



TÜRKİYE
YAYINCILAR
BİRLİĞİ

TURKISH PUBLISHERS ASSOCIATION

**20 YEARS OF STRUGGLE
FOR FREEDOM TO
PUBLISH
IN TURKEY
1994- 2014**



20 YEARS OF STRUGGLE FOR FREEDOM TO PUBLISH IN TURKEY

**Freedom of Thought and Expression Awards
and Freedom to Publish Reports
1994 - 2014**

**20 YEARS OF STRUGGLE FOR FREEDOM TO PUBLISH IN TURKEY
Freedom of Thought and Expression Awards and Freedom to Publish Reports
1994 - 2014**

1. EDITION İSTANBUL, SEPTEMBER 2014
ISBN 978-975-365-017-5

All rights reserved.
@TÜRKİYE YAYINCILAR VE YAYIN DAĞITIMCILARI BİRLİĞİ DERNEĞİ
Inonu Caddesi Opera Palas Apt. No: 55 D:2 34437
Gumussuyu, Beyoğlu / İSTANBUL
T: 0 212 512 56 02
F: 0 212 511 77 94
E: info@turkyaybir.org.tr

TRANSLATION	Ali Ottoman, Funda Soysal, Deniz İnal
EDITING	Yonca Cingöz
PROOF READING	Sara Whyatt
GRAPHIC DESIGN	Elif Rifat
TYPESSETTING	Nevruz Kıran Öksüz
PRINTED AND BOUND IN	Umut Matbaası

CONTENTS

Foreword.....	5
Freedom to Publish Report 1994.....	8
Freedom of Thought and Expression Awards 1995.....	16
Freedom of Thought and Expression Awards 1996.....	18
Freedom to Publish Report 1997.....	21
Freedom of Thought and Expression Awards 1998	24
Books Known to have been Subject to Legal Prosecution in 1996-1997-1998.....	25
Freedom of Thought and Expression Awards and Freedom to Publish Report 1999.....	29
Freedom of Thought and Expression Awards and Freedom to Publish Report 2000.....	35
Freedom of Thought and Expression Awards and Freedom to Publish Report 2001.....	44
Freedom of Thought and Expression Awards and Freedom to Publish Report 2002.....	53
Freedom of Thought and Expression Awards and Freedom to Publish Report 2003.....	63
Freedom of Thought and Expression Awards and Freedom to Publish Report 2004.....	70
Freedom of Thought and Expression Awards and Freedom to Publish Report 2005.....	82
Freedom of Thought and Expression Awards and Freedom to Publish Report 2006.....	97
Freedom of Thought and Expression Awards and Freedom to Publish Report 2007.....	123
Freedom of Thought and Expression Awards and Freedom to Publish Report 2008.....	137
Freedom of Thought and Expression Awards and Freedom to Publish Report 2009.....	150
Freedom of Thought and Expression Awards and Freedom to Publish Report 2010.....	159
Freedom of Thought and Expression Awards and Freedom to Publish Report 2011.....	173
Freedom of Thought and Expression Awards and Freedom to Publish Report June 2011-June 2012.....	187
Freedom of Thought and Expression Awards and Freedom to Publish Report June 2012-June2013.....	217
Freedom of Thought and Expression Awards and Freedom to Publish Report June 2013-June 2014.....	248

FOREWORD

Every year since 1995, the Turkish Publishers Association prepares Freedom to Publish Report and hands out an award to a writer, a publisher and a bookseller. This year the writer's award goes to Tonguç Ok, an exceptionally productive translator who is in prison - a choice which has special significance.

Because of these activities, the Turkish Publishers Association is among the most eminent members the International Publishers Association, a 100 year old establishment which is among the United Nations' advising institutions. The International Publishers Association has delivered its Freedom to Publish Awards since 1998. The fact that this tradition began with a publisher from Turkey (Ayşe Nur Zarakolu, the first winner of this award) has a special significance because publishers in Turkey have paid a heavy toll for the advance of the freedoms of thought and expression, the freedoms to write and to read and for the removal of all obstacles to these freedoms. In the words of the poet Eşref, "There was censorship in the era of oppression and people could not speak out, then came the era of freedom and they let people talk, but with plenty of punishments..."

When we published our first report in 1995, we dedicated it to our colleagues who had lost their lives for the simple fact that they were publishers and that they were practicing their profession.

Our great writer Sebahattin Ali was also the publisher of the famous Marco Pasha column in the *Dünya* newspaper. He experienced incredible struggles for the freedom to publish. In 1948 he was executed by the single party regime. As for Musa Anter, who published the first Kurdish newspaper of the multi-party regime, he fell victim to the same mentality and was assassinated in 1992 at the age of 72. In 1969, Mehmet Ali Ermiş, editor of the *Gün* Publishing, died of a heart attack during a court hearing while being judged for having published Nazım Hikmet's book *Yaşamak Güzel Şey Be Kardeşim (Life is Beautiful My Brother)*.

In 1981 İlhan Erdost, editor of the *Onur* Publishing, was practically lynched at the Mamak Military Prison. In 1980, the deaths, again from a heart attack, of two of our important publishers, Mehmet Ali Ermiş, editor at *May* Publishing and Oğuz Akkan, editor at *Cem* Publishing, can be seen as no coincidence considering the atmosphere of intense fear that reigned at the time.

The contribution these senior publisher colleagues of ours, who stood as examples before us, has been enormous in achieving the level of the freedom to publish we have today, however insufficient it still may be. We therefore take

off our hats and bow with respect and sympathy in memory of each of these colleagues.

The Constitution established following the 1961 military coup brought about a certain atmosphere of freedom but that did not lead a conservative judiciary to abandon its habit of having writers, journalists and publishers dragged into the courts.

During the 60's, Öncü Publishing editor Zeki Öztürk, Toplum Publishing editor Remzi İnanç, Ant Publishing editors Doğan and İnci Özgüden, and Habora Publishing editor Bülent Habora all fought for the freedom to publish, again at the cost of being taken to court. Bülent Habora, whom we recently lost, published the first compilation in this field with his work titled *Yasak Kitaplar (Banned Books)*.

Following the 1980 military coup, dozens of publishing houses closed down, some by force. Millions of "harmful" publications were destroyed. Even world classics were included in the lists of banned books. It is impossible to forget the great legal battle held in the 60's under such dire circumstances by Bilim ve Sosyalizm Publishing editor Süleyman Ege, who saw his whole stock of publications seized and destroyed, and who was among the publishers sent to court.

Thanks to a partial reform brought by the Ecevit Government in the 70's, publishers were exempted from prosecution for their publications during that period and even during the 12 September (1980) coup, on condition that the writer or translator of the book in question be known and held responsible for it. However, with the Press Law that was introduced during the last days of the 1980 military junta government, publishers were again held responsible for their publications. In fact the draft law also held the printers responsible. For the first time publishers came together and were able at least to avoid having printers put on trial for books that were "objects of offense".

In 1991, Article 142 of the Turkish Penal Code, which had been a main scourge for publishers, was abolished. As a result, many trial cases were rendered null and void or concluded with acquittal. However an even worse predicament awaited publishers: the Anti Terror Law (TMK). Despite the fact that publishers were exempt from prosecution following the partial annulment ruling of the Constitutional Court, the High Court of Appeals insisted on quashing acquittal verdicts, equating publishers as newspaper editors-in-chief. Thus, usurping legislative powers through this process of assimilation which is contrary to established legal principles, the Court was able to apply both offense and penalty. From 1994 onwards publishers joined the queue at prison doors.

Faced with this situation, in 1995, professional publishers, journalists and writers organizations began to make a concerted effort to have this Anti Terror

Law changed. As a result, they managed to obtain certain changes - however insufficient they may be - leading to existing trials being suspended and thus fewer publishers sent to prison. With the Anti Terror Law, the State Security Courts (DGM) were overwhelmed with press related trials and practically found themselves turned into specialized press tribunals.

During this whole process, the reports published by the Turkish Publishers Association and its awards played an important role in spreading the word about the situation to local and international public opinion through the press, which also increased the association's credibility and prestige.

The International Publishers Association stresses the fact that publication is not just a commercial activity but one that also serves an ethical function. This implies nothing less than the need for involvement in the freedom to publish, for the freedom to publish is of a strategic importance for the freedom to express one's ideas, and the freedom to read and write. In other words, publishing plays a crucial role in the establishment of freedom of thought and freedom to create.

In this regard, we owe special thanks to our previous presidents Atıl Ant and Çetin Tüzüner, who made it possible to launch and maintain this tradition in our association.

Last but not the least, I want to thank Metin Celal, the current President of the Turkish Publishers Association, its Board of Directors and Yonca Cingöz, who has shouldered this hard task, and for making visible these meaningful efforts of the past.

THE TURKISH PUBLISHERS ASSOCIATION
President of the Freedom to Publish Committee
Ragıp Zarakolu

FREEDOM TO PUBLISH REPORT 1994*

We the undersigned publishers wish to draw attention to an important threat which our society is faced with. Our politicians may prattle on about a “Talking Turkey” where speech is unrestricted, but the fact is that Turkey figures at the head of the list of countries where the greatest number of journalists, writers and publishers are killed, imprisoned and even burned in arson attacks. And when it comes to countries that claim to be democratic, Turkey unfortunately figures at the very top of the list when it comes to such events. There is not a single day without some news of bans, trials and convictions related to periodical or non-periodical publications.

And our State finds it harder each day to justify all this to international society.

For there can be no justification whatsoever today for any prohibition of thought or of expression or any limitation of the freedom of the press or to publish, of receiving news or getting access to information.

There is a whole convoy of writers, journalists, translators and publishers who must prepare their suitcases not to go on a business trip but to go to prison.

In the month of June, the number of writers, publishers or journalists in prison reached the figure of 104. Within a single month, 54 periodicals or books were banned. A total of 112 years of prison and TL 22 billion worth of fines were requested in trials newly opened against the press. Sentences totaling 23 years in prison were inflicted upon people because of their opinions.

An end should be put to a mentality that considers books, reviews, newspapers and opinions as elements of “terror” and as some kind of “criminal tool”.

In terms of restriction of freedom of thought and of expression, the new draft Anti Terror Law which is on the agenda of the Grand Assembly includes elements that may well make us wish for the old one. What is worse, this law has already begun to be enforced on us publishers even before it has been adopted by parliament.

The State Security Courts have put themselves in the place of parliament, enforcing a law which has not even been adopted yet. Ayşe Nur Zarakolu, owner of Belge Publishing, Sırrı Öztürk, owner of Sorun Publishing and Selim Okçuoğlu, owner of Doz Publishing, have been sent to prison following the confirmation of their sentences. Ünsal Öztürk, owner of Yurt Publishing, and Zeynel Abidin

Kızılyaprak, owner of Pele Sor Publishing have seen their sentences confirmed and are about to enter prison. As for Hikmet Koçak, owner of Başak Publishing, Semra Çaralan, owner of Evrensel Publishing, Fikret Onbaş, owner of Dönüşüm Publishing, Faruk Muhsinoğlu, owner of Komal Publishing and Mehmet Bayrak, owner of Öz-ge Publishing, their conviction awaits the final ruling of the High Court of Appeals.

In recent days, prosecutions were brought regarding books published by the following publishing houses: Cep, Pencere, İletişim, Belge, Alan, Deng, Berlin, İntikam, Aka, Birikim, Zagros, Fırat, Haziran, Ümit, Med, Umut and Yaba.

We the undersigned publishers do not want writers, translators, thinkers, journalists and publishers to be sentenced to prison or fines for an opinion they have expressed.

Articles that put freedom of thought in danger should be removed from the draft Anti Terror Law. One should go even further and remove all articles of the Constitution and other laws that currently restrict freedom of thought.

And as a preemptive measure, the following special clause should be included in the Constitution: “The Turkish Grand Assembly cannot under any circumstances pass any law that restricts the fundamental human rights and freedoms, including the freedom of thought, of expression, of the press, of information and of communication”.

Priority should be given to the immediate and unconditional return to freedom of all writers, publishers, journalists who are in prison because of their opinions. These include: İsmail Beşikçi, Fikret Başkaya, Haluk Gerger, Günay Aslan, Ahmet Zeki Okçuoğlu, Sırrı Öztürk, Ayşe Nur Zarakolu, Selim Okçuoğlu, Hacay Yılmaz, Edip Polat, Mehdi Zona, Numan Baktaş, Ömer Ağın, Hikmet Çetin, Özkan Kılıç, İbrahim Gürbüz, Hıdır Ateş, Zana Sezen, Tuncay Atmaca, Naile Tuncer Müslüm Yılmaz, Hamdullah Akyol and Münir Ceylan.

ADIM YAYINCILIK, Hüseyin Yıldırım

AFA YAYINLARI, Atıl Ant

ADAM YAYINLARI, İ.Asena

ALAN YAYINLARI, Hasan Basri Çıplak

ALEV YAYINLARI, Ayhan Bilgi

ALTIN KİTAPLAR YAYINEVİ (with a special annotation regarding article 163),

Dr.Turhan Bozkurt

ALTERNATİF KÜLTÜR LTD, İbrahim Eren

ARDA YAYINLARI, Muhsin Aydın

ARK YAYINEVİ, Erkan Uzun

*“Çağrı” (Call), Yazın, September 1994, Issue 62.

ARKADAŞ DAĞITIM, Alpaslan Şefkatli
ART YAYINCILIK, H.Kemal Çağın
ARYA DAĞITIM, Kurtuluş Parlak
AYKIRI SANAT YAYINCILIK, Şenol Çiçek (Mersin)
AYRINTI YAYINLARI, Ömer Faruk
BASIN BİRLİĞİ, Yavuz S.Pınarbaşı
BAŞAK YAYINEVİ, Hikmet Koçak
BELGE YAYINLARI, Ragıp Zarakolu
BERFİN YAYINLARI, İsmet Arslan
BİRLEŞİM YAYINLARI, Pertev Aksakal
BİRLEŞİM DAĞITIM, Ali Bulaç
BİLGİ YAYINEVİ, Mahmut Gölgeli
BİLİM SANAT YAYINEVİ, Mehmet Öz
BİRİKİM YAYINLARI, Abdullah Onay
BOYUT YAYINEVİ, Mustafa Demirkanlı
CAN YAYINLARI, Erdal Öz
ÇARK KİTAPEVİ, Haluk Erdost
CEP KİTAPLAR A.Ş., Osman Deniztekin
CEM YAYINEVİ, M.Ali Uğur
ÇINAR YAYINLARI, Aydın Ilgaz
DHARMA YAYINLARI, Namık Kemal Atalat
DERLENİŞ YAYINLARI, Gürdal Çıngı(163.madde konusuna şerh koyarak)
DİYALEKTİK YAYINLARI, Hüseyin Budak
DÜNYA YAYINCILIK, Ali Doğan
DÜŞÜN YAYINCILIK, Ahmet Nesin
DÜZLEM YAYINLARI, Tarık T. Kaşkol
DOZ YAYINLARI, Nesimi Aday
E YAYINLARI, Mehmet Atay
ENGİN YAYINCILIK, H. Hüseyin Engin
ETİ/YÖN YAYINCILIK, Arslan Kılıç
EVRENSEL YAYINEVİ, Songül Özkan,
EKSEN YAYINCILIK, İ.Rauf Kösemen
FIRAT YAYINLARI, Süleyman Yaşar
GECE YAYINLARI, Metin Aygün
GELENEK YAYINEVİ, Vakur Kulat
GENDAŞ YAYINLARI, Cengiz Yaşar
GÜNDOĞDU YAYINLARI, Eren Gündoğan
HASAT YAYINLARI, Hüseyin Kıvanç

FİL YAYINLARI, Hüseyin Sönmez
İLERİ KİTAPEVİ, Özkan Başer
İNTER YAYINLARI, Ali Yavuz Çengeloğlu
İNSANCIL YAYINLARI, Cengiz Gündoğdu
İLETİŞİM YAYINLARI, Nihat Tuna
İLETİŞİM PAZARLAMA, Barış Tütün
İSTANBUL KÜTÜPHANECİLİK KİTAPÇILIK, Mustafa Karala
İYİ ŞEYLER YAYINCILIK, Cevat Çapan
İMGE YAYINEVİ, Mehmet Güllü
KIYI YAYINLARI, Şahin Beygu
KORSAN YAYINCILIK, Orhan Kahyaoğlu
KABALCI YAYINEVİ, Sabri Kabalci
KABİLE DAĞITIM, Nihat Topalakçı
KAVRAM YAYINLARI, Serhat Baysan
KAYNAK YAYINLARI, İlhan Kırat
MİTOS YAYINLARI, Mustafa Küpüşoğlu
METİS YAYINCILIK, Semih Sökmen
NİSAN YAYINLARI, Uğur Burma
OĞLAK YAYINLARI, Raşit Çavaş
ODA YAYINLARI, Celal Bayar Satan
ÖTEKİ YAYINEVİ, Vedat Yeniçeri
ÖZGÜR YAYINLARI, Erdal Ulu
PENCERE YAYINLARI, Muzaffer Erdoğan
PINAR YAYINLARI, Hikmet Erden
PAPİRUS YAYINLARI, Mustafa Aksoy
PAYEL YAYINEVİ, Ahmet Öztürk
PİYA YAYINCILIK Saruhan Alioğlu
PERA ORİENT YAYINCILIK, Sevgi Hiçyılmaz
RASTİ BASIM, Sıddık Taşdemir
SAY YAYINLARI, Gürel Uğurlu
SARMAL YAYINLARI, Işıtan Gündüz
SOSYALİST YAYINLARI, Hasan Basri Gürses
SOSYAL YAYINLARI, Enver Aytekin
SEL YAYINCILIK, İrfan Sancı
SUN YAYINCILIK, Hasan Polat
SAY DAĞITIM, M.Ali Uçar
SİS ÇANI YAYINCILIK, Demirtaş Ceyhun
SORUN YAYINCILIK, Zeki Öztürk

SOL ONUR YAYINLARI, Sulari Erdost
SAYPA YAYINLARI, Selçuk Maviengin
STAR YAPRAK YAYINCILIK, M.Kemal Güngör
ŞAFAK YAYINLARI, Fahri Ersoy
ŞURA YAYINLARI, Selahattin Özer
ŞUBAT YAYINCILIK, Kenan Polat
TARİH VAKFI-YURT YAYINLARI, Ayşen Anadol
TEKİN YAYINLARI, Ali Osman Muslu
TEMMUZ YAYINEVİ, Barış Yarkadaş
TARİH VE TOPLUM, Fahri Aral
TOPLUM KİTAPEVİ, Remzi İnanç
TÜM ZAMANLAR YAYINCILIK, Osman Akyüz
ÜMİT YAYINCILIK, Sevgi Özal
VARLIK YAYINLARI, Filiz Nayır
YK YAYINLARI, Turhan Ilgaz
YALÇIN YAYINLARI, İsfendiyar Erzik
YAYINEVİ YAYINCILIK, Sezgin Altınok
YAZIN YAYINCILIK, Masis Kürkçügil
YENİ DÜNYA PLAK VE YAYINLARI, Mehmet Emin Sert
YURT KİTAP YAYIN, Ünsal Öztürk

CAMPAIGN IN SUPPORT OF PUBLISHERS WHO ARE IN PRISON FOR NOT BEING ABLE TO PAY THEIR FINES

In accordance with the notorious paragraph 8 of the Anti Terror Law, the State Security Courts inflict not only prison sentences but also fines upon publishers and writers and those who are not able to pay them are thrown into prison, with each day in jail corresponding to TL 10,000 of paid fine.

Ahmet Zengin, ex partial owner of the Toplumsal Kurtuluş review was given a fine of TL 83 million and Melsa Publishing owner İlyas Burak one of TL 41 million. They will have to spend up to three years in prison for not being able to pay these fines.

Many other publishers, including Yurt Publishing owner Ünsal Öztürk, who has published books by İsmail Beşikçi, are waiting in line.

