Partake In This Crime" by the Academics for Peace, will continue this week as well in different courts.