As our report is being prepared for printing, a group of publishers, including Belge Publishing owner Ragıp Zarakolu and M. Emin Sert, the author of our report, have launched a campaign, declaring: “We will not abandon the two publishers the State has taken hostage,” and that for this sole purpose they would raise the necessary sum of money to pay their fines.

JOURNALISTS, WRITERS, ARTISTS, UNIONISTS AND NGO DIRECTORS KEPT IN PRISON AS DETANEE AND SENTENCED

Magazines

Azadi:

Hikmet ÇETİN, Newspaper Owner, Gemlik Prison

Zana SEZEN, Editor-in-Chief, Sağmalcılar Prison

Salih ÖZÇELİK, Writer, Hatay Prison

Devrimci Proletarya:

Naile TUNCER, Editor-in-Chief, Çanakkale Prison

Devrimci Çözüm:

Fethiye PEKŞEN, Editor-in-Chief, Gebze Special Type Prison

Ayşe AYTAÇ, Reporter, Gebze Special Type Prison

Önder DURSUN, Reporter, Gebze Special Type Prison

İbrahim ÖZEN, Editor-in-Chief, Gebze Special Type Prison

Kemal TOPARLAK, Reporter, Gebze Special Type Prison

Bektaş CANSEVER, Reporter, Buca Prison

Erol AKGÜN, Editor-in-Chief, Gebze Special Type Prison

Halkın Gücü:

Sinan YAVUZ, Editor-in-Chief, Sağmalcılar Prison

Mücadele:

Cemal UÇ, Office Worker, Gebze Special Type Prison

Hüseyin SOLAK, Gaziantep Representative, Malatya Prison

Veysel ŞAHİN, Office Worker, Sağmalcılar Prison

Sakine FİDAN, Diyarbakır Representative, Diyarbakır Prison

Burhan GARDAŞ, Ankara Representative, Ankara Closed Prison

Hanım HARMAN, Reporter, Malatya Prison

Halim YURTOĞLU, Reporter, Kayseri Prison

Aysel BÖLÜCEK, Reporter, Kayseri Prison

Serdar GELİR, Reporter, Ankara Central Closed Prison

Necati ÖNDER, Reporter, Malatya Prison

Özgür GÜDENOĞLU, Konya Representative, Konya Prison

Zeynep KORKMAZ, Reporter, Gaziantep Prison

Emeğin Bayrağı:

Hüseyin TEKİN, Executive Editor, Sağmalcılar Prison

Haydar DEMİR, Newspaper Owner and Editor-in-Chief, Sağmalcılar Prison

Cem ÖZEN, Editor-in-Chief, Sağmalcılar Prison

Emek:

Tuncay ATMACA, Editor-in-Chief, Urla Prison
Mustafa ÇUBUK, Executive Editor, Sağmalcılar Prison
Emekçi Kadınlar Bülteni:
Cemile YÜRÜMEZ, Editor-in-Chief, Sağmalcılar Prison
Medya Güneşi:
Murathan YEŞİLIRMAK, Newspaper Owner and Editor-in-Chief, Sağmalcılar Prison

Prison

Vedat AYDIN, Editor-in-Chief, Sağmalcılar Prison
Newroz:
Mehmet KEÇLİ, Editor-in-Chief, Sağmalcılar Prison
Odak:
Hıdır Ateş, Editor-in-Chief, Çanakkale Prison
Özgür Gelecek:
Nebahat POLAT, Reporter, Ankara Central Closed Prison
Hıdır BATASUL, Reporter, Erzurum E Type Prison
Mustafa DEMİRDAĞ, Editor-in-Chief, Sağmalcılar Prison
Özgür Gündem:
Kemal ŞAHİN, Editor-in-Chief, Sağmalcılar Prison
Mehmet Emin BAŞAR, Editor-in-Chief, Sağmalcılar Prison
Özdemir TOPRAK, Editor-in-Chief, Sağmalcılar Prison
Hasan ÖZGÜN, Office Representative, Diyarbakır Prison
Salih TEKİN, Office Representative, Diyarbakır Prison
Sabri BÖLEK, Reporter, Erzurum Prison
Botan ÖNEN, Reporter, Diyarbakır Prison
Hasan DEĞER, Reporter, Diyarbakır Prison
Bülent GÜNEŞ, Reporter, Erzurum E Type Prison
İsmail GÜNEŞ, Reporter, Erzurum E Type Prison
Meral TİKİZ, Reporter, Erzurum E Type Prison
Emine SERHAT, Reporter, Erzurum E Type Prison
Hayrettin DÜNDAR, Reporter, Erzurum E Type Prison
Mahsun TAŞLIK, Reporter, Diyarbakır Prison
Özgür Halk:
İlhan ÖZDEMİR, Adana Representative, Erzurum Prison
Özgür Ülke:
Süha Soysal DEMİRCİ, Editor-in-Chief, Sağmalcılar Prison
Türker ALP, Administrative Manager, Sağmalcılar Prison
M. Emin ÜNAY, Reporter, Buca Prison
Nalan ALICI, Reporter, Diyarbakır Prison

Halil DALKILIÇ, Editor-in-Chief, Sağmalcılar Prison
Tahkim:
Hayrettin SOYKAN, Writer, Metris Prison
Ahmet BERKİ, Editorial Board Member, Metris Prison
Taraf:
Ali Osman ZOR, Executive Editor, Metris Prison
Fatih AYDIN, Editorial Board Member, Metris Prison
Toplumsal Dayanışma:
Kenan KALYON, Executive Editor, Sağmalcılar Prison
Yoksul Halkın Gücü:
Yemiha KAYA, Editor-in-Chief, Sağmalcılar Prison
Nuran GEZİCİ, Reporter, Ankara Central Closed Prison

Writers

Ahmet Zeki OKÇUOĞLU, Gemlik Prison
İsmail BEŞİKÇİ, Ankara Central Closed Prison
Fikret BAŞKAYA, Ankara Haymana Prison
Haluk GERGER, Ankara Haymana Prison
Edip POLAT, Ankara Central Closed Prison
Günay ARSLAN, Muğla Prison
Hacay YILMAZ, Urla Prison
Ömer AĞIN, Gemlik Prison
Mehdi ZANA, Ankara Central Closed Prison
Numan BAKTAŞ (...)

[...]

Publishers

Ayşe Nur ZARAKOLU, Belge Yayınları, Sağmalcılar Prison
Sırrı ÖZTÜRK, Sorun Yayınları, Babaeski Prison
Nabi BARUT, Zağros Yayınları, Sağmalcılar Prison
Selim OKÇUOĞLU, Doz Yayınları, Gemlik Prison
Recep MARAŞLI, Komal Yayınları, Sağmalcılar Prison

[...]

Resource: İnsan Hakları Derneği İstanbul Şubesi

FREEDOM OF THOUGHT AND EXPRESSION AWARDS

1995

AYŞE NUR ZARAKOLU

Publisher

Ayşe Nur Zarakolu was a writer, publisher and human right activist from Turkey. She was born in 1946 in Antakya (Antioch). She studied law and sociology. Since her student years she had been active in politics and publishing. In 1977 she founded the Belge Publishing together with Ragıp Zarakolu and they published more than 400 books since. She actively took part in the Human Rights Association from its foundation in 1986 until her death. Between 1990 and 1997 she was sent to trial 33 times. She was also sent to prison numerous times because of her opinions and publications, and her political rights denied. Her freedom of thought and expression related publishing activities earned her numerous awards inside and outside Turkey. She died in 2002.

Here is a list of her other awards: For her *Mare Nostrum* work, Greece's Abdi İpekçi Committee Award, from Human Rights Watch, the Hellman/Hammett Award for contributions to the freedom of thought (1996), the PEN America Award (1997), the International Publishers Association's Freedom of Thought, Freedom to Write and Freedom to Publish Award (1998), and from the city of Padova, Italy, the Honesty Award.

HALUK GERGER

Writer

Haluk Gerger graduated from the Beirut American University in 1971. He studied international relations at the John Hopkins University in the USA and continued his postgraduate studies at the Universities of Stockholm and Oxford. After completing his PhD studies at the Faculty of Political Science at Ankara University he began to teach at the faculty's Department of International Relations. He lost his post on 6 November 1982, following the coming into effect of the 1982 Constitution and a decision of Council of Higher Education (YÖK).

Gerger worked as a columnist at different newspapers and his texts were published in several reviews. He took part in the writing pool of the *Aydınlar Dilekçesi* (Intellectuals' Petition) in 1984. He was tried by the Ankara Martial Law Court

in the "Petition" related case and acquitted. He was one of the founders of the Human Rights Association. He acted as president of the publication board of the *Özgür Gündem* newspaper. He was an active member of the World Federation of UN Associations' Administrative Board between 1986-1994 and was a member of the 1993 New York Gulf War International War Crimes Tribunal. He taught as a visiting academic at the Darmstadt Technical University in 1996 and 1999. He was arrested on 26 October 1994 following a written message he had sent to a meeting organized in memory of Deniz Gezmiş. After spending 16 months in detention, he was sent to Gündül Prison in 1998.

Here is a list of his works: *Soğuk Savaş'tan Yumuşamaya (From Cold War to Relaxation)* (1980, Işık Publishing), *Mayınlı Tarlada Dış Politika (Foreign Politics in Minefield)* (1982, Hil Publishing), *Nükleer Tehlike (Nuclear Danger)* (1983, Bilim ve Sanat Publishing), *Yıldız Savaşları: Teknolojisi, Sorunları, Tehlikeleri (Star Wars: Its Technology, Problems and Dangers)* (1985, Kalem Publishing), *Barış Seçkisi (Selection on Peace)* (compilation.) (1986, Bilim ve Sanat Publishing), *O Yıllar (Those Years)* (1987, Dost Publishing), *Emekçiye Mektuplar-1: Yeni Dünya Düzeni, Türkiye ve Sosyalizm (Letters to Labourer-1: New World Order, Turkey and Socialism)* (1994, Belge Publishing), *Emekçiye Mektuplar-2: Türkiye'nin Düzeni ve Kürt Sorunu (Letters to Labourer-2: Turkey's Order and Kurdish Problem)* (1995, Belge Yayınları), *Türk Dış Politikasının Ekonomi Politikası: "Soğuk Savaş'tan "Yeni Dünya Düzeni"ne (Economy Politics of Turkish Foreign Policy: From "Cold War" to "New World Order")* (1998, Belge Publishing), *Kan Tadı: Belgelerle ABD'nin Kara Kitabı (Taste of Blood: USA's Black Book Documented)* (2003, Ceylan Publishing), *ABD, Ortadoğu, Türkiye (USA; Middle East, Turkey)* (2006), *Sık Sorulan Sorular (Frequently Asked Questions)* (2007, Ceylan Publishing).

Gerger was the recipient of other awards: Contemporary Journalists Society (ÇGD) Human Rights Award (1994, 1998), the Hellman-Hammett Award for Contributions made to the Freedom of Thought (1996), Contemporary Journalists Society (ÇGD) Investigator of the Year Award (2006) for his book *ABD, Ortadoğu, Türkiye*.

FREEDOM OF THOUGHT AND EXPRESSION AWARDS

1996

ERDAL ÖZ

Publisher

Erdal Öz was born in the Yıldızeli district of the province of Sivas. He travelled through many parts of Turkey with his father who was a public official. He completed his secondary school in Antalya and his high school in Tokat. He completed his university studies, which he had begun at the İstanbul University Faculty of Law, at the same faculty of Ankara University. He worked at the Turkish Language Society's (TDK) Publishing Department. He also worked at the Ankara branch of the Film Library Association (Türk Sinematek Derneği).

Öz began his literary career with poetry. His first poem "Rasgele" was published in 1952 in the Kaynak Review. He was among the founders of the "a" review. Besides his poems, his short stories and critical writings were published in reviews and newspapers such as Seçilmiş Hikâyeler, Varlık, Yenilik, Yeditepe, Pazar Postası, a, Değişim, Emek and Cumhuriyet. In his works he rendered the effects of social life on the inner world of individuals with great sensitivity. After the 70's he moved to a more social realistic approach. After the 12 March military coup, the Sergi bookshop he was in charge of in Ankara was closed down and he was arrested and sentenced to prison under Martial Law for his political views. After being released from prison, he became manager of the children books series of the Cem Publishing. In 1980 he founded the Can Publishing.

After the 12 March 1971 events, Öz also wrote bare but vivid slice of life descriptions of detainees faced with unlawful practices, describing with moving sensitivity the loneliness, resistance and hopes of individuals in the face of repression. He died on 6 May 2006.

Öz's works: *Odalarda* (1960), *Yorgunlar* (1960), *Kanayan* (1973), *Yaralısın* (1974), *Deniz Gezmiş Anlatıyor* (1976), *Dedem Korkut Öyküleri* (1979), *Alçacıktan Kar Yağar* (1981), *Gülünün Solduğu Akşam* (1986), *Havada Kar Sesi Var* (1987), *Kırmızı Balon* (1990), *Ihlamurlar* (1994), *Odalarda* (1995), *Sular Ne Güzelse* (1997), *Allı Turnam* (1998), *Cam Kırıkları* (2001), *Defterimde Kuş Sesleri* (2003).

His other awards: For his work *Yaralısın*, the Orhan Kemal Novel Prize (1975), for his work *Sular Ne Güzelse*, the Sait Faik Short Stories Prize (1998), for his work *Cam Kırıkları*, the Sedat Simavi Short Stories Prize (2001).

YAŞAR KEMAL

Writer

Yaşar Kemal was born in 1923 in the village of Hemite, province of Osmaniye. He had to drop out of secondary school just at the time when his interest in literature was beginning to develop. He worked at different jobs, ranging from farm labourer secretary, substitute teacher to library attendant, tractor driver and farming inspector. He was arrested for political reasons at the age of 17.

The elegies Kemal had collected during 1940-41 in the Çukurova and Taurus regions were published in 1943 by Adana Community Center (Adana Halkevi) under the title *Ağıtlar*. In 1944 his first short story *Pis Hikaye*, and in the 1950's the *Bebek*, *Dükkancı*, *Memet ile Memet* stories were published. In the 1940's he met with left wing artists and writers such as Pertev Naili Boratav, Abidin Dino and Arif Dino.

In 1946, having completed his military service, Kemal went to İstanbul where he worked as a gas control agent. In 1948 he returned to Kadirli where he worked as controller and petition writer. He was arrested again in 1950. After his release from prison in 1951, he settled in İstanbul. He worked at the Cumhuriyet newspaper as reporter and article writer. His reportage titled "Dünyanın En Büyük Çiftliğinde Yedi Gün" earned him the Journalist Society's (Gazeteciler Cemiyeti) Special Achievement Prize. In 1962 he joined the Turkish Workers Party where he served for eight years.

From 1963 onwards Kemal dedicated himself mainly to novel writing. In 1967 he took part in the founding of the Ant review. His works were also published in reviews such as Ülke, Millet, Kovan and Beşpınar. In 1973 he co-founded the Turkish Writers Union (Türkiye Yazarlar Sendikası) acting as its first president in 1974-75. In 1988 he became the first president of the PEN Turkey. He was convicted to an 18 months prison sentence for a supplement to the Ant review, but the High Court of Appeals quashed the judgement. In 1995 he received a suspended 20 months prison sentence for an article he had written for Der Spiegel. Another trial took place at the İstanbul State Security Court, where he was acquitted. The same year he was sentenced to 1 year 8 months in prison, this time for an article he had written for the London-based Index on Censorship, but the sentence was also suspended.

Kemal's literary works began to draw attention in the 1950's, when his short stories *Dükkancı*, *Bebek*, *Memet ile Memet* and *Sarı Sıcak* were published. In 1955 his novel *İnce Memed* (*Memed, My Hawk*) was published and won the Varlık Novel Prize. It was later to be considered as a classic of Turkish literature. In 1974 his novel *Demirciler Çarşısı Cinayeti* (*The Agas of Akchasaz Trilogy/Murder in the Iron-*

smiths Market) earned him the Madralı Novel Prize. In 1977 his novel *Yer Demir Gök Bakır* (*Iron Earth, Copper Sky*) received the Best Foreign Novel of the Year Award in France. In 1982 he was given the Del Duca Award and in 1984 the French Légion D'Honneur.

Kemal contributed to Turkish literature with short stories, novels, essays, compilations and a children novel, *Filler Sultanı ile Kırmızı Sakallı Topal Karınca* (*The Sultan of the Elephants and the Red-Bearded Lame Ant*, 1977), as well as a translation, Albert Vidalie's

Les bijoutiers du clair de Lune (1977). His works have been translated into 39 languages, and have met with great international interest. Many of his works were adapted to the theatre. In his works, Kemal describes people's lives, their feuds, the Ağa (landlord) system and economic hardships in the plain of Çukurova, where he spent his childhood. From the 1970's onwards his novels described the life of city dwellers. Since 1973 he has been nominated a number of times for the Nobel Prize for Literature.

FREEDOM TO PUBLISH REPORT 1997

Unfortunately, developments in recent months concerning the freedom to publish have been negative. New bans and convictions have followed one after another. Ratified by Parliament on 14 August 1997, the law "concerning the temporary suspension of prosecutions and convictions related to offenses committed by answerable directors up to 12 July 1997" has done little or nothing to ensure freedom of thought or publishing, apart from opening the way to the release of a few editors in chief. Trials launched up to 12 July 1997 have been suspended for a three year period. However, if a new trial is to be opened, those that had been suspended will be reactivated. As for the journalists and authors, who are considered the actual "culprits", this law changes nothing for them. Thus, as a whole, it is simply impossible to say that this new law has contributed in any way to an improvement in the sphere of freedom of thought.

Since 1994, and as a result of adverse jurisprudence created by the High Court of Appeals, book publishers, i.e. publishing house owners and their editors, have been considered as "editors in chief" of periodicals and were faced with prison sentences. Now, however, much of this law is supposed to refer to (periodicals) editors in chief only, this has not kept certain State Security Courts from including book publishers in the scope of this law, following the Supreme Court's adverse jurisprudence. Civil courts on the other hand consider in general that in press related cases, the new law is not applicable to book editors. Thus even such a limited legal change raises serious problems. Even those who "benefit" from this law have their hands tied by the clause according to which there should not be any definitive conviction within a period of three years. This is equivalent to coercing publishers into self-censorship. However the task of publishers is not to censor but, on the contrary, to provide for people to express their thoughts and opinions, expose their creativity, gain access to information and ensure communication between different ideas. This is the minimum accepted standard for publishing all over the world. One cannot expect Turkish publishers to be active professionally below world standards. In any case, the situation faced by publishers today is worse than it was before. Until 1983, publishers were not held responsible for books by known authors. In 1983, towards the end of the military regime, and following a hastily adopted change brought to the Press Law, publishers began

to be held responsible for all their publications. At the time, the Anti Terror Law only foresaw monetary sanctions. These sanctions were astronomic however, and were cancelled by the High Court of Appeals. Thus, no legal ground was left within the scope of the Anti Terror Law for the conviction of publishers. However, following the precedents created by the Supreme Court in 1994, prison sentences began to be inflicted on publishers.

Publishers want these obstacles to freedom to publish removed. Because without the freedom to publish, there can be neither freedom of thought or expression, nor freedom of the press, neither freedom for the people to be informed nor freedom to read.

The 14 August law does not solve the problem, it only postpones it. Turkey should now take action to stop it featuring on the list of countries where freedom of thought and of expression is most trampled upon. Politicians who follow each other in government all say they will do away with restrictions on freedom of thought, but, somehow, none of them can achieve this.

It seems that changes in the laws that restrict the freedom of thought will be slow to come. In this case jurists should at least help to overcome this crisis by acting on the principle that international agreements are relevant to internal law also, and take advantage of this international legal arena. They should make good use of its jurisprudence in order to widen rights rather than to restrict them.

Not only has the system's intolerance concerning the banning of books and prosecuting of authors persisted in recent months, it has increased by including new areas. In 1997 issues related to the Alevi sect, Ottoman history, criticism of religion and the death penalty were added to the existing list of forbidden subjects. Moreover, works treating issues around social class, which were in the past subject to prosecution under (the abolished) Article 142, are now subject to attempts to squeeze them into the scope of Article 312 of the Turkish Penal Code. All this goes to show that the official prohibiting mentality has not been abandoned.

As our Norwegian colleague Sigmund Stromme has stated, the understanding behind the words "freedom to publish," as they stand under Article 1 of the International Publishers Association statutes, is that "They do not only constitute one of the main guiding principles of the publishers profession... but also a sine qua non condition for the survival of democracy." A regime that offers the possibility for criticism, for the existence of diverging opinions and their expression, and for different opinions to confront and affect each other will be much sounder, leaving room for compromise, and making moments of crisis much easier to overcome.

Books are usually seized even before their related trials have begun. This is

equivalent to a prior conviction. In other words, a de facto sanction is given first and the conviction takes place after. This is like having a person judged after having been hanged, and indeed, to ban a book is equivalent to having it put to death. Even in the rare cases when trials related to seized books end up with acquittal, these books have been rendered useless, having being stored under inadequate conditions. As for "convicted" books, they are sent to SEKA (Turkey Pulp and Paper Mills) to be recycled as paper. In effect, trials launched without the prior seizure of books also means that there is no need to have them banned.

Another recent negative trend is the banning of and prosecution related to books that were previously published without being subject to any trial. Also witnessed are the immediate re-implementations of previous seizure orders onto re-edited books, despite the fact that a new order is required in such cases. Thus, no criterion is left for publishers to enable them to judge if a book will suffer prosecution or seizure.

Books should stop being treated like some "dangerous substance" and start being accepted as a means of "culture." Having books frequently subject to bans creates a negative reaction towards them in society, and accepting them as an "evidence of offense" increases the likelihood that people will turn away from books. Below is a list of books banned in the last period. This list is truly frightening. It is high time to put an end to this shameful practice. The way to do this is not to push publishers into giving up their trade, but to abandon this prohibitive mentality and its practices and to have the necessary legislative reforms implemented instead. If there is one thing that appears clearly today, it is the fact that a change brought only to one of the freedoms - of the press, of thought, of expression or to publish will not solve the problem. Only with an all-inclusive procurement of all the freedoms - of thought, expression and to publish, can this ugly page of our history be turned.

FREEDOM OF THOUGHT AND EXPRESSION AWARDS

1998

MAHİR GÜNŞIRAY

Cinema and Theater Actor and Director

Born on 10 August 1960, Mahir Günşiray is the son of artist Orhan Günşiray. He graduated from the Theater Department of Hacettepe University State Conservatory. He did his postgraduate studies at the Workshop Theater at Leeds University, and completed his training at the Stage and Visual Arts Department at Mimar Sinan University.

Günşiray worked at the Bursa State Theater, the İstanbul State Theater, the Tiyatro Stüdyosu, the Theatre an der Ruhr (Germany), Tiyatro Ti and Tiyatro Oyunevi, while also playing in films and television series. In 1985 he directed Samuel Beckett's video film titled "Film". In 1998 he received the Turkish Publishers Association Freedom of Thought and Expression Award, on behalf of the 85 artists, writers and intellectuals with whom he had joined in their signature campaign as publishers of the *Freedom for Thought* Book. Since 1987 he has been teaching in different universities and private educational institutions, while working at the Tiyatro Oyunevi, of which he is one of the founders.

Here are some of the plays he has directed: Tiyatro Öldü, Beklerken, Tol, Döne Döne, Unutmak, Gavara, Kanlı Düğün, Hikaye-i Don Kişot, Hizmetçiler, Antigone, Adam Adamdır, Hapishaneden Mektuplar.

Some of the plays he has taken part in as an actor: Tiyatro Öldü, Yalnızlıklar, Tol, Gavara, Efrasiyabın Hikayeleri, Ceza Kolonisinde, Hikaye-i Don Kişot, Hizmetçiler, Adam Adamdır, Küçük Burjuvalar, Afife Jale, Kırıl Üşümesi, Cimri.

And some of the films he has played in: Çanakkale: Yolun Sonu, Gül Dünya, Gitmek, Yer Çekimli Aşklar, Sarı Tebessüm, Seni Seviyorum Rosa, Kaldırım Serçesi.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL

PROSECUTION IN 1996-1997-1998

ADA Publications: Yalçın Küçük's books *Yürüyüş* (*March*) and *Tarihçe* (*Short History*) were ordered to be seized. A trial was opened against the author and the publisher. The trial concerning the book *Yürüyüş*, based on the Anti Terror Law, reached its verdict at the second hearing, without the defense having had a chance of being heard. The State Security Court gave publisher Ertürk Alşun a fine of TL 850 million and a one-year prison sentence. The case is waiting at the High Court of Appeals.

Arba Publishing: L. Armstrong's book *Bozkurt* was banned. The publisher Bülent Demirbaş and the translator Gül Çağlı Güven have been taken to court.

Avesta Publishing: The following conference texts have been banned: A. Melik Fırat's "Fır Mahzun Akar", Emin Hasanpur's "Kürt Dili ile İlgili Devlet Politikaları ve Dil Hakları", "Kürt Sorunu ve Demokratik Çözüm Önerileri" as well as Mehmet Aktaş's book *Sesime Gel* (*Come to My Voice*). The authors and their publisher Songül Keskin are on trial.

Belge Publishing: Prof. Vakahn Dadrian's *Ulusal ve Uluslararası Hukuk Sorunu Olarak Jenosid* (*Genocide as National and International Problem of Law*), A. Kadir Konuk's *Dağdan Kopan Özgürlük* (*Freedom Coming Off From the Mountains*), Mehdi Zana's *Sevgili Leyla* (*Dear Leyla*) and Zelal, Faysal Dağlı's *Ateşten Portreler* (*Fiery Portraits*), Lissy Schmidt's *How Expensive is Freedom?*, Haluk Gerger's *Türkiye'nin Düzeni ve Kürt Sorunu* (*Turkey's Order and the Kurdish Problem*, 3rd Edition), Haydar Işık's *Dersim Tertelesi*, Haşim Kutlu's *Alevi Kimliğini Tartışmak* (*Discussing Alevi Identity*) were among the books banned. Authors and Lissy Schmidt's translators Zeynep Herkmen and Süheyla Kaya, as well as publisher Ayşe Nur Zarakolu were faced with a trial. Hayri Argav's novel *O Şafağın Atlıları* (*Horsemen of That Dawn*) was banned and a prosecution was brought against it. Translator Ertuğrul Kürkçü and publisher Ayşe Nur Zarakolu, on trial because of the Turkish version of the Human Watch report, *Weapons Transfers and Violations of the Laws of War in Turkey* were convicted. The translator's sentence was suspended and that of the publisher turned into a fine. The publisher of Yves Ternon's book *Ermeni Tabusu* (*Armenian Taboo*) was fined. The trial against Mehdi Zana for his book of poetry

Dile Evinamin ended with a conviction. The trial related to Dadrian's *Ulusal ve Uluslararası Hukuk Sorunu Olarak Jenosid* ended with an acquittal.

Berfin Publishing: The trial against Abdullah Rıza Güven, author of the book *Yasak Tümceler (Forbidden Sentences)* and its publisher ended with a conviction. The sentence was suspended. As for the trial launched against the same author for another of his books *Dinlerin Kökeni ve İslamda Reform (Origin of Religions and Reform in Islam)*, it is still to be concluded.

Beyan Publishing: Prof. İhsan Süreyya Sırma's three volume book, *Türkiye'de Yanlış Din Anlayışı (Wrong Understanding of Religion in Turkey)* was banned. A prosecution was brought against both the author and the publisher.

Can Publishing: *Düşünce Özgürlüğü (Freedom of Thought)*, a compilation, was banned and a trial was launched in relation to it.

Çarçira Publishing: The books *Yekbun, Program* and *Yekbun 2. Kongre Kararları* were banned and prosecuted.

Çiviyazıları Publishing: Ahmede Erol Anar's book *İnsan Hakları Tarihi (History of Human Rights)* was banned, and both the author and the publisher Özcan Sapan are on trial.

Deng Publishing: Bans were ordered and trials launched concerning Ahmede Xani's *Epic Mem u Zin*, Ali Dicleli's *Kürt Sorunu (Kurdish Problem)*, *Barış ve Demokrasi (Peace and Democracy)*, Zuhdi El Dahoodi's *Kürtler: Kültür ve Yaşam Mücadelesi (Kurds: Struggle for Culture and Life)*.

Derleniş Publishing: The book entitled *Gerçek İşçi Partisi Nedir? Nasıl Örgütlenmeli? (What is the Real Workers' Party How Should It Be Organized?)* was banned and the publisher prosecuted.

Doruk Publishing: Medeni Ayhan's *Kürdistanlı Filozof Ehmede Xane (Kurdish Philosopher Ehmede Xane)*, Osman Ölmez's work *Türkiye Siyasetinde DEP Depremi (DEP Earthquake in Turkish Politics)*, and Yılmaz Odabaşı's book of poetry *Düş ve Yaşam (Dream and Life)* were banned. Four separate lawsuits were brought against author Yılmaz Odabaşı and publisher Niyazi Koçak in relation to this book of poetry. The first trial ended with a conviction and the author received a year and a half prison sentence and a TL 1 billion fine, while the publisher was fined TL 25 million. Moreover, a prosecution was brought in relation to re-editions by the same publisher of the books *Nasıl Müslüman Olduk (Why Did We Become Muslims?)* and *İslamiyet Gerçeği (Reality of Islam)*. As for publisher Niyazi Koçak, he received a 6 months prison sentence and a fine for the book *Türkiye Siyasetinde DEP Depremi*.

Dose Publishing: Minorsky's book *Kürtler ve Kürdistan* was banned, its publisher Ahmet Zeki Okçuoğlu and the translator were taken to court.

Dönüşüm Publishing: Hıdır Yeşil's book *Bolşevik Parti İnşa Öğretisi (Bolshevik Party Founding Doctrine)* was seized by the 2nd State Security Court, on the grounds that it served as propaganda to an outlawed organization.

Gökkuşluğu Publishing: *Devrimci Yol'dan Seçmeler (Selections from Devrimci Yol)*, a compilation, was banned, and its publisher Kıymet Mücek was prosecuted.

Güney Vakfı: A trial was launched in relation to the book *İnsan, Militan ve Sanatçı Yılmaz Güney (Yılmaz Güney as a Person, Militan and Artist)*.

Human Rights Association (İHD) Ankara Branch: This Turkish association saw its report *Türkiye'de İnsan Hakları Panoraması (Human Rights Panorama in Turkey)* banned.

İnsancıl Publishing: Kaan Aslanoğlu's book *Kişilikler (Personalities)* was banned.

Kabalcı Yayınları: A trial against Gerald Messadie's novel *Ma vie amoureuse et criminelle avec Martin Heidegger* was dropped upon payment of a fine.

Kaynak Publishing: Prof. İlhan Arsel's *Şeriaten Kıssalar (Parables From Sharia)*, Mahmut Alınak's *HEP, DEP ve Devlet (HEP, DEP and the State)* and Turan Dursun's *Din Bu-3 (This is Religion – 3, New Edition)* were seized. İlhan Arsel and editor İsmet Ögütücü were prosecuted. Moreover, the trial launched this year against author İlhan Arsel because of his book *Social Geriliklerimizin Sorumluları: Din Adamları (Responsibles of Our Backwardness: Religious Functionaries)* continues.

Mazlum-Der: This publishing house was prosecuted for its compilation entitled *Kürt Sorunu*.

Nujen Publishing: Bans were ordered and trials launched in relation to the following works: *Özlemin Gül Sureti (Longing Appears as a Rose)*, a collection of writings by assassinated journalist Hafız Akdemir, *XX. Yüzyıl Başlarında Kürt Siyaseti ve Modernizm (Kurdish Politics and Modernism in the Beginning of XX. Century)*, a study by Hasan Yıldız, Dr. Kaws Kaftan's history book *19. Yüzyıl Kürt Tarihi (19. Century Kurish History)* and Hracya Kocar's novel *Garod (Longing)*.

Onur Publishing: Muzaffer Erdost's book *Türkiye'nin Yeni Sevr'e Zorlanması Odağında Üç Sivas (3 Sivas in the Spotlight of Turkey Forced to the New Sevr)* was banned, and because of this book the author was convicted to a year's imprisonment and a TL 100 million fine.

Ölçü Publishing: Mustafa Çelik's 5 volume book *İslami Hareket Fıkhı (Fiqh of Islamic Movement)* was banned and a prosecution was brought against its author and its publisher.

Özgür Publishing: Because they refused to pay a fine, a prosecution was brought against publisher Erol Ulu and translator Ayşe Ece in relation to Eve Jaureguiberry's book *Je n'ai pas de psychanalyste mais j'ai un chat et je parle toute seule*.

Özkaynak Publishing: Emre Yılmaz's book *Genç Bir İşadamına (To a Young Businessman)* was banned.

Pencere Publishing: The second edition of Leo Müller's book *Gladio* was banned because of Emin Karaca's translation. The publisher and author-translator Emin Karaca were prosecuted.

Piya Publishing: Muzaffer Oruçoğlu's work *Dersim* was banned and seized.

Sel Publishing: Because they refused to pay a fine, a prosecution was brought against publisher İrfan Sancı and translator Engin Sunar in relation to Jean Corde-lier's *La Mort de Blanche Neige*. The trial resulted in an acquittal.

Sorun Publishing: Three separate prosecutions were brought in relation to Orhan Gökdemir's book *Gizli Devlet Örgütlerinden Refah Partisine Öteki İslam (The Other Islam: From Secret State Organizations to the Wealth Party)* Publisher Sırrı Öztürk and author Orhan Gökdemir were both sentenced to a TL 75 million fine and seven months imprisonment.

Toplumsal Dönüşüm Publishing: Because the author had deceased, it was the publisher of *Padişah Anaları (Mothers of Sultans)*, Hayri Bildik, who had to bear the brunt of the prosecution brought in relation to the book under Article 312 of the Turkish Penal Code. Bildik was acquitted but the book was nevertheless banned. A prosecution was brought against Hüseyin Portakal because of his book *Din ve İnsan Sorunu (Religion and Human Problem)*.

FREEDOM OF THOUGHT AND EXPRESSION AWARDS

1999

MUZAFFER İLHAN ERDOST

Publisher

Born on 18 September 1932 in Artova, Tokat, Muzaffer İlhan Erdost completed his veterinary studies after which he took up publishing, and acted as chief editor of the weekly newspaper Pazar Postası between 1956 and 1958. He worked at the Ulus newspaper between 1958 and 1963. He founded and directed the Açık Oturum Publishing in 1958, and the Sol Publishing in 1965. Besides his publishing activities, he has written poems, stories, essays and critical works. In his writings he focuses on social problems, Turkish and Ottoman history, agriculture and democracy. He coined the expression "İkinci Yeni Akım" (Second New Wave) in Turkish poetry.

After his brother İlhan Erdost was beaten to death at the Mamak Military Prison following the 12 September 1980 military coup, he added his brother's name to his own, calling himself "Muzafer İlhan Erdost". He was among the founders of the Turkish Human Rights Institution (TİHAK). He currently pursues his activities as owner and manager of the Sol and Onur publishing houses.

Here is a list of Erdost's works: *Türkiye Sosyalizmi ve Sosyalizm (Turkish Socialism and Socialism)* (1969), *Türkiye Üzerine Notlar (Notes on Turkey)* (1970), İlhan İlhan (1981), *Osmanlı İmparatorluğu'nda Mülkiyet İlişkileri (Property Relationships in Ottoman Empire)* (1984), *Şemdinli Röportajı (Şemdinli Interview)* (1987), *Havada Kalan Güvercin (Pigeon Left in the Air)* (1990), *Ey Karanlık Mavi Güneş (Dark Blue Sun)* (1990), *Üç Şair: Nazım Hikmet, Cemal Süreya, Ahmed Arif (Three Poets)* (1994), *Kanı Kanla Yıkamak (Washing Blood With Blood)* (1994), *Faşizm ve Türkiye, 1977-1980 (Fascism and Turkey, 1977-1980)* (1995), *İkinci Yeni Yazıları (Writings on the Second New)* (1997), *Pandora'nın Bir Başka "Kutu"su (Pandora's Another "Box")* (2000), *Türkiye'nin Kararan Fotoğrafları (Turkey's Darkening Photographs)* (2003), *Sosyalizmi Seviyorum (I Love Socialism)* (2007).

RAGIP DURAN

Writer

Ragıp Duran was born in İstanbul. Having completed his high school studies at the Galatasaray High School, he studied law in France. From 1978 onwards he worked as a journalist in İstanbul, Ankara, London and Paris, and for the *Aydınlık Magazine* and the *Hürriyet*, *Cumhuriyet* and *Gündem* newspapers, as well as correspondent for AFP and the BBC. He currently works as correspondent for *Libération* newspaper in France while teaching at the Galatasaray University Department of Communication.

Here is a list of the books he has written: *Afgan Savaşçıları (Afghan Fighters)* (1980), *Apoletli Medya (Media With Epaulets)* (1996), *Medyamorfoz (Metamorphosis)* (2000), *Burası Dünya Polis Radyosu (This Is World Police Radio)* (2001).

MAHMUT ÖNAL

Bookseller

Mahmut Önal was born in Merzifon, Amasya. He completed his secondary studies at the Işık High School in İstanbul. In 1939 he started his career as bookseller by founding the Önal Book and Stationery shop in Merzifon. He did his military service as reserve officer. He worked continuously until the age of 83. Married and father of four, Önal died in 2003. His son Ferhat Önal and his grandson Mehmet Önal have followed him at the helm of his business.

FREEDOM TO PUBLISH REPORT 1999

It is unfortunately not possible to talk of any improvement in the field of “the freedom to publish” since our last report of October 1997. We can however mention negative developments. Whereas no legal change had taken place by the end of 1998, the fact that publishers were faced with close to TL 10 billion worth of fines and the longest prison sentences can be said to constitute a very grave development. Aram Publications editor Veli Haydar Güleç was sentenced to a year’s imprisonment as well as a TL 9 billion 700 million fine for publishing Necdet Buldan’s book *Yasaklanmış Topraklar (Forbidden Lands)*. Previously, the standard prison sentence was of six months and the standard fine approximately TL 250 million. Peri Publications editor Ahmet Önal received a six months prison sentence and was fined TL 2 billion 970.000 for publishing the book *Ağrı Direnişi (Ağrı Resistance)*. As we mentioned before, there was no change in legislation to justify such record sentence increases.

The last court case to take place before the publication of this report was the one directed against the book version of the scenario entitled *Dersim*, written by Bilgesu Erenus, and published by Akış Publications. The last author to be imprisoned was Yılmaz Odabaşı, for his poetry book *Düş ve Yaşam (Dream and Life)* published by Doruk Publications.

Vedat Yeniçeri, editor at Öteki Publications, and journalists Soner Yalçın and Doğan Yurdakul had to pay a fine of TL 450 million for their book *Reis*.

Sentences totalling decades of imprisonment were given to Dr. İsmail Beşikçi, whose books are published by Yurt Publications, remain on the agenda.

The sentence pronounced against Prof. Dr. Yalçın Küçük for a book of interviews published by Başak Publications is currently being carried out.

Muzaffer Erdost, one of the most senior publishers in Turkey, was sentenced to a year’s imprisonment and a TL 100 million fine for the book entitled *Türkiye’nin Yeni Sevr’e Zorlanması Odağında Üç Sivas (3 Sivas in the Spotlight of Turkey Forced to the New Sevr)*. The sentenced has been confirmed. Rather than being celebrated for the forty years he has dedicated to the publication industry, this respected colleague receives such an incomprehensible penalty.

Peace advocate and author Eşber Yağmurdereli is still in prison, which continues to hurt our conscience.

Even with a weak freedom of expression environment, governments should stand firm behind their commitments to insure improvement and to adopt laws in this context. Quite to the contrary, they have hastily put in practice the “banderole (anti piracy label) directive, which bears the threat of being used as a censorship tool. The present law against pirate publishing - which will clearly not put an end to pirating, has been imposed on publishers despite the fact that, as a professional organization, the Publishers’ Association strives, despite countless limitations, to oppose pirate publishing, and has identified the necessary measures to be taken to this end. Authorities have stubbornly insisted on implementing this anti-pirate directive despite the fact that the International Publishers Association, an organization with some 100 years of experience and covering the whole world, has specified that such a measure has been applied only in Mussolini’s Italy and Khomeini’s Iran, and constitutes a censorship tool.

On the other hand, the draft Turkish Penal Code which was presented to Parliament as a so called reform also includes points that limit the freedom of thought and to publish and constitute a threat to it. The Press Council and the Turkish Journalists Association have expressed their opposition to this draft law. As for the Turkish Publishers Association, they too are preparing a detailed declaration.

During the 1st International Istanbul Book Fair, which was held in March 1998, the Turkish Publishers Association delivered as it does each year (with the wish not have to do it again) the “Freedom of Thought and Expression Award” to actor Mahir Günşiray, in the name of hundreds of intellectuals, who although they are not “publishers”, have taken on the legal responsibility for the publication of a selection of books that have been banned. The award presentation speech was made by the International Publishers Association Secretary General Koutchoumov, which goes to show the importance given to the Turkish Publishers Association and its work concerning freedom to publish by the international community.

On the other hand, the International Publishers Association decided, on the proposal of the Federation of Indian Publishers, and on the occasion of the 50th anniversary of the Universal Declaration of Human Rights, to establish a non-monetary award for “the Freedom to Publish” in 1998. Ayse Nur Zarakolu, a colleague who has striven in this field for 20 years, was judged worthy of this award. On the occasion of its 50th anniversary, the Frankfurt Book Fair, held in October 1998, chose “Freedom to Publish” as its theme. It also hosted the International Publishers Association Award Ceremony. Senior Association members of international renown and the Ministers of Cultures of France and Germany took part in the award ceremony, both of them contributing with a speech. The key-

note speaker was Mr. Nygaard, Norway’s most famous publishers, who escaped by miracle a bomb attack due to his publishing of *The Satanic Verses*. All this goes to show the universal importance given to this theme. Another sure sign of the importance the fair gave to the freedom to publish was the book which included all these speeches, with a preface written by Mary Robins, the United Nations High Commissioner for Human Rights. Some 20,000 units were printed by the German Publishers and Booksellers Association during the fair. And the dedication of this book to a publisher colleague of our country was a source of joy for us all in our professional branch. Unfortunately our media gave little attention to this important award, which in a way was given to all of Turkey’s publishers, neither to the fact that we were the first to receive it, with only two newspapers mentioned these two points. Moreover, due to the habit, widely spread in our country, of considering, “the publisher as a dangerous person”, the award winner only received her passport at the time of the award ceremony, following many bureaucratic obstacles. As a result, we as colleagues of hers were not able to share the joy of the event, which was another cause of shame for us.

During the 4th National Publication Congress, held last December by the Turkish Ministry of Culture and Tourism, our committee members Muzaffer Erdoğan and Işitan Gündüz made a speech calling for the freedom of thought and the freedom to publish.

One of the events that have concerned us in the recent past was the attempt to sabotage one of our member establishments, Berfin Publications, which narrowly escaped going up in flames. Not content with rejecting the evidence produced by publisher İsmet Arslan concerning the event, the court condemned him to a fine for “causing the fire through neglect”. This publisher had been receiving threats for some time due to books critical of religious thought.

We believe that the Freedom of Thought and Expression Award, to be presented this year by the Turkish Publishers Association on 30 April 1999 will be the occasion to put the theme of freedom of thought and expression back on the agenda.

In the light of all these developments, there can be no request more natural than to ask that publishing not be seen as criminal act, as well as for the “Freedom to Publish” to be returned to publishers, who provide writers and artists with the possibility to express themselves and to provide people with the possibility of having access to these writers and artists.

Restricting “the freedom to publish” and keeping publishers under threat of imprisonment and fines, is equivalent to drying up the very source of the freedom of artists to create and of readers to benefit from these creations.

The proposal made by the Turkish Publishers Association to establish a Publishing Law should be taken seriously.

There should be at least a return to the pre-1983 situation, with a removal of the legal framework the military regime established just before stepping back from power. Publishers should not be held responsible for the content of their publications.

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2000

SÜLEYMAN EGE

Publisher

Süleyman Ege acted as chief editor of the Bilim ve Sosyalizm Publishing for a long time. He translated many books including classic works on socialism. He was sentenced to 30 years in prison under Martial Law for four books he had translated. In 1971 he was sentenced to 7,5 years imprisonment for publishing Lenin's book *State and Revolution*.

His publishing house was set on fire and damaged time and time again. In August 1982, the 12 September authorities seized all his publishing house's books. He started a legal battle against the burning of his books at the Mamak Martial Law Headquarters, and managed to have the government reimburse the books three years after their destruction. He pursues his trade at the Bilim ve Sosyalizm Publishing.

NADİRE MATER

Writer

Nadire Mater was born in Söke district of Aydın in 1949. She graduated from Hacettepe University Social Services Academy (Sosyal Hizmetler Akademisi). Until 1980 she worked as a social worker, and later began her career as a journalist at the Demokrat newspaper. Her book *Mehmet'in Kitabı*, based on narratives of soldiers who had fought in the South East of the country was published in 1999 only to be immediately seized, causing its author to be put on trial. The trial ended in 2001 with an acquittal. The book soon became a symbol of the fight for freedom of thought and expression. It was translated into English, German, Italian, Finnish and Greek.

Mater currently works as advisor to the communication network bianet.org, of which she is a co-founder.

Her books: *Mehmet'in Kitabı* (1999), *Sokak Güzeldir* (2009)

Her other awards: Grand Prize of Ankara University Department of Social Sciences Alumni Association (Mülkiye Büyük Ödülü, 2012)

SALIH ZEKİ ULUARSLAN

Bookseller

Born in 1927 in Çanakkale, Salih Zeki Uluarslan completed his lower secondary school, the most advanced level of education provided in Çanakkale during the difficult period after the First World War. In order to support his family he sold newspapers and later worked as a clerk in a book and stationery shop. In 1948 he opened his first, then small, bookshop, selling books and stationery. He pursued his trade for 50 years, since 1952, joined by his children in his two shops, "Okullar Pazarı 1" and "Okullar Pazarı 2". He also published and prepared an edition of books about Çanakkale. He died in 2010 at the age of 84.

FREEDOM TO PUBLISH REPORT 2000

Problems in the field of the freedom to publish unfortunately persevered in 1999. These problems continued despite the promises made by political parties before and after the elections to protect freedom of thought. Books were banned. Abdullah Gündüz, editor at Aram Publishing, was arrested because of a book he published. However, he was released a few months later. As far as we have been able to determine, 26 books from 15 editors were banned, with legal action taken against them. These are listed below together with the bans of the year 2000. (In 2000, some 19 books from 12 publishing houses were banned up until the end of October.) The figures have thus somewhat diminished compared to previous years, but this was due more to self-censorship practiced by publishing houses who had been given suspended sentences rather than any increase in tolerance. (On the contrary, the inclusion of Kurdish dictionaries, historical albums and academic studies into the group of banned books can be considered as a sign of increased intolerance.)

Thus whereas the decrease in the number of banned books can be interpreted as a "positive" development, we should not forget that this decrease was in great part the result of a form of self-censorship practiced by many publishing houses who refrained from picking "problematic" topics, due to the fact that they had been given three years suspended prison sentences. As far as we have been able to establish, the number of books banned and prosecuted reached 26 in 1994, 27 in 1995, 39 in 1996, 32 in 1997 and 34 in 1998. No doubt these figures could increase with information that we have not had access to.

While we were hoping to see the year 2000 as the beginning of a period free of bans, unfortunately we were again confronted with the ban on Prof. Wadie Jawdeh's academic book, *The History of Kurdish Nationalism* as early as January. A first edition of the book had been published last September, but the decision to ban hit the second edition. Not having been considered "objectionable" at first through the usual legal procedure, the book was finally banned upon the request of the Military General Staff. We record this as a negative development.

A positive development on the other hand was the cancellation by the 3rd Criminal Court of Peace of a decision to seize copies of Jonathan Ames's book, translated into Turkish as *Fazladan Bir Adam* by Fatih Özgüven. We had repeat-

edly specified that banning books without prior judiciary rule corresponded to a sanction in advance. Moreover, we have had few or no cases of seizure orders being cancelled by a higher court until today. We thus hope this ruling will constitute a positive jurisprudence for future seizure orders.

Another recent negative development was the banning of the *Pocket Kurdish Dictionary*, published by Welat Publishing. The distribution of the dictionary was considered objectionable by the Governorship of Diyarbakır. In short, we must declare this new practice of having books banned by administrative authorities as another negative development.

Because governments do not take the necessary legal steps towards freedom of thought and because courts do not create jurisprudence in favor of it, bans on subjects considered “taboo,” continue. In the same context, an album of engravings and photographs, *Batılı Gezginlerin Seyahatnamelerinde Kürtler (Kurds in Western Travellers Travel Books)*, compiled by researcher İlhami Yazgan and distributed as a promotion by the Özgür Bakış newspaper, was banned as this report was being prepared. The chronological album *1900'den 2000'e Kürtler (Kurds From 1900's to 2000's)*, compiled by researcher Abidin Kızılyaprak recently met with the same fate. The justification presented for the seizure of the album was “the protection of minors against harmful publications,” which goes to show the superficiality with which the publication was studied by the prosecutor. Placed in the same category and also banned were Mahmut Baki's *Teyre Baz*, published by Peri Publishing, and *Her Kuş Kendi Sürüsüyle Uçar (Every Bird Flies with its Own Flock)*, published by Aram Publishing. Two other works faced with bans were *Dersimde Alevilik (The Alevi Sect in Dersim)*, published by Peri Publishing, and *Kürt Sorunu ve Demokratikleşme (The Kurdish Problem and Democratization)*, a study published by Evrensel Publishing.

Erotic literature continues to be a taboo subject. A special censorship board called “The Prime Ministry Council for the Protection of Minors against Harmful Publications” (Başbakanlık Küçükleri Muzır Neşriyattan Koruma Kurulu) relies on reports prepared by biased “experts” to have many literary works banned. *Portnoy's Complaint* by Philip Roth, who has won many awards, and published by Ayrıntı Publishing, met with the same fate, just as Küçük İskender's 66, the French poet Apollinaire's *The Eleven Thousand Rods*, Hurşit Gara's *Ergenlik Çağı (The Age of Adolescence)* published by Hades Publishing, and Mehmet Ergüven's *Pusudaki Ten (Flesh Lies in Ambush)*, published by Sel Publishing.

On the other hand, some memoirs from ex-intelligence agents have also been banned, one of which was Yılmaz Tekin's *Eski bir Gizli Servis Mensubunun Anıları*, published by Ümit Publishing. (The trial related to this book ended with an acquittal).

The fact that so many writers are in jail because of their thoughts and works is most objectionable as far as freedom of thought is concerned. Professor Yalçın Küçük, Hasan Celal Güzel, Eşber Yağmurdereli, Akın Birdal and others should be freed as soon as possible through the implementation of an imperative democratization process. (Akın Birdal was freed in September, having completed his sentence, without any legislative change taking place.) Having been recently released from prison, the poet Yılmaz Odabaşı was sent back to jail because of the defence speech he made in court. This was considered by public opinion as “a restriction of the right of defence” and a very negative development. (Not only sentenced to prison because of his defence speech, Odabaşı was also mistreated there.) He was released after completing this second sentence. As for poet Babür Pınar's *Aşk Fesleğen Kokar*, a book of poetry published by Kit Publishing, it was banned on the basis of “separatism.”

Among the books banned in 1999 were Abdullah Öcalan's defence speech published under the title *Kürt Sorununda Demokratik Çözüm Bildirgesi*, published by Mem Publishing, and another book entitled *Bir Muhatap Arıyorum* published by Aram Publishing, a compilation of interviews made with the author. The book entitled *Güneşimizi Karartamazsınız*, a compilation by Zeki Akıl, published by the same person, and the following books by Abdullah Öcalan, *Kürt Aşkı, Demokrasi Konuşmaları, Sosyalizmde Israr İnsan Olmakta Isrardır* and *Onbinler Ölmesin*, were also banned, as well as M. Can Yüce's *Doğudan Yükselen Güneş*, published by Zelal Publishing, and Mahsun Şafak's *Kürdistan'da Önderliksel Gelişme*, published by Mem Publishing.

NEW BANS

One of the most negative developments to take place recently was the decisions that strained the legal framework. For example, Mehmet Uzun's seven books, six of which are in Kurdish, were banned by the State Security Court of Diyarbakır, even though it had no authority to do so, and despite the fact that no legal investigation had been launched. These were moreover very old editions, which had been distributed in Istanbul without any problem. The said court finally stepped back from this faulty verdict following protests.

The State of Emergency Regional Governorship* (Olağanüstü Hal Bölge

*The Martial Governorships of coup d'état periods, which had superior authority than civil governorships, after the copu d'état governments were replaced with State of Emergency Regional Governorships in certain cities officially declared as under “the state of emergency”, where anti terror operations were being held. Those governorships had similar superior authority as the Martial Governorships.

Valiliği) banned the distribution in the territory under its control of two daily newspapers, Yeni Evrensel and Yeni Gündem, the latter having only recently been launched. Previously banned were the daily newspapers Azadiya Welat (in Kurdish), Özgür Bakış (in Turkish), Roja Teze (in Kurdish/Turkish), as well as periodicals such as Deng, Yeni Özgür Halk, Pine (Kurdish comic magazine), Yaşamda Gençlik, Bir Adım İleri, Duvarların Ardındaki Özgürlük, Yaşamda Özgür Kadın, Yeni Özgür Halk, Özgürleşen and Yurtsever Gençlik. Moreover, the daily *Yeni Evrensel* had to close down for 10 days in October.

In the field of music too, the State of Emergency Regional Governorship, governors and the Ministry of Culture and Tourism can order bans without needing to refer to a court decision and some 240 music cassettes and CDs have been banned this way.

There has also been a recent increase in the number of radios broadcasting spoken programs that have had to close down. Radio Foreks is a radio station which broadcasts the BBC news. It was faced with a broadcast close down notice for broadcasting uncensored news from the BBC related to the Kurdish problem. Özgür Radio was ordered to close down for one year for broadcasting a selection of protest music classics. Açık Radio had to close down for 15 days because of the reading of an excerpt containing “abusive language” from a work by American author Charles Bukowski.

Because provincial and district governorships have the competence to ban theater plays without prior court decision, theater groups who tour in Anatolia are often faced with such bans. Among the performances that have been banned are those of plays by Nobel Prize winner Dario Fo.

Also subject to such bans was the study *Yakılan/Boşaltılan Köyler ve Göç (Burned/Emptied Villages and Migration)*, by Vedat Çetin, a leading member of the Human Rights Association. The State Security Court is requesting that the author to be sentenced under Article 159 of the Turkish Penal Code.

Towards the end of September, two books published by Aram Publishing were banned. One was entitled *Roma Yürüyüşü (March of Rome)*, by Kurdish author Mahmut Bakşi, who lives in Sweden, the other was Abdullah Öcalan’s *Roma Konuşmaları (Rome Talks)*, a compilation of his speeches.

Another negative development that took place in the mean time was the sentencing of Aram Publishing’s editor Abdullah Gündüz to three years and nine months imprisonment plus a TL 900 million fine for each of five different books for the following offense: “aiding and abetting a terrorist organization through the publishing of books.” The sentences still need final confirmation by the High Court of Appeals.

Also seen recently were bans on Islamic publications. Two books by Emine Şenlikoğlu, which have been previously published many times, fall into this category. The two books, *Burası Cezaevi (This Is Prison)* and *Ben Kimin Kurbanıyım? (Whose Victim Am I?)*, were banned at the end of September.

On the other hand, the recent acquittal of two journalists accused because of their books can be seen as a positive development. The trial launched against Nadire Mater’s *Mehmet’in Kitabı (Mehmet’s Book)* on the request of the Military General Staff recently ended with an acquittal, having given rise to a wave of solidarity from world press organizations.

Also acquitted was journalist Faik Bulut, for *Kod Adı Hizbullah (Code Name: Hizbullah)*. The author was accused of insulting the State and its security forces, because his book included information and documents which determined that the Hizbullah organization in Turkey benefited from State tolerance.

PROPOSITIONS

Let us repeat here the propositions we presented on 25 July 1999, during the “Düşünce Özgürlüğü Forumu” (Freedom of Thought Forum) organized by the Turkish Journalists Association (TGC):

- First of all, a formulation specifying that there can be no justification for the restriction of “Freedom of thought and expression” should be included in the Constitution, as is the case in many contemporary ones.

- The Prime Ministry Council for the Protection of Minors against Harmful Publications, an institution created by the Özal Government as a concession to the conservative groups and which targets more specifically literary texts, should be abolished.

- Article 16 of the Press Law, which was added to the said law by the September 12 Government and which holds owners of publishing houses responsible for the books they publish, should be abolished. Publishers should, as was the case previously, be held responsible only if the author is not specified. Publishers would thus be first and foremost freed from self-censorship concerns.

- Articles 6, 7, 8 of the Anti Terror Law, Articles 158,159, 175, 312, 426 and 427 of the Turkish Penal Code, Law on Obscene Publications and Law No 5816 should be abolished as apriority, or else changed so as to leave no room for value judgments, ideological stances or prejudices that could lead to any restriction of freedom of thought and expression.

An end should be put to judicial enforcements based on interpretations of articles that are not really related to the press and publication fields, as is the case with Article 169 of the Turkish Penal Code “aiding and abetting a terrorist organization”.

The banderole (anti-piracy label) practice which provides those in power a means to control and censor publications should be abolished.

To conclude, the safeguarding of the freedoms of thought, expression, press and publication also depends on a change of mentality. Only through such a change of mentality can we avoid having abolished articles being replaced by other articles loaded with the same prohibiting and censoring character.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN 1999 AND 2000

PUBLISHER	WRITER	BOOK
Aram	Abdullah Öcalan	Barış ve Demokrasi Konuşmaları
Aram	Abdullah Öcalan	Bir Muhatap Arıyorum
Aram	Abdullah Öcalan	Gerçeğin Dili ve Eylemi
Aram	Abdullah Öcalan	Kürt Aşkı
Aram	Abdullah Öcalan	Onbinler Ölmesin
Aram	Abdullah Öcalan	Roma Konuşmaları
Aram	Abdullah Öcalan	Sosyalizmde Israr İnsan Olmakta Isrardır
Aram	Abdullah Öcalan	Tarih Günümüzde Saklı
Aram	Ali Yılmaz	Gözlerinde Barivan'ın Gülüşleri Işıldıyordu
Aram	Mahmut Baksı	Her Kuş Kendi Sürüsüyle Uçar
Aram	Mahmut Baksı	Roma Yürüyüşü
Aram	Sıraç Bilgin	Yapraklar Açana Dek Satranç
Aram	Zeki Akıl	Güneşimizi Karartamazsınız
Arayış	Yaşathak Arslan	(Ed.) 1982 Yazıları
Avesta	Mehmet Uzun	Kader Kuyusu (in Kurdish)
Avesta	Mehmet Uzun(*)	Aşk Aydınlık Gibi Ölüm Karanlık Gibi (in Kurdish)
Beybun	Mehmet Uzun(*)	Kürt Edebiyatına Giriş (in Kurdish)
Ayrıntı	Philip Roth	Portnoy'un Feryadı
Doz	Mehmet Uzun(*)	Siya Evine (in Kurdish)
Evrensel	Derleme	Kürt Sorunu ve Demokratikleşme
Gendaş	Mehmet Uzun	Aşk Aydınlık Gibi Ölüm Karanlık Gibi
Hades	Apollanaire	Binbir Kırbaç
Hades	Hurşit Dara'nın	Ergenlik Çağı
İHD	Vedat Çetin	Yakılan/Boşaltılan Köyler ve Göç
İletişim	Prof.Wadie Jwadeh	Kürt Milliyetçiliğinin Tarihi
İletişim	Jonathan Ames	Fazladan Bir Adam
İthaki	Paolo E. Serie	Druuna
Kit	Babür Pınar	Aşk Fesleğen Kokar

Mektup	Emine Şenlikoğlu	Burası Cezaevi
Mektup	Emine Şenlikoğlu	Ben Kimin Kurbanıyım
Mem	Abdullah Öcalan	Kürt Sorununda Demokratik Çözüm Bildirgesi
Mem	Mahsun Şafak	Uluslararası Komplo ve Kürdistan'da Önderliksel Gelişme
Mem	Abdullah Öcalan	Politik Rapor
Özgür Bakış	İlhami Yazgan(*)	Batılı Gezginlerin Seyahatnamelerinde Kürtler
Özgür Bakış	Abidin Kızılyaprak	1900'den 2000'e Kürtler
Parantez	Küçük İskender	666
Peri	Derleme	Dersimde Alevilik
Peri	Mahmut Baksı	Teyre Baz
Peri	Mehmet Uzun(*)	Bir Dil Yaratmak (in Kurdish)
Peri	Hayri Argav	Batının Yeni Doğu Seferi
Sel	Mehmet Ergüven	Pusudaki Ten
Tümzamanlar	Mehmet Uzun(*)	Kürt Edebiyatı Antolojisi (in Kurdish)
Ümit	Yılmaz Tekin	Eski bir Gizli Servis Mensubunun Anıları (Acquitted)
Welat		Kürtçe Cep Sözlüğü
Zelal	M. Can Yüce	Doğudan Yükselen Güneş

(*) The Diyarbakır State Security Court order to ban Mehmet Uzun's books was cancelled following protests.

FREEDOM OF THOUGHT AND EXPRESSION AWARDS

2001

AHMET ÖNAL

Publisher

Ahmet Önal was born in 1956 in the Çevreli (Cunan) village, in Adaklı (Azapert) district of Bingöl. He attended primary school in the village he was born in, and his lower and higher secondary school in Kiğı. He graduated from the Bingöl Teacher Education Institute. In 1979 he started teaching at the Bingöl Nebyal Primary School.

Önal got to know prosecutors and courts for the first time during his student years, when he was first arrested for selling a magazine with leftist though not illegal content. During the 12 September coup, he was formally arrested after already suffered 150 days of detention and torture. He was dismissed from his post under Martial Law decree No 1402. After his release from prison he settled in İstanbul. In 1991 he founded the Med Publishing where he acted as editorial director. In 1994 Med had to close down following sentences received by the owner for three books the company had published. The same year, Önal started to work as publishing coordinator at Zel Publishing and the Jiyana Nu newspaper. Following sentences received for three books published by Zel and the interruption of the newspaper's activities, he worked as editor at Nujen Publishing. In 1997 he had to close down this publishing house as well, following sentences received for books it had published. At the end of 1997 he founded the Peri Publishing. Six of the books published by this company were seized, giving rise to seven trials. Due to the law that foresaw the suspension of sentences, four cases were suspended, one taking place at the High Court of Appeals and three at the İstanbul State Security Court. However, Önal insisted on continuing to use his freedom to publish and two more of his published books were seized after 1999, with three cases brought against him.

Seizure orders have been given and prosecutions started for 17 out of the 100 or so books he has published since 2001, be it as editor, editorial director, publication coordinator or owner of Peri Publishing.

These are the books for which he was put on trial (from 2001 onwards): *Kürt Siyaset Tarihi* (Kurdish Political History), *Sovyetler Birliği Bilimler Akademisi Kürt Kom.* (Soviet Union Science Academy Kurdish Committee), *Munzur Çem's Dersimde*

Alevilik (Alevi Sect in Dersim), Hüseyin Akar's *Dersim Civarik: İki Uçlu Yaşam* (Dersim Civarik: Double Edged Life), M. Kalman's *Ağrı Direnişi* (Ağrı Resistance), Mahmut Baksi's *Teyre Baz ya Huseyin Baybaşın*, Hayri Argav's *Batının Yeni Doğu Seferi* (New Eastern Expedition of the West), Hasan Yıldız's *Kürt Siyaseti ve Modernizm* (Kurdish Politics and Modernism), Dr. Kaws Kaftan's *Baban Botan Soran*, Hraçya Kaçori's *Garod* (Longing), Mehmet Mamaş's *Hasretine Göm Beni* (Bury Me To My Longing for You), Hafız Akdemid's *Özlemin Gül Sureti* (Longing for You Appears Like a Rose), M. Kalman's *Dersim Direnişleri* (Dersim Resistances), M. Kalman's *Batı Ermenistan-Kürt İlişkileri ve Jenosid* (Batı Ermenistan-Kürt Relations from a Kurdish Eye), Vet. Dr. M. Nuri Dersimi's *Kürdistan Tarihinde Dersim Tarihi* (Dersim History within Kurdish History), İhsan Nuri Paşa's *Ağrı Dağı İsyanı* (The Revolt of Mountain Ağrı), Garo Sasuni's *Kürt Ulusal Hareketleri ve 15. Yüzyıldan Günümüze Ermeni Kürt İlişkileri* (Kurdish National Movements and Armenian-Kurdish Relations from 15th Century to the Present).

The cases that were brought against him were made on the grounds of violations of Article 312 of the Turkish Penal Code, and articles 3713-8 and 159 of the Anti Terror Law.

MEHMET UZUN

Writer

Mehmet Uzun was born in Siverek district of Şanlıurfa in 1953. He settled in Sweden in 1977. The books he wrote in Kurmancî dialect of Kurdish, Turkish and Swedish have been published in some 20 languages. His novels began to be published in 1985 and many trials were launched against him in Turkey. In 1981 he was deprived of his Turkish nationality and he was not able to return to Turkey until 1992. For many years he took active part in the Swedish Writers Union's Board. He was also active in Swedish PEN and PEN International. He was a member of the Swedish and International Journalists Union. Besides his novels, Uzun produced many Kurdish works including essays, narratives and anthologies. He was put on trial in the spring of 2001 for his novel *Aşk Gibi Aydınlık Ölüm Gibi Karanlık* (Light as Love, Dark as Death) and for his book of essays *Nar Çiçekleri* (Flowers of Pomegranate). He died on 11 October 2007 in Diyarbakır, buried at the Mardinkapı Cemetery.

Here is a list of some of his works: *Tu* (You), *Mirina Kaleki Rind* (The Death of a Nice Old Man), *Siya Evinê* (In the Shade of a Lost Love) (1989), *Antolojiya Edebiyata Kurdi* (Anthology of Kurdish Literature) (1995), *Bira Qederê* (Well of Fate) (1995), *Ronî Mîna Evîne - Tarî Mîna Mirinê* (Light as Love, Dark as Death) (1998), *Dicle'nin Sesi I, II* (The Sound of the Tigris) (2002).

His other awards: the Berlin Kurdish Institute Literary Award (for his significant contribution to the art of the novel), the Torgny Segerstedt Freedom Pen Award (for his stand for literature and freedom of expression, the Stina-Erik Lundberg Award (for his contribution to Swedish cultural life, Swedish Academy, 2002).

LÜTFÜ ALPANT

Bookseller

Lütfü Alpant was born in Zonguldak in 1925. He graduated from the Zonguldak Mehmet Çelikel High School in 1949. He started his professional career in 1951 as a partner in the Nihat Yetman Book and Stationery shop. In 1968 he went independent and founded the Tansel Book and Stationery Shop. He pursued his beloved profession of bookselling non-stop for 50 years. He received many letters of thanks from the Zonguldak Chamber of Commerce at ceremonies held to reward the highest taxpayers.

FREEDOM TO PUBLISH REPORT 2001

While the general public expected a decrease in restrictions of freedom of expression in the press and the publishing sectors, together with democratic legislative reforms, these expectations were not totally met in 2001. While changes to the Constitution have brought about relative relief and optimism, the required legislative changes in the field of freedom of thought have not taken place, being postponed for different reasons.

As the executive and legislative powers fail to take steps towards meeting their commitments in this matter, with the banning mentality sometimes including domains like those of the theater, cinema and music, which had not so much been the case in the past, the judiciary becomes the last hope. Perhaps if the judiciary could show more initiative and interpret the existing laws within a larger perspective, it might reject some cases or conclude them with acquittals, and that would widen the sphere of freedom of thought and expression. Faced with conservative attitudes on the part of politicians and bureaucrats, jurists need to take steps on the basis of universal law and treaties, especially following the changes brought to the Constitution, however limited these may be, in order to have the laws interpreted within this new framework. Jurists' initiatives and civic courage could well help to overcome the bottleneck we have reached in the democratization process. We have in fact seen some examples that seem to indicate a development in this direction, especially after the changes made to the Constitution, as some book confiscation orders - however few - were lifted or court cases required to be launched before a confiscation measure could be implemented.

On the other hand, because the preferred way is to suspend trials rather than tackling the root of the freedom of thought problem through radical legal changes, the bans put on books gain permanence, as trials remain on hold. There are even cases of trials concluded with acquittals, but which come back to the surface with new editions of the work concerned, because the verdict has not been confirmed by the High Court of Appeals. The book entitled *Kod Adı Hizbullah*, by journalist Faik Bulut, published by editor Mustafa Demir of Ozan Publishing, was subjected to a second trial because the acquittal verdict of the first trial had not been confirmed by the High Court of Appeals. The book entitled *Kim Bu Fethullah Gülen* by the same author met with the same fate.

We can say however that a greater number of trials opened against book publishers ended with acquittals, which gives us some hope. Also concluded with acquittal was that concerning researcher Turan Feyizoğlu's book entitled *İbo*, again published by Ozan Publishing. However, although a previous ban decision by the Diyarbakır State Security Court on Mehmet Uzun's books, *Aşk Gibi Aydınlık*, *Ölüm Gibi Karanlık* (*Light as Love, Dark as Night*), *Nar Çiçekleri* (*Flowers of Pomegranate*) and *Bir Dil Yaratmak* (*Creating a Language*) had been lifted, these books were again subjected to a ban and a trial when republished by Gendaş Publishing, this time by the İstanbul State Security Court. The trial was launched against both the writer and the publisher. However the trial opened in relation to the first book ended with an acquittal at the first hearing. Moreover, the order to ban Jonathan Ames's *Fazladan Bir Adam* (*The Extra Man*) published by İletişim Publishing was lifted, while the trial launched under the Law for the Protection of Minors against Harmful Publications (Muzır Yasası) in relation to Philip Roth's *Portnoy's Complaint*, published by Ayrıntı Publishing, was concluded with an acquittal. This was a clear sign that it was possible to have other kinds of court verdicts. The decision to ban Evin Aydar's *Tutkular ve Tutsaklar* (*Passions and Prisoners*), published by Peri Publishing, was lifted following protests. Indeed, these bans had triggered widespread reactions both at home and abroad. Numerous writers and publishers associations, including the International Publishers Association and PEN International, the Turkish Writers Union, PEN Turkey and our own Association had made declarations following trials against writers and publishers, and attended many of these trials.

While in 2000 we had 20 books from 14 publishing houses banned and taken to court, in 2001, unfortunately, we were again faced with an important number of bans and sentences. During that year, 41 books from 37 authors published by 22 publishing houses were subjected to trials. Most of these works were banned before the trial procedure had even begun. This must be stressed as being a negative development. While these recent bans were mainly related to themes that are traditionally considered taboo, such as the Kurdish problem, the history of the Turkish Left or sexuality, it also turned out that caricature books were subject to much greater banning and trials than in the past.

An example of books banned for sexuality was Serge Bramly's *La Terreur dans le Boudoir* published by Everest Publishing.

In April, the trial brought against Ahmet Önal, editor of Peri Publishing, who received our Association's Freedom of Thought and Expression Award, ended with a conviction. The trial took place against Hayri Argav's *Batının Yeni Doğu Seferi* (*New Eastern Trip of the West*), a book giving a critical account of NATO's

50 year history. The sentence initially consisted of one year's imprisonment, but was commuted to a TL 250,000 fine. The same editor was sentenced to two years' imprisonment for publishing Mahmut Bakşi's *Bir Kürt İş Adamı* (*A Kurdish Businessman*). The sentence was commuted to a TL 1,000,992 fine.

A case was launched against İsmet Arslan, editor of the Berfin Publishing, for including Özgür Bağış' poem "Burası Amet" (Here is Amet) in the 34th issue of his monthly culture, art and literature magazine, Berfin Bahar, the poem being considered as "separatist". The trial ended in December with an acquittal. Another trial ending with an acquittal was that launched in relation to Bedri Baykam's novel *Kemik* (*Bone*).

Among the first works to be banned in 2001 was the last publication by Tori (M. Kemal Işık, known for his works on Kurdish history): *Ünlü Kürt Bilginleri ve Birinci Kuşak Aydınlar* (*Famous Kurdish Scientists and First Generation Intellectuals*). This was the first ban the author, who has published around ten books on Kurdish culture. As for his publisher Sırrı Öztürk, editor at Sorun Publishing, he was sentenced to prison in 1994 for a poem in the *Hapishane Şiirleri* (*Prison Poems*) anthology he had published.

An interesting event took place in Ankara. The book entitled *1982 Yazıları* (*1982 Writings*), published by Arayış Publishing, was confiscated even before its printing had been completed. The compiler Yaşatak Aslan, and Ayhan Sever, the publisher of the work, were finally acquitted by the Ankara State Security Court, on the grounds that the book had not been fully printed, but also requested that the printing sheets be "destroyed".

Another negative development consisted of the trials launched against newspapers for reports previously freely published, but which when later reproduced in book form were subject to complaints by some official institutions, as was the case for Neşe Düzel's and Celal Başlangıç's books.

Also, previously freely published books were faced with trials when reedited. Mehmet Uzun's *Nar Çiçekleri* and *Bir Dil Yaratmak*, published by Gendaş Publishing constituted two such cases. Moreover, opposition reviews and newspapers are often faced with bans and trials. Banned from its first distribution in the State of Emergency (OHAL) region and with 72 of its editions confiscated, the newspaper *Yeni Gündem* had to close down on 31 March 2001, following financial difficulties due to the trials and bans it has been subject to. At the end of the year, the newspaper *Akit* met with the same fate. As for the weekly news magazine *Yedinci Gündem* and the daily newspaper *Yeni Evrensel*, which were launched this year, their distribution was also banned in the region under the State of Emergency. Emine Şenliklioğlu, who had previously had many of her works freely published,

received a prison sentence for the same books this year. The *Yeni Asya* news paper was closed down and its owner, Mehmet Kutlular, was put in prison. A trial was brought against Şanar Yurdatapan and 64 other people because of a book entitled *Düşünceye Özgürlük Herkes İçin (Freedom of Thought, For Everyone)*, on the grounds that it included texts published within the context of a Freedom of Thought campaign which had been the subject of complaints.

Some publishing houses were sometimes put under pressure. In Diyarbakır, the publishing house Avesta was put on trial on the grounds that it possessed “banned books,” despite the fact that no related notification had been made.

As already mentioned in our previous reports, not only banning orders taken by courts, but also some taken by institutions of the executive sector have been implemented. In Diyarbakır and Batman, Murathan Mungan’s play *Mahmud ile Yezida* was banned from theater stages on the grounds that it contained a song from musician Şivan Perwer as well as some passages in Kurdish. In the district of Erüh, a play entitled *Orhan Veli* could not be performed at the Halk Eğitim Centre, having been considered “objectionable”.

Moreover, the film *70. Gün*, which tells of the hunger strike of 1996, directed by Sedat Yıldız, of the BEKSAV cinema group, was banned on the basis Article 9 of Law No. 3257 on Cinema, Video and Music Works of Art. The same film, which was also banned by the Ministry of Culture and Tourism, was awarded a mention in the short film category of the 37th Antalya Golden Apple Film Festival last October. Immediately after the ban decision was taken, the film was removed from this year’s İstanbul Film Festival program.

The cancellation of the license of some 240 cassettes containing Kurdish music and protest songs in 2000 opened the way to their banning by governorships. There was no change in this situation in 2001.

In the meantime, a study entitled *Tarkan*, published by Çiviyazıları Publishing, was banned on the grounds that “it infringes personal rights.”

As for Erol Toy’s play *Pir Sultan Abdal*, which was performed some 2,000 times, governorships continue to insist on having its staging by the Ankara Birlik Tiyatrosu (ABT theater) banned, despite the fact that the said ban was quashed by an administrative court. Another play about film maker Yılmaz Güney, staged by the same ABT theater, *Bir Güzel Çirkin Kral*, was banned 25 times. The Governorship of İstanbul joined the movement by banning the staging of a play in the Kurdish language by the MKM cultural center. However, in December, the performance of the same play was allowed.

One of the administrative organs that order bans on the audiovisual press is Radio-Television Higher Authority (RTÜK). While it is usually content with bans

lasting a day when dealing with visual media, for some reason, when it comes to audio media, RTÜK can consider shutdowns lasting up to a year. Last year, this institution ordered the closing down of the Özgür Radio station on the grounds that Ataoğlu Behramoğlu, the ex-president of the Writers Union, had read out one of his poems which had previously been freely published and also because the radio had broadcast the historical Austrian Workers’ March. This order was cancelled by the High Court of Appeals and Özgür Radio was able to broadcast again, but only until July, when it was obliged to close down once more this time for a year.

Recorded at the beginning of May, a development that must be qualified as most negative was the trial opened by the Ministry of Industry and Trade aimed at having the audio publishing establishment Kalan Müzik dissolved. This was done on the grounds that this music publishing company had included among its publications a song by the protest song group Yorum which was considered “inconvenient.” This should be perceived as a restriction of the freedom to trade on political grounds. Thus, another “pioneering” step was taken in the field of freedom of publishing. The only “freedom” not to be obstructed even under military rule, the “freedom of holding trading activities” was thus put under attack on political grounds, as the Ministry of Industry joined the caravan of “prohibiter” institutions.

In 2001, despite the fact that there was no related law whatsoever, internet publishing too was faced with trials and sentences by way of “imitation.” This too was one of last year’s “pioneering” steps. Superonline editor Coşkun Ak, was the first person working in internet publishing to be condemned, in a trial following a complaint put by the Ministry of Justice, due to the fact he had let some texts related to human rights violations appear in the “Forum” section of his interactive site service. Following this, Erol Özkoray, editor of the İdea Politika website, was informed of an order to have his site shut down and a legal investigation was launched against him.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN 2001

PUBLISHER	WRITER	BOOK
Aram	Halil Uysal	Dağlarda Yaşamın Dili
Aram	Gurbetelli Ersöz	Amar İşaretleri
Aram	Selçuk Şahan	Mavidir Avasın’ın Işıkları
Avesta	Sov. Bil. Akademisi	Kürdistan Tarihi
Avesta	Celile Celil	Kürt Aydınlanması
Bakış	Ahmet Özcan	Derin Devlet (Acquitted)
Baykam	Bedri Baykam	Kemik (Acquitted)

Belge	Hüseyin Turhallı	Özgürlük Türküsü
Ceylan	Mukaddes Çelik	Bizim Çakır
Deng	M.E. Bozarslan	İlk Ansiklopedide Kürtler
EKB	C.T.H. Kurultayı	Ses ve Cesaret
Gendaş	Mehmet Uzun	Aşk Aydınlık Gibi Ölüm Karanlık Gibi (Acquitted)
İletişim	Neşe Düzel	Türkiyemizin Gizlenen Yüzü
İletişim	Wadie Jwadiéh	Kürt Milliyetçiliği (Under expert consultation)
Lemanyak	Bahadır Baruter	Lombak 3
Komal	Mahsum H. Pir	Bir Yanılsamanın Sonu
Mem	Abdullah Öcalan	Nasıl Yaşamalı?
Mem	Abdullah Öcalan	Kürt Hümanizmi ve Yeni İnsan
Mem	Abdullah Öcalan	Oligarşik Cumhuriyet Gerçeği
Mem	Abdullah Öcalan	Sümer Rahip Devletinden Halk Cumhuriyetine
Mem	Derleme	Çocuk Mektupları
Mem	Mehmet Sevgat	Diyarbakır Zindanı
Mem	Mahsun Şafak	Kürdistan'da Önderlik ve Uluslararası Komplo, cilt 2
Mem	Mahsun Şafak	Serhildan
Mem	Mahsun Şafak	Savunmalar Üstüne Notlar
Ozan	Turan Feyizoğlu	İbo (Acquitted)
Ozan	Faik Bulut	Kod Adı Hizbullah (Acquitted)
Ozan	Faik Bulut	Kim Bu Fethullah? (Acquitted)
Parantez	Pedro Almodave	Patty Diphusa Hikayeleri
Parantez	Feyhan Güven	Bayır Gülü 3
Parantez	Kutsi Akıllı	Cinsellarus
Peri	Hayri Argav	Batının Yeni Doğu Seferi: NATO (Convicted)
Peri	Munzur Cem	Dersim'de Alevilik (Acquitted)
Peri	Mahmut Baksi	Bir Kürt İşadamı: Başbaşın (Convicted)
Peri	Evin Çiçek Aydar	Tutkular Ve Tutsaklar
Sorun	M. Kemal Işık	Ünlü Kürt Bilginleri ve Aydınlar
Tohum	Ozan Veli	Gaban
Tohum	Burhan Karam	Yolumuza Devam Ediyoruz
Umut	-	Rüzgar Bizden Yana
Yediveren	Nevin Berkaş	Hücreler
-	Mehmet Köse	Yeni Nesil Yeni Toplum (Konya)
-	-	Ülkemin Hapishaneleri ve Direnç Çiçeği

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2002

ÖMER LAÇİNER

Publisher

Ömer Laçiner was born in Sivas in 1946. He completed his primary school in Sivas and his secondary school at the Selimiye Military Secondary School and the Kuleli Military High School, finally graduating from the Kara Harp Infantry School. He was expelled from the army for his political activities after the 12 March military coup. In 1975, he founded the Birikim review. In 1982 he took part in the foundation of the İletişim Publishing.

He is currently the chief publishing coordinator of the Birikim review and Birikim Publishing, while also being a member of the Board of Directors and the publication board of İletişim Publishing. Among his published works are his book *Henüz Vakit Varken (While There is Still Time)* (1991) and thousands of articles. Several issues of Yeni Gündem magazine and the *Sosyalizm ve Toplumsal Mücadeleler Ansiklopedisi (Encyclopedia of Socialism and Social Struggles)* have been seized, leading to prosecutions being brought against İletişim publishing, which had published them. Practically all of these trials concluded with an acquittal.

Up to this day, İletişim and Birikim have published some 1,000 books. Four of the publishing house's six books for which prosecutions were brought have had their related cases cleared; two of them, (*Kürt Milliyetçiliğinin Tarihi, Kökenleri ve Gelişimi - History and Origins and Development of Kurdish Nationalism* / Prof. Wadie Jwaideh, *Türkiye'nin Gizlenen Yüzü – Hidden Face of Turkey* / Neşe Düzel) are still the subjects of on-going trials.

ENİS BATUR

Writer

Enis Batur was born on 28 June 1952 in Eskişehir. He is the grandson of the founder of the Şirket-i Hayriye (the first Bosphorus ferryboat company) and the son of the Turkish air forces Commander and People's Republican Party (CHP) senator Muhsin Batur. His first book was published in 1970 and his first books of poetry while he was in Paris (1973-1976). On his return home, he first settled in Ankara, publishing the monthlies Oluşum and Tan, and the quarterly Min-

istry of National Education (MEB) reports. He also headed the MEB publishing department. In 1983 he moved to İstanbul where he started to work for the daily Milliyet, where he was in charge of different subsidiary publications of the newspaper including the *Great Milliyet Encyclopedia*. He also directed the Our Cultural Heritage (Kültür Mirasımız) Campaign, and became a member of the newspaper's publishing board. Between 1987 and 1988 he took part in the foundation of periodicals such as Gergedan, Şehir and Argos. Since 1988 he has been in charge of the Yapı Kredi Cultural Activities, Art and Publishing publications, while also teaching at the Galatasaray University.

Batur's poems have earned him the Cemal Süreyya, Altın Portakal and Sibil-la prizes and his essays the Turkish Language Society (TDK) Award. Dr. Hatice Aynur has gathered the titles of 70 or more books and the 1,500 review and newspaper articles he has published into in her work *Enis Batur Bibliyografyası 1970-95* (*Enis Batur Bibliography 1970-95*). Batur's books of poetry have been translated into Italian, Farsi, French and Dutch. His visual essays, "Görsel Deneme" appeared on the TRT II channel, in the "Okudukça" program, for which he acted as advisor; his audio essays, "Sözel Deneme" in the "Şifa, Şifre, Deşifre" program on Açık Radio, a private radio channel of which he is one of the founders. The following three books are the main sources of information on the writer: The first is Ahmet Oktay's book İsrail'in Suru (*İsrail's Trumpet*), the second is a study named *Opera (1-4004) Odağında Enis Batur Şiiri* (*Enis Batur's Poetry with a Focus on Opera*), a collection of the presentations made at the Opera Symposium which was an initiative of the University of Uludağ, and the third is *Enis Batur İçin Otuz Kuş Bakışı* (*Thirty Birds Gaze for Enis Batur*), a selection of texts about Batur.

From 1978 onwards Batur has written weekly articles in newspapers (Dünya, Milliyet, Güneş, Aydınlık, Cumhuriyet) and monthly articles in the magazine Cumhuriyet Bilim ve Teknik.

Published last year, his novel *Elma* (*Apple*) was seized on the grounds of obscenity. Batur is being prosecuted for "hurting the people's sense of morality and honour" with his book.

SELÇUK TOGO

Bookseller

Born in Tarsus district of Mersin in 1929, Togo completed his primary and secondary schools in Tarsus. There were no secondary high schools in the Çukurova valley in those days other than the Adana High School for boys, where he had to travel the long distance every day until he completed his secondary studies in 1947. He then went to do medical studies at the University of Ankara, but family

problems forced him to drop out. He married in 1955. He has five children.

In 1937 he started working, aged nine, in the canteen that his widowed mother, Seher Togo, had been granted by the local mayor. The grant was due to the services his father, Fuat Efendi had given to the country during the French occupation of the area in 1919, when he engaged in guerrilla warfare against the occupiers, soon after his return from the Caucasian and Suez Canal fronts where he had fought during the First World War.

After serving as reserve officer during his military service, Togo founded the Seher Bookshop in 1957. In 1979 he worked for a while at the Hürriyet newspaper as auditor.

During his 45 year career as a bookseller Togo supported ten poor children towards completing their university studies. These students later became high level administrators in the state and private sectors.

In 1995 he handed over his bookshop to his son Fuat Togo. Currently he works as main vendor for the Yaysat and Birleşik Basın Gazete distribution companies.

THE FREEDOM TO PUBLISH REPORT 2002

First of all we would like to thank the members of the written, radio and audio-visual press for informing the public and commenting about the banning of books and the trials faced by writers and publishers, as well as our national and international colleagues, the writers associations, the human rights organizations and the Freedom of Thought Initiative for the solidarity they have shown. The moral support of the world community of publishers has been a boost and a great encouragement for us in our fight for the freedom to publish.

Below is a short presentation on the freedom to publish situation in Turkey during the last period. We have to state that problems related to freedom of expression and publishing have increased and taken a more serious dimension during the coalition government of Mr. Bülent Ecevit.

In 2000, 14 books published by 14 publishing houses were banned and subject to trials. In 2001, 42 books from 38 authors, published by 23 publishing houses shared the same fate. According to the official figures of the Ministry of Interior, the number of publications, books or periodicals banned during that year have reached 1,300. The rate of publications not banned while their trial was still in process was very low. Moreover, very few trials ended with acquittal.

As for the year 2002, it witnessed an important increase in the number of books both banned and convicted. According to the figures that have reached us, 77 books by 57 authors, published by 38 publishing houses were subject to trials.

In 2002, Aram Publishing was the publishing house that had the greatest number of books subject to trials (7). It was followed by the Peri and Çiviyazıları publishing houses with 5 books, and Umut Publishing with 3 books.

The positive development was that 13 of the trials related to these books ended with acquittal. On the other hand, the authors of 13 books and their publishers were convicted, while two acquittals were quashed by the High Court of Appeals and referred back to the courts for retrial. For example, Turan Feyizoğlu, a researcher well known for his works on political history, was acquitted in a trial related to his biography of a leading figure of the Turkish left, İbrahim Kaypakkaya. However, the Supreme Court quashed the verdict. *Dersim'de Alevilik*, published by Ahmet Önal, editor at Peri Publishing, met with the same fate. His acquittal too was quashed.

American philosopher Noam Chomsky, on trial for his book *Amerikan Müdahaleciliği (American Interventionism)* and Mehmed Uzun on trial for his books published by Gendaş Publishing were acquitted, probably due to international campaigns. On the other hand, despite the support expressed by international public opinion, Abdullah Keskin, editor at Avesta Publishing, and American journalist Jonathan C. Randal were sentenced to prison and a fine for the book *After Such Knowledge, What Forgiveness? My Encounters With Kurdistan*.

Also concluded with an acquittal however was the trial against author and publisher Mukaddes Çelik for her book *Bizim Çakır (Our Çakır)*. The book was a biography of her husband, İrfan Çelik, who died after the 1980 military coup under suspicious circumstances, after being tortured. He was found hanging in front of his cell.

Ahmet Önal, who had received a Freedom of Thought and Expression Award from our Association last year, was condemned for publishing the book *Teyra Baz* by Mahmut Baksı, who died last year. The book was also subject to a ban. It focused on the relations between drugs and politics. Normally, the book could have been considered as being subject to a complaint, which would have resulted in an investigation, but they preferred to have the book immediately banned. The issues raised in the book and the confessions it includes were recently the subject of a TV program. The author of the book was convicted because of alleged insults to politicians and state security forces.

The growing tendency towards having books banned in the last period can be explained by a more nationalist stand taken by the coalition government compared to previous ones. This has given rise to some serious contradictions. On the one hand, certain changes have taken place in legislation in relation to Turkey's accession process to the European Union. On the other hand, there was less tolerant behavior towards opponents and those who hold different opinions.

Moreover, we unfortunately observe a politicization of the Turkish judicial system. The law was applied with more or less tolerance according to magistrates' personal political inclinations. Conservative tendencies have been quite influential in the banning of books containing erotic or sexual passages.

Last year, there were more bans of books on Anatolian cultures and minorities, as well as those on the Kurdish problem. This may be due to the influence of anti-minorities campaigns that were run by some ultra-nationalists and echoed on the media. For example, Ömer Asan, who has received the Abdi İpekçi Turkish-Greek Peace and Friendship Award, was convicted for his book *Pontos Kültürü (Pontos Culture)*, which was banned six years after it was published, following ultra nationalist campaigns. Another award winning author (and one from the

Ministry of Culture and Tourism at that), Kemal Yalçın was sent to court for his book *Emanet Çeyiz (Commended Dowry)* four years after it was published, following attacks made on it by the right wing press. A new book by the same author, *Seninle Güler Yüreğim (My Heart Smiles with You)*, was destroyed by its publisher before it even hit the booksellers' shelves. The book relied on narratives given by aged Armenians. The decision taken by the French Senate in relation to the Armenian genocide just at the time the book was to be launched on the market played a role in the publisher's self-censorship. Finally, the author had to resort to having his book printed in Germany. An interesting example of what threats to Turkish freedom to publish have led to was the case of Sorbonne University member Esther Benbassa's book *Israel: The Impossible Land*. The publisher cancelled his plans to print the book at the last moment. The justification for this was that "such a book could create serious problems for an important media group like ours." However, İletişim, another important publishing house, had the courage to print the book and did not experience any problem.

Interestingly, the same period saw some films go under attack and end up being banned, even though they had been realized with the help of the Ministry of Culture and Tourism. The charges were the same: "discrimination, insulting the State..." The film entitled *Salkım Hanım Taneleri*, which treated the subject of the special tax on wealth and earnings imposed on religious minorities in the early 1940s, escaped being banned, probably because the film was inspired by a book bearing the same title which was written by Yılmaz Karakoyunlu, who happens to be a member of the government. Another film which was banned after being the subject of attacks was *Büyük Adam Küçük Aşk*, but the ban was quashed by the Administrative Court, so the film could eventually be viewed again.

Still during the same period, audio-visual publishing experienced similar problems from the point of view of freedom of expression and freedom to publish. Many TV channels had their broadcasts temporarily interrupted on Radio-Television Higher Authority (RTÜK) orders. Radio stations such as Özgür Radio were shut down. Internet publishing was also affected by such prohibitive attitudes and the website *İdea Politika*, edited by Erol Özkoray was shut down. The production licenses for some 240 music cassettes and CDs were cancelled by the Ministry of Culture. These cancellations were used by governorships as a justification to ban cassettes and CDs. The Ministry of Industry cancelled the license of Kalan music production firm. Kalan is well known for its archival collections of high quality music. It was only through the personal intervention of the Minister of Culture and Tourism that Kalan Records was able to pursue its activities.

Journalist and editor Zeynel Abidin Kızılyaprak received a one year and four

months' prison sentence for his anthology *1900'den 2000'e Kürtler (Kurds From 1900 to 2000)*. His sentence has been approved and he will have to go to prison.

Melih Pekdemir, another writer and publisher, was sentenced to prison for his book entitled *Öcalan Devlet mi?(Is Öcalan the State?)* The book criticized not only the State's Kurdish policy, but also the Kurdish movement. Finally, Pekdemir had to leave the country.

Another writer and publisher, Özcan Sapan, was convicted for publishing a compilation entitled *Kafkasya Yazıları (Writings on Caucasia)*. Özcan Sapan was also sentenced to heavy fines for publishing a book which criticized the TRT (State Television Channel) management.

Cenk Ağcabay, editor of Utopia Publishing, was sentenced to three years and nine months in prison for including an article on the Kurdish problem in his compilation entitled *İşçi Mücadelesi (Workers' Struggle)*.

Mehmet Emin Sert, editor of the *Yazın* magazine, and authors Doğan Özgüden and Emin Karaca are currently on trial for insulting the army. Doğan Özgüden, a senior personality of the Turkish press and publishing world, mentioned the death of young people after the 12 March military coup in one of his writings. As for Emin Karaca's writing, it consisted of an excerpt from the award winning book *Sintinenin Dibinde (At Bilge's Bottom)*, which had been published two years before. The book treated the case of poet Nazım Hikmet's arrest in 1938 and his trial in a military court. Interestingly, the same year saw the official celebration of Nazım Hikmet's 100th birthday.

Günger Gençay, board member of the Turkish Writers Union, is currently on trial for two books of compilations of his writings previously published in the newspaper *Evrensel* without them giving rise to any lawsuit at the time.

The main accusations made against books that are banned can be summarised as follows: "Separatism" (for books related the Kurdish problem or minorities), "insult to the State or its institutions" (for books related to human rights violations or ideologically based appointments of bureaucracy staff), "support to illegal organizations" (for books related to the history of the left or interviews with militants) and "transgressing the moral values of the people."

Intolerance has reached the field of humor and some graphic novels and cartoon books were banned and brought to court on similar grounds.

Famous French poet Apollinaire's erotic novel *The Eleven Thousand Rods (Les Onze Mille Verges)* shared the same fate, and Rahmi Akdaş, editor of the Hades Publishing, had to pay a heavy fine. Poet and publisher Enis Batur, who was awarded our Association's Freedom of Thought and Expression Award this year saw his compilation of his essays *Elma (Apple)* banned, just because a picture in

the book was considered “obscene”. As things turned out, the related trial ended with an acquittal. Another novel, Dragan Babic’s *The Last Exile (Le Dernier Exil)* was less lucky however. Not only was the book condemned, it was also decided that it should be “destroyed”. The term “destruction” reminded us of the days when books were burned in the 1930s and this was noted in the press.

One of the most interesting bans was the one on *Kadın Argosu Sözlüğü (The Dictionary of Women’s Slang)*, published by Metis Publishing. The first work on the Black Sea Greek dialect, consisting of a grammar book and a dictionary, met with a similar fate. Following last year’s banning of a selection of passages related to Kurds from Şemseddin Sami’s *Kamus-u Alam*, Turkey’s first encyclopaedia, dictionaries too were faced with bans and prohibitions this year. All this goes to show the scale of intolerance reached in the past year. Repressive attitudes shown against Kurdish culture were also directed to other Anatolian cultural heritages this year. Such developments go against European Union policies, which give a high priority to the protection of regional cultures and minorities, thus endangering Turkey’s accession process. The Turkish publishers community wants to maintain higher hopes for the new government that will follow the elections in November.

Unfortunately however, the last week of 2002 ended with some more bans. The Ankara State Security Court banned author and publisher Mehmet Bayrak’s two new books, *Kürt Müziği, Dansları ve Şarkıları (Kurdish Music, Dances and Songs)* and *Geçmişten Günümüze Kürt Kadını (Kurdish Woman from Past to Present)*, as soon as they were published. Mehmet Bayrak has already won lawsuits he brought to the European Court of Human Rights in Strasbourg in relation to his previously banned books, and has received compensation from the Turkish State. Despite declarations made after this verdict according to which legislative changes should be made, nothing was done so that problems not only continue but are worsening.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN 2002

PUBLISHER	WRITER	BOOK
Akyüz	Semra Koçiva	Lazona: Laz Halk Gerçekliği Üzerine
Anadolu	Ali O. Köse	Hapisanelerde Katliam
Anadolu	Ali O. Köse	İşkence I
Aram	Noam Chomsky	Amerikan Müdahaleciliği (Acquittal)
Aram	Anthology	Bu Yürek Dağlar Aşar (Gerilla Şiiri 1)
Aram	Anthology	Dağın Kalbinde Gizliyiz(Gerilla Şiiri 2)
Aram	Anthology	Sevdam Güneş Tadında (Gerilla Anıları 1)

Aram	Anthology	İçimizde Bir Parça Ülke (Gerilla Anıları 2)
Aram	Hüseyin Kaytan	Ammar İşaretleri (Conviction)
Aram	Gül Ç. Günertekin	Dilimiz Varlığımız Dilimiz Kimliğimiz (Conviction)
Avesta	J.Randall	Bunca Bilgiden Sonra Ne Bağışlaması (Conviction)
Avesta	Malmisanij	Kürt Talebe Hevi Cemiyeti
Avesta	Margaret Kahn	Cinlerin Çocukları
Ayrıntı	Dragan Babic	Son Sürgün (Conviction)
Ayrıntı	Marquis de Sade	Yatak Odasında Felsefe
Belge	Hüseyin Turhallı	Özgürlük Türküsü (Trial dropped upon author’s death)
Belge	Ömer Asan	Pontos Kültürü
Boran	Compilation	Milliyetçilik Çıkmazı
BYK	Mahir Kaynak	Yel Üfürdü Sel Götürdü (Acquittal)
Ceylan	Mukaddes Çelik	Bizim Çakır (Acquittal)
Çetin	A. Öcalan	Apocu Siyaset
Çetin	A. Öcalan	Özgür Yaşamla Dialoglar
Çetin	Derleme	PJA 4. Kongre Belgeleri
Çiviyazıları	Aysul Yüksel	Tarkan-Yıldız Olgusu (Acquittal)
Çiviyazıları	Hüseyin Demirel	Yolcu
Çiviyazıları	Orhan Gökdemir	Pike: Bir Polis Şefinin Kısa Tarihi
Çiviyazıları	Aysul Yüksel	Koltuk Sevdası: TRT Çiftliği (Conviction)
Çiviyazıları	Derleme	Kafkasya Yazıları (Conviction)
Doğan	Kemal Yalçın	Emanet Çeyiz
Doğan	Kemal Yalçın	Seninle Güler Yüreğim (Self-censorship)
Everest	Serge Bramly	Yatak Odasında Terör
Everest	Elfride Jelinek	Piyanist
Fırat	Kemal Süphandağ	Ağrı Direnişi ve Haydaranlılar
Gendaş	Mehmed Uzun	Nar Çiçekleri (Acquittal)
Gendaş	Mehmed Uzun	Bir Dil Yaratmak (Acquittal)
Gerçek Sanat	Güngör Gençay	Günyüzleri
Gerçek Sanat	Güngör Gençay	Öteleri
Güncel	Aline Reyes	Lilith (Conviction, on appeal)
Günizi	Hıdır Aslan	Şeriat Kıskaçında Alevilik
Hades	Apollinaire	Onbir Bin Kırbaç (Conviction)
İletişim	Celal Başlangıç	Korku Tapınağı (Acquittal)
İletişim	Neşe Düzel	Türkiye’nin Gizlenen Yüzü (Acquittal)
Kütahya Mun.	Mustafa Gazal	Evlilik Rehberi
Mem	Mahsun Şafak	PKK ve Değişim Stratejisi

Mem	Mahsun Şafak	VI. Ulusal Kongre Raporu
Mem	A. Öcalan	Çeteciliğe Karşı Mücadele
Metis	Filiz Bingölce	Kadın Argosu Sözlüğü
Ozan	Turan Feyizoğlu	İBO-İbrahim Kaypakkaya (Acquittal quashed)
Özge	Mehmet Bayrak	Kürt Müziği, Dansları ve Şarkıları
Özge	Mehmet Bayrak	Geçmişten Günümüze Kürt Kadını
Pencere	Necdet Buldan	Savaşa Mektup (Conviction)
Peri	Murat Erol Coşkun	Acımın Dili Kadın
Peri	Mahmut Baksi	Teri Baz (Conviction)
Peri	Evin Aydar Çiçek	Tutkular ve Tutsaklar (Conviction)
Peri	Naci Kutlay	21. Yüzyıla Girerken Kürtler
Peri	Munzur Cem	Dersim'de Alevilik (First acquitted, then convicted)
Pınar	Cihan Aktaş	Bacıdan Bayana
Piramid	Erje Aydın	İkinci Caddenin Çılgın Yeşili
Piramid	Erje Aydın	Hauptbahnhof'da Bir Trene Bindim
Sel	Enis Batur	Elma (Acquittal)
Sel	Metin Üstündağ	Pazar Sevişgenleri (Acquittal)
Sel	Mehmet Ergüven	Pusudaki Ten (Acquittal)
Si	Salih Kevirbiri	Bir Çılgının Yüzyılı-Karapete Xaco
Su	Melih Pekdemir	Öcalan Devlet mi? (Conviction)
Su	Zübeyr Kudra	Fethullah'ın Copları
STKB	-	Hocanın Okulları (Acquittal)
Tavır	Ahmet Kulaksız	Zehra ile Canan
Timaş	Aydoğan Vatandaş	Argemedon
Tohum	Aytekin Yılmaz	Çok Kültürlülükten Tek Kültürlülüğe Anadolu
Umut	Compilation	İşkenchanelerde Kızıl Direniş Ruhü
Umut	İbrahim Cihan	A.Öcalan'la İmralı'ya
Umut	Compilation	Rüzgar Bizden Yana
Umut	Compilation	Fırtınalar İçinde Bıçak Sırtında
Ütopya	Selçuk Eralp	İşçi Mücadelesi (Conviction)
Zaman	Necati Kola	Bir İsyanın Modeli: Terimizm
-	Ahmet Özcan	Derin Devlet ve Muhalefet Geleneği
-	Salman Yüksel	Ankara Çetesinin Vatan Kurtarma Operasyonu
-	Salman Yüksel	Çetenin Kimliği

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2003

ÖZCAN SAPAN Publisher

Özcan Sapan was born in İstanbul in 1960. He completed his primary school education in İstanbul and secondary education at the Fındıklı High School. He worked on daily newspapers and magazines as a reporter, also contributing articles and columns. He began work as an editor 16 years ago, working as an editor and publishing manager for several publishing houses. In 1996 he founded the Chiviyazıları Publishing. He is currently a member of the publishing board of this company, continuing to contribute as editor. He has written two books, *Beyaz Ölümün Güncesi (Diary of White Death)* (1992) and *Geçip Gitmediler (They Did Not Roll By)* (2000). He founded the Humanite Review, and is member of its publishing board. Chiviyazıları Publishing has published 160 books, within the following series: *Littera, Aykırı Edebiyat, Etnik Kitaplar, Kamera, Müzik Kitapları, Portreler, Bilimkurgu* and *İnsan Hakları*. Many of the publishing house's books have been subject to prosecutions. These are the books which have been subject to trials, banned from distribution or for which the publisher has been convicted:

İnsan Hakları Tarihi (History of Human Rights), author: Erol Anar, verdict: acquittal. This book was seized on the third day of its publication. The publisher was prosecuted for separatist propaganda and was acquitted after one year and three months.

Koltuk Sevdası: Yücel Yener'in Bir Çiftliği Var (Love of Chair: Yücel Yener Has a Farm), author: Ahmet Erçakır, sentenced to a total fine of TL 152 Billion, with other ongoing trials. Five separate prosecutions were launched in relation to this book. The trial is ongoing, with a TL 151 Billion fine request. Some of the trials have reached their verdict, some are waiting for a last verdict from the High Court of Appeals.

Tarkan: Bir Yıldız Olgusu (Tarkan: The Fact of a Star), author: Aysun Yüksel, verdict: confiscation. Despite two expert reports concluding in favor of the publishing house, the confiscation order has not been lifted.

Kafkasya Yazıları (Writings on Caucasus), author: compilation, final verdict: to be given by the High Court of Appeals. Published as a series, *Kafkasya Yazıları*

constituted a collection of writings on the history, literature and arts of the people of the Caucasus. Its distribution was suspended on the grounds that it had not been registered with the authorities. No distributions have taken place since, but the trial has gone on uninterrupted and a fine of TL 15 Billion was requested.

Mjora: Lazepeşi Nena, author: compilation, verdict: distribution interrupted. Published as a book series, Mjora was a collection of writings on the history, literature and arts of the Laz people. Its distribution was suspended for an unlimited period of time.

Pike: Bir Polis (Pike: A Police), author: Orhan Gökdemir, verdict: to be given by the High Court of Appeals (ongoing trial). A work by Orhan Gökdemir on Mehmet Ağar (Ex-Minister of the Interior). A prosecution was started, following which a TL 8.5 Billion fine sentence was imposed. The ongoing trial has reached the High Court stage. A penal prosecution was also brought in relation to this book.

Yolcu (Traveler), author: Hüseyin Demirel, verdict: TL 11 Billion fine. The sentence is definitive. The book, a compilation of writings by Hüseyin Demirel, one of the publishing house's editors, which had been published in different revues and newspapers, was confiscated on the grounds that it constituted an act of "separatism". The final sentence was a fine.

Juliette, author: M. De Sade, first hearing: 3 July 2003, location: 2nd Kadıköy Criminal Court of First Instance. The first volume of M. De Sade's *Juliette* was seized on the grounds that it was "contrary to general morals, hurting the people's sense of modesty and decency or of a character aimed to arouse and exploit their impulses." A fine was added to the seizure, in accordance with the new law on the press. The trial is ongoing.

FIKRET BAŞKAYA

Writer

Fikret Başkaya (born Denizli 1940) graduated from the Atatürk High School in İzmir, and having graduated from the finance department of the Political Science Faculty of the University of Ankara, went on to complete his PHD in France, at the universities of Poitiers and Paris. He specialised in colonialism, imperialism and problems related to the transition from capitalism to socialism. On his return to Turkey he was immediately conscripted into incorporated in the army as a reserve officer trainee, but his military status soon was downgraded to simple private, on the grounds that he had "bad thoughts and behavior." Labelled as an "inconvenient foot soldier", he was sent to Erzurum. After his military service, he directed research centers of several different "democratic organizations". In 1979 he returned to his academic career. He was taken to court for his book *Paradigmanın*

İflası (Ruin of Paradigm), while he was teaching at the department of Economics of the Abant İzzet Baysal University.

He was sentenced to 20 months in prison and a fine of TL 42 million in 1993. After his release from the Haymana prison (15 June 1995), he founded the Turkey and Middle East Forum Foundation - Free University (Türkiye ve Ortadoğu Forumu Vakfı - Özgür Üniversite). In 1999, he received a 16 months prison sentence and a TL 1.2 billion fine sentence, because of one of his writings. He was released from the Kalecik prison on 27 June 2002.

Here are some of the books Fikret Başkaya has written between his the numerous trials: *Paradigmanın İflası, Yediyüz (Seven Hundred), Kalkınma İktisadının Yükselişi ve Düşüşü (Rise and Fall of Development Economics), Resmi İdeoloji, Bilim ve Sosyalizm (Official Ideology, Science and Socialism), Azgelişmişliğin Sürekliliği (Continuity of Underdevelopment), Akıntıya karşı Yazılar (Writings Against the Current), Yenilgi Tuzağı (Trap of Failure), Küreselleşmenin Karanlık Bilançosu (Dark Account of Globalisation) and Sömürgecilik, Emperyalizm, Küreselleşme (Colonialism, Imperialism, Globalisation)*. Başkaya also writes once a week on the web site ozguruniversite.org. At present he is faced with two trials, one related to his book *Paradigmanın İflası*, first published in 1991 and re-edited eight times since, and another concerning an article he published in a newspaper in 1993. Başkaya is one of the authors faced with the greatest number of investigations and prosecutions to this day. He is also a member of PEN International.

Sentences inflicted on Başkaya:

1. *Paradigmanın İflası*: Anti Terrorism Law No 3713, Article 8/1; verdict given in December 1993; incarceration: 17 March 1994 R, release: 15 June 1995. Başkaya took this case to the European Court on Human Rights (ECHR), which ruled on 8 July 1999 that: "The trial had not been fair because of the presence of a military judge...", that the "opinions expressed in the book could not be considered as constituting an offense," that "freedom of expression had been infringed," and that "the Turkish State was to pay compensation."

2. *Tarihi Dava mı? (A Historical Case?)* Article, Anti Terror Law, Article 8/1. Incarceration: 29 June 2001, Release: 27 June 2002.

3. There is also a confirmed conviction consisting of a deferred one year prison sentence under Law 159/1 of the Turkish Penal Code.

Başkaya is currently waiting for the verdicts he will be given in two other trials, the first is related to the eighth8th edition of *Paradigmanın iflası*. The prosecution is related to the same passage of the same book which had already been subject to a trial, under the same article of the same law (Anti Terror Law Article-terrorism

8/1). The second trial is under Article 159/1 of the Turkish Penal Code. Both trials are on going.

AHMET YORULMAZ

Bookseller

He was born in Ayvalık in 1932. He worked as a journalist in İzmir and Ayvalık. He also founded a local newspaper which was distributed for a short time. In 1963 he founded the Geylan Bookshop in Ayvalık. After 33 years of uninterrupted book selling activity, he started to spend more time on writing and translation, translating a number of books and two plays from Greek. Many of the stories and poems he has translated were published in reviews such as Türk Dili among others.

His other published works are: *Ayvalık'ı Gezerken (Wanderin Around Ayvalık)*, *Savaşın Çocukları (Children of War)*, *Kuşaklar ya da Ayvalık Yaşantısı (Generations of Life in Ayvalık)*, *Portreler (Portraits)*, and *Girit'ten Sonra Cunda ya da Aşkın Anatomisi (Cunda After Girit or the Anatomy of Love)*.

FREEDOM TO PUBLISH REPORT 2003

We had to give new prizes for those who had challenged attacks on the freedom of thought in the first quarter of 2003, which saw the persistence of trials against publishers and authors and of bans on books. Despite the fact that important changes were brought to legislation during the last period of the previous government and since the new one entered office - especially in the context of the EU membership negotiation process - there were still a large number of authors and publishers convicted. The only positive developments we can highlight are the fact that "objectionable" books are now judged before being banned, and that there have been a few acquittals.

It is now clear that without a significant evolution of official mentalities, a few formal modifications brought to legislative texts will do little towards serious change. Some taboos and prejudices persist. And this leads to new problematic articles immediately substituting those that have been modified.

As mentioned in our previous report, a large increase was observed in the number of books banned and prosecuted last year. According to the data we have received in 2002, prosecutions were launched against 77 books, 57 authors and 38 publishers that year. Despite the fact that the new government has declared it supports the accession process to the EU, figures for the first five months of the year indicate that this negative trend will continue this year. Before even reaching the first half of this year, 35 books had been the cause of prosecutions.

On the other hand, the new articles brought into the new legislation have led to significant increases in the fines the publishers are obliged to pay. Boomerang Publishing editor Yılmaz Yeşildağ and author Azize Çelik were sentenced to a TL 20 billion fine for their book *Şeriat İstiyoruz (We Want the Sharia)*. The author also received a six months prison sentence.

The main taboo topic continued to be the Kurdish issue. A trial was launched against *Türkiye'de Kürtçe Hakkı (Kurdish Language Rights in Turkey)* edited by journalist Koray Düzgören as part of the Kurdish Human Rights Project. The book he wrote about Iraqi Kurdish leader Massoud Barzani's father was among those that were banned. For some reason, the printer is also on trial because of this book.

The second most important taboo this year was sexuality. With three of his books banned, the famous American singer Eminem has turned out to be the most prohibited author of the year.

The third taboo was history. Compiled by Herkül Millas and published by İletişim Publishing, *Göç: Rumların Anadolu'dan Zorunlu Ayrılışı (1919-1923) (Migration: Forced Departure of Greeks from Anatolia 1919-1923)*, a study on the oral history of the 1919-1922 population exchange between Greece and Turkey, was sentenced because of a single phrase mentioning Atatürk, on the ground that it violated Law Number 5816. Fortunately the sentence was postponed. The final verdict will be given by the High Court of Appeals.

With six of its books banned, Era Studio/ İmage was the publishing house with the greatest number of books banned this year. Editor Levent Ersever risks receiving heavy fines. As for editor Ahmet Önal, who had previously been awarded our Freedom of Thought and Expression Award, he had to leave the country to escape the heavy fines he had received.

A trial was launched against Russian sociologist Basil Nikitin in relation to the 5th edition of his book *Kürtler (Kurds)*, published by Deng Publishing. However, the trial ended with an acquittal.

Another negative development of the year was the trial launched against the new edition of the book *Paradigma'nın İflası (Ruin of the Paradigm)*, despite the fact that, as in this case of Fikret Başkaya, the European Court of Human Rights had judged the sentence given to the author to be unfair. Moreover, prosecutions were launched in relation to books published many years ago, on the grounds that "A sample had not been delivered," (to the authorities) as in the case of Zeynep Özge's *İmran*, a compilation published in 1993.

Another negative development was the fine of TL 45 billion imposed on Haydar Kaba, editor at Ceylan Publishing, for his late delivery to the authorities of a copy of his periodical *Serbesti*.

On the other hand, problems occur in exporting books that have benefited from an acquittal due to the fact that authorities do not take account of that verdict. Booksellers are faced with similar difficulties.

Despite all these problems, we want to remain hopeful for the period ahead of us.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN 2003

PUBLISHER	WRITER	BOOK
Anadolu	Ali O. Köse	Yüz Sayıda Vatan Cilt 2
Aram	Qahr Fırat	Gülen Azadiye (Essay)
Aram	Antoloji	Yarınlara Yol Almak (Gerilla Anıları 3)
Aram	Mehmet Sebatlı	Kasırga Taburu (Novel)
Aram	Kayhan Adnut	Tufanda 33 Gün (Novel)

Belge	Derl.: Gazi Çağlar	12 Eylül Yargılanıyor
Bumerang	Azize Çelik	Şeriat İstiyoruz
Çetin	A. Öcalan	Partileşme Sorunları ve Görevlerimiz
Çetin	A. Öcalan	Güney Kürdistan'da Egemenlik Mücadelesi ve Devrimci Tutum
Çetin	Derleme	Öğrenci Gençlik Hareketinin Yapılanma Sorunları
Çivi yazıları	M. de Sade	Juliette
Deng	Nureddin Basut	Hayat Bir Kere Yaşanır
Deng	Kemal Burkay	Geçmişten Bugüne Kürtler
Deng	Kemal Burkay	Çarin
Deng	Cigerquin	Divan 3:Kine Em?
Deng	Cigerquin	Divan 4:Ronat
Doz	Mesut Barzani	Barzani ve Kürt Özgürlük Hareketi
Doz	Mustafa Balbal	Ararat'taki Esir General
Era/Stüdyo İmage	Derleme	Eminem
Era/S-İ	Eminem	Show
Era/S-İ	Eminem	Kızgın Sarışın
Era/S-İ	Sibel Torunoğlu	Trevesti Pinokyo
Era/S-İ	Irwine Welsh	Porno
Era/S-İ	Irwine Welsh	Olağanüstü
Haziran	Derleme	Cezaevi Direnişleri 3: Ulucanlar
Hevi	Derleme	21. yy. Kadın Manifestosu
Hevi	Derleme	Kadının Toplumsal Sözleşmesi
Hevi	Berjin Haklı	Kawa'nın Ezgisi
İletişim	Derl. Herkül Millas	Göç:Anadolu Rumlarının Mecburi Ayrılışı 1919-1922 (Conviction)
Si	Müslüm Yücel	Kürtlerde Ölüm ve İntihar
Senfoni	Koray Düzgören	Türkiye'de Kürtçe Hakkı
Senfoni	Kerim Yıldız	Kürt Göçü
Umut	Derleme	Saklanmaya Çalışılan Bir Meşale: İbrahim Kaypakkaya
Umut	Derleme	Komsomol
Umut	Derleme	Parti ve Devrim Şehitleri Albümü

FREEDOM OF THOUGHT AND EXPRESSION AWARDS

2004

ÖMER FARUK

Publisher

Born in Adana in 1954, Ömer Faruk is one of the founding partners of the publishing house, Ayrıntı. He began his publishing career in 1988 with the publication of Ivan Illich's *Tools for Conviviality* and has subsequently published over 400 books. Many of them were grouped in series such as *literature, studies, history, selected writings, "Heavy" books, blue books, underground literature, Noir detail and Art and Theory (Edebiyat, İnceleme, Tarih, Seçme Yazılar, "Ağır" Kitaplar, Lacivert Kitaplar, Yeraltı Edebiyatı, Kara Ayrıntı ve Sanat and Kuram)*. His *literature* series mainly features authors unknown to Turkish readers, also including important works by prominent modernist writers. The *Studies* series includes critical studies on issues such as modernity, culture, technology, environment, ethics, futurologist designs, education, sexuality and the media by theorists known for their contribution to new and vital understandings of such terms as "the left" and "politics". The *history* series includes works that focus more on "phenomena" than "events" and which are written from the point of view of "the ruled" rather than that of "the rulers". *Selected writings* are a six volume selection of articles by and interviews with Michel Foucault, the "historian of the defeated". The "*Heavy*" Books series brings together significant theses and texts seen as "milestones" of human culture. The *Blue books* series is formed of "well crafted "essays and texts about the "less focused aspects" of the human condition. The *underground literature* series aims to be the voice of the rebellious, the losers, the dreamers, the foul mouthed, the "white negroes", the down climbers, those who are not afraid to hit the road, and those who throw themselves off a cliff. The *Noir Detail* series consists of "detective stories" that stand removed from the heroic and macho cultures and focus more on the story behind the crime rather than the execution of the crime itself. The *Art and Theory* series aims to accommodate all genres, drawing attention to the pitfalls of expertise in art and for the artist while bearing in mind Foucault's yearning for "the construction of one's life as a work of art".

Ömer Faruk has been prosecuted for five books since he began publishing:

Court of Cassation Portnoy's Complaint, Philip Roth, Translation: Özden Arıkan, 1999. [Acquitted.]

Last Exile, Dragan Babic, Translation: Mustafa Balel, 2001. [Order issued to seize and destroy publication. Case is currently before the High Court of Appeals.]

Philosophy in the Bedroom, Marquis de Sade, Translation: Kerim Sadi, 2002. [Order issued to seize and destroy publication. Case is before the Court of Cassation.]

Choke, Chuck Palahniuk, Translation: Funda Uncu Irklı, 2003 [Seized, trial is on-going.]

The Sex Revolts: Gender, Rebellion, and Rock'n Roll, S. Reynolds & Joy Press, Translation: Mehmet Küçük, 2003. [Seized, trial is on-going.]

MELTEM ARIKAN

Writer

Born in Ankara on 7 January 1968, Meltem Arıkan graduated from the Hacettepe University Business Administration Department in 1986. Arıkan worked both in the private and public sectors between 1986 and 1996. She married in 1991. She currently serves as the Project Development Group Leader and Board member at Enersis A.Ş where she has worked since 1996.

Meltem Arıkan is now conducting research into effective communication and the correct use of body language, carrying out local and international training in these fields. The author, whose stories and essays have featured in various literary publications between 1992 and 1995, has had her novels *Ve... Veya... Belki... (And... Or... Maybe...)*, *Evet... Ama... Sanki... (Yes... But... As If...)* and *Kadın Bedenini Soyarsa (If the Woman Undresses Her Body)* published by Everest Publishing. In the Fall of 2003 her fourth novel *Yeter Tenimi Acıtmayın (Enough! Don't Hurt My Skin)* was published, again by Everest.

Her novel *Yeter Tenimi Acıtmayın*, was seized four months after its first publication, while in preparation for a third edition following a preliminary investigation launched on the order of the İstanbul 1st Criminal Court of Peace. This was based on the request of the İstanbul Chief Public Prosecutor's Office, arising from the "expert report "compiled by The Prime Ministry Council for the Protection of Minors against Harmful Publications. The novel is said to have constituted an offense to public modesty and to be of a sexually provocative and exploitative nature that contravened public morals.

Following the publishers' (Everest Publishing) appeal to the Chief Public Prosecutor's office, the latter ordered that a second expert committee be set up consisting of literary experts. The ban on the book was finally lifted on recommendation

of this council which was composed of a lawyer and two professors of literature.

The new expert report declared that the novel was a work of literary merit and was thus not in contravention of Law No 4963 and Article 436 of the Turkish Penal Code and the addendum that states scientific works, works of art and works of literary value do not enter the scope of that law. Consequently the objection was accepted and the seizure order was quashed.

While the third edition was printed with the sections deemed inappropriate by the Offensive Publications Committee blacked out, future editions of the novel will henceforth be published without any such censorship.

AHMET TEVFİK KÜFLÜ

Bookseller

Ahmet Tefik Küflü was born on 18 October 1930 in Söğüt. He graduated from Galatasaray High School, İstanbul. He married Nezahat Sarıoğlu in 1966. He is a father of two. Küflü worked at the Hürses Ankara newspaper as a sports correspondent in 1950, as a secretary in 1951, as an editor in chief for the Demokrat Ankara and Medeniyet newspapers between the years 1952-1954. Towards the end of 1955, Küflü began publishing books as an auxiliary occupation when he founded the Bilgi Bookshop, publishing the books with this label. In 1965 he founded the Bilgi Publishing and began to publish books on a regular basis and in 1972 he founded Bilgi Distribution Co.

Küflü has been providing his cultural services at the Bilgi Bookshop for 50 years, and at Bilgi Publishing for 45 years, as manager these two companies. He is the publisher of more than 5,000 translated and original works.

The Bilgi Bookshop has completed half a century in residency at its location in Ankara, some 100 meters from the well-known Kızılay Güvenlik Parkı (Kızılay Security Park). It has been witness to the tumultuous and challenging political climate of this country including three revolutions and five military coups, with all their accompanying unpleasantness, including martial law, curfew, military force and police presence. Due to its central location in the capital, the Bilgi Bookshop soon became a favorite meeting place for politicians and a significant center of Ankara's cultural life. Artists, writers, actors, journalists, librarians and politicians often visit the bookstore to meet with friends and browse through the bookshelves.

Suat Taşer eloquently summarizes the opinions of thousands of booklovers of the Bilgi Bookstore thus: "I come to the Bilgi bookshop to flirt with books."

FREEDOM TO PUBLISH REPORT 2004

There were both positive and negative developments concerning to freedom to publish in 2003. Turkey made noteworthy reforms last year and in recent months, even though they were insufficient. On the other hand, these reforms were too slow to be reflected in real life. There was a clear resistance towards the democratization process in the implementation of these reforms.

Unfortunately, while some positive steps were taken, they were immediately followed by other steps that constitute potential menaces to freedom of thought. The last development took place a few weeks ago when changes brought to the Constitution put an end to State Security Courts, which we accept as a very important step. However, it was declared a few days later, following a meeting between the Ministry of Justice and the magistrates of these courts, that "special courts" would be created within the framework of the heavy penal courts (or central criminal courts) and that these new courts would be holding the functions previously held by the State Security Courts, which we consider as a worrying development. In 1991, Articles 141 and 142 of the Penal Code, which constituted a severe limitation on freedom of thought and to publish, were abolished following legislative changes. However, they were substituted by Articles 7 and 8 of the Anti-Terror Law (Terörle Mücadele Yasası). Authors, journalists and publishers now began to be prosecuted as "terror criminals". It appears quite clearly that without a change of mentality, and as long as universal fundamental rights and liberties are not fully integrated to the judiciary mechanism, trials against authors and publishers will persist.

Another development that justifies our apprehensions is the introduction of new articles to the new draft Turkish Penal Code that are reminders of the old articles 141 and 142, and which provide prison sentences for publications that can be described as "offensive". In Article 308 of the draft law*, a new offense is introduced which includes "acting against basic national interests" and which, together with those found in paragraph 4, are opened to narrow ideological interpretations. The introduction of such an article is in effect a re-introduction of Article 140, which was abolished in 1991. There are many other articles that are vague and open to interpretation and thus open the way for potential restrictions of

*Article 323 of Law No. 5237, the Turkish Penal Code in effect.

freedom of the press and the right to information. In the past, many publications which contained criticism were interpreted as an “insult to the State, its institutions and Turkishness” and banned because of ideological concerns. The draft also makes no concrete difference between criticism and insult or denigration, opening the way for narrow interpretations and more trials. Also under threat is the right to be informed on the process of ongoing trials.

While we observe a drop in the number of bans and trials related to writers and publishers between the first quarters of 2003 and 2004 compared to previous years, as well as an increase in the number of acquittals in trials previously launched, we also observe that there are persistent problems. The main reason for this drop in the number of bans and rise in that of acquittals is no doubt the legislative steps taken by the government to widen - even if in a limited manner - the space for freedom of thought and expression, and a will for progress in the EU membership negotiation process.

Thus despite legislative changes such as the abolition of Article 8 of the Anti Terror Law, which constituted an important problem for publishers, and the partial although insufficient change brought to Article 312 of the Turkish Penal Code, problems in the field of the freedom to publish have not been solved. We observe that a different type of pressure and control mechanism is being set up around legal considerations.

As the International Publishers Association has stated, from this point of view, the changes brought to the Press Law brings significant restrictions to freedom to publish, preparing the way for a future full of problems. These new restrictions were designed as formal adjustments regarding printing houses and periodicals. The fines to be imposed in this sector are incomparably higher than those found in the legislation concerning other sectors. An example of this is the obligation for printing houses to deliver a copy of the books and periodicals they print to the police and prosecutors. In democracies, there is no such obligation for printers to deliver a copy of the books they have printed, since books are not perceived as potential elements of offense but as cultural products.

Investigations and prosecutions have been brought against some printing houses - as if by coincidence for books with oppositional content - on grounds of delayed delivery. This constitutes pressure on them to act as de facto pre-censorship organs. Thus they may decide not to print potentially “objectionable” books that they think could get them into trouble. Moreover, the new legislative arrangements concerning periodicals foresee very heavy fines for those that are late in providing their address or a change in the editorship, or forget to print their copyright page.

Conceived mainly to keep oppositional publications under pressure, such measures have nevertheless not kept such publications from reaching the market, but they do affect periodical publications in every way. Turkey’s only archaeological review, *Tarih ve Toplum* (History and Society) magazine was faced with such investigations and was closed down. Last year a total of 271 prosecutions were brought against the daily *Özgür Gündem*, of which 71 ended with a conviction, while only 51 ended with acquittals, as a result of the recent legislative changes. The newspaper was closed down for a day in 2004. A closure penalty of 15 days was endorsed and implemented on the basis of two different legal files. The approval of only some of the 150 cases waiting before the High Court of Appeals means the end of the existence of this daily newspaper. The same threat is true for the opposition newspaper *Evrensel*.

It turns out that the *banderole* (anti piracy label) law too has been used to put pressure on oppositional publishing houses to control them rather than to avoid piracy, which was its first and foremost objective. Thus our apprehensions in this regard have been confirmed. Searches were carried out in İstanbul, Sakarya and Diyarbakır (where arrests took place) without any warrant. In a declaration, the International Publishers Association too has drawn attention to the danger of having this monopoly tax label law used to restrict freedom of thought.

In conclusion, while 57 authors and 38 publishing houses were faced with prosecutions related to 77 books in 2002, 37 authors and 17 editors were convicted in relation to 43 books in 2003. Moreover, there are now a greater number of instances of acquittal in trials related to freedom of thought. Most recently Selma Koçiva, well known for her works defending and promoting the Laz culture, was acquitted following a trial against her book *Lazona* (published by Akyüz Publishing). Also acquitted were Ömer Asan for his book *Pontus Kültürü* (*Pontus Culture*, Belge Publishing) and Gazi Çağlar for his compilation, *12 Eylül Yargılanıyor* (*September 12 on Trial*, Belge Publishing). (However, the acquittal requested for this last book was opposed by the public prosecutor.)

Also concluded with an acquittal was the trial against Wadie Jwaideh for his book entitled *The Kurdish National Movement: Its Origins and Development* (İletişim Publishing), which has lasted some two years and had started on the insistence of certain circles. Other cases of acquittals are that of Naci Kutlay’s comprehensive compilation entitled *21. Yüzyıla Girerken Kürtler* (*Kurds in the Dawn of 21th Century*, Peri Publishing) and Tori’s (Mehmet Kemal Işık) book, *Ünlü Kürt Bilgin ve Aydınları* (*Famous Kurdish Scientists and Intellectuals*, Sorun Publishing). Also ending with an acquittal after the recent adoption of the new legislation was the trial against *Mustafa Barzani ve Kürt Özgürlük Hareketi*

(*Mustafa Barzani and Kurdish Liberation Movement*, Doz Publishing), a book on the father of Mesut Barzani, a politician from a neighboring country. Thus, we can say that recent reforms have eased the situation as far as the publication of books on the Kurdish issue is concerned. However, this has not stopped Ahmet Kahraman's *Kürt İsyanı (Kurdish Revolt)*, a book published by Evrensel Publishing, from being banned and a trial from being launched against its publisher. Finally, among trials related to books on the Kurdish issue and minorities or regional cultures, eight ended with an acquittal and three with a conviction. The acquittal verdict in the trial against *Dersim'de Alevilik (Alevi Sect in Dersim)*, a book published by Peri Publishing was quashed, while two separate prosecutions were launched against the author and publisher Ahmet Önal (TPA Freedom of Thought and Expression Award winner). Another case of conviction was served on *Acının Dili Kadın (Woman Language of Pain)*, a book published by Peri. Another conviction verdict concerned Herkül Millas's *Göç: Rumlarn Anadolu'dan Zorunlu Ayrılışı (1919-1923) (Migration: Forced Departure of Greeks from Anatolia 1919-1923)*, İletişim Publishing), a compilation of memories of Greeks displaced from Anatolia during the 1924 population exchange that took place between Turkey and Greece on the basis of their religious background. The verdict drew public attention to the Law Concerning Crimes Committed Against Atatürk (Article 1 which penalises 'insult' to the memory of Atatürk), which restricts freedom of thought in the field of documentation as well as criticism. Nowhere in the world are there laws protecting people who have held a place in history or have remained in people's memories and who are no longer alive. The need for such a law constitutes in itself an insult to the memory of the person concerned.

There are some interesting conviction cases. For instance, it is now not possible to discuss the Susurluk scandal (which followed a car accident that revealed illegal anti-terrorism forces related practices). Indeed, writer Talat Turhan and publisher Sırrı Öztürk were convicted for *Mehmet Eymür: Ziverbey'den Susurluk'a Bir MİT'çinin Portresi (From Ziverbey to Susurluk, Portrait of a MİT Agent)*, a book related to this scandal (and others). The verdict has drawn attention to another prohibition field, which includes the sanctification of the State, the perception of any criticism directed to it as an insult and the covering up of crimes committed with the alleged support of State power. In this context, Article 159 of the Turkish Penal Code remains a powerful factor in the restriction of freedom of thought and criticism. Chiviyazıları Publishing editor (and TYB/TPA award winner) Özcan Sapan is under threat of heavy fines for these reasons.

Already faced with many trials, Aram Publishing saw five of its newly published books banned. These were *Patika (Pathway)*, *Yarınlara Yol Almak (Make Way*

to Tomorrow), *Kasırga Taburu (Battalion of Tornado)*, *Tufanda 33 Gün (33 Days in Flood)*, *Dağın Mecnunu (Love-Crazed of the Mountain)* and *Gülen Azadiye*, published in Kurdish, all of which were designated as works of literary value as well as having a documentary character. Among the trials related to four books published by Tohum Publishing, the one concerning *Özgürleşmeye Pedagojik Bakış (A Pedagogical Look at Liberation)* ended with an acquittal. In the ongoing trials concerning *Çok Kültürlülükten Tek Kültürlülüğe Anadolu (Anatolia from Multiculturalism to Monoculturalism)*, *Koçgiri: Kuzey Batı Dersim (Koçgiri: Northwestern Dersim)*, and *Kemalizm (Kemalism)*, a prison sentence and a fine are requested against publisher Mehmet Ali Varış.

We will probably continue to see banning and destruction orders issued by the Censorship Committee against works of erotic literature and art books under the framework of Article 426 of the Turkish Criminal Code in 2004, since no change was made to the legislation in this field. The first such banning case took place in the first week of January. Published by Piramit Publishing, Murat Hiçyılmaz's novel *Aum* was banned on grounds of obscenity. A prosecution will be launched against publisher Bedri Baykam, since he has refused a demand to pay a fine (without any formal prior trial). Baykam had benefited from an acquittal in a similar trial related to his novel *Kemik (The Bone)*. He currently has two other trials against him. As for Marquis de Sade's *Philosophy in the Bedroom*, published by Ayrıntı Publishing, it was ordered to be destroyed. Faced with the same charge, Singer Eminem's three books, published by Era Publishing, were banned at the same time. Published by the same publishing house, two of Irvine Welsh's novels met with the same fate. This tendency towards prohibition continued in 2004. A simple dictionary and even a book criticizing a case of incest were banned under such charges. Our publishers association supports the changes envisaged in legislation that would provide a wider range of interpretation of art or literary works. Indeed, an understanding that characterizes works of literature and art as "pornography" is unacceptable. In any case, such bans can hardly be said to have any effect on stopping pornographic publications. We will content ourselves with one example. Heavy fines are not enough to keep porn magazines from reaching the market and they continue to be distributed with their name and address changed. According to a newspaper article, Cengiz Aymaz, acting editor in chief of 79 porn magazines was fined a total of TL 7 trillion. This goes to show that the current prohibitive attitude is much more successful in having literary works banned than it is in curbing the production of actual pornography.

One of the basic principles of law is that there cannot be an offense of crime without a related law. In 1991, Article 142 of the Turkish Penal Code was abol-

ished. As a consequence, both convictions and banning orders related to this law were no longer applicable. Now, since Article 8 of the Anti Terror Law has been abolished, convictions and bans based on this article should also be non-applicable. With this perspective, the appeals made by Yurt Publishing to the first Ankara State Security Court for the restitution of İsmail Beşikçi's seized books were repeatedly rebuffed. The court refused to lift the ban on the books and their restitution stating that Article 7 of the Anti Terror Law had been violated, and that the appeal could only be considered if there was a new indictment and trial, which would require a new edition to be printed. Such a verdict goes to show that the recent legislative democratization steps are unfortunately only of a cosmetic nature and have little effect on the root problems. What is the point of these reforms if they are going to change nothing?

The responsibility for the development of freedom of expression and freedom to publish in Turkey lies not only on the legislature, but also on the judiciary and the executive powers. The understanding that one can restrict the basic rights of citizens on ideological grounds should be abandoned. The judiciary has an important tool in its hand, which consists of creating legal precedents opening the way to freedom of thought by referring to international law and treaties which have been signed by Turkey. However and unfortunately, jurisprudence in Turkey has developed to the contrary in the last ten years, restricting even more the already existing narrow framework of rights. Jurists thus have a greater responsibility towards contributing to the freedom of expression and to publish.

For years, in trials related to the press, temporary arrest orders have been given aimed at bringing defendants to testify, and were issued on the grounds that the defendants could not be reached. In most cases, the defendants are not notified and learn about these orders through their own initiative. Later, when these arrest orders are no longer valid, this information is not forwarded to the competent authorities, so that unjustified detentions and other limitations of freedom can take place unexpectedly at any time. Or else our colleagues experience lengthy problems when going through administrative procedures such as obtaining a passport, when such information as the lifting of arrest orders has not been recorded. This amounts to over penalization. We therefore call on our prosecutors and security forces to be more careful to ensure that it is properly recorded when such arrest orders or sanctions have been executed, that necessary steps have been taken and that they have become null and void. One of the main tasks of prosecutors since the establishment of the right to habeas corpus is to prevent unjustified detentions, defend the rights of citizens and avoid any violation of their rights; not just to accuse. Be it for a few days or a few hours, any unfair restriction of citizens' freedom

due to the negligence of competent authorities cannot be accepted in any way.

Moreover, in the name of accelerating the judicial procedure, conviction verdicts are taken in absentia without even having the defendant heard. Here is a typical example of this, which concerns our colleagues directly and is related to freedom of thought. Last year, a report published by the Anadolu News Agency and later declared to have found out to be false, was accepted as a denunciation for a police raid which had taken place at the headquarters of the Human Rights Association (İHD) where some "prohibited books" had been found. To begin with, to launch a trial on the grounds of "prohibited publication" is problematic in itself. Because of this, the second Ankara State Security Court gave an in absentia verdict of three months' imprisonment to each of the accredited members of the association, among whom were well known writers and publishers, without these people even being aware that such a trial had been launched against them. In the context of the recent legislative reforms, this must constitute an unwanted possibility that the law gives to courts to reach a verdict without holding prior hearings in cases related to minor offenses, a step taken in order to speed up the trial process.

All these examples show that, from the point of view of freedom to publish, the government's good intentions and legal changes made by the legislative powers are not enough, and that the three basic powers need to go through radical changes in their mentality and understanding of basic rights and freedoms. Without this, problems may diminish but they will not disappear.

Last but not the least, we state that we consider both the expected arrest of journalist Albayrak and that of his colleague Sinan Kara, which preceded it, as a most negative development.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN 2003 AND 2004

PUBLISHER	WRITER	BOOK	TYPE
Anadolu	Ali A Köse	Yüz Sayıda Vatan 2	(S/P)
Aram	Qahir Firat	Gulen Azadiye	(E/L)
Aram	Anthology	Yarınlara Yol Almak	(A/R)
Aram	Anthology	Patika	(A/R)
Aram	Mehmet Sabatli	Kasırga Taburu	(E/L)
Aram	Kayhan Adnut	Tufanda 33 Gün	(E/L)
Ayrıntı	S. Reynolds-J.Press	Seks İsyancıları:	
		Toplumsal Cinsiyet, Başkaldırı Rock'n Roll	(U/U)
Ayrıntı	C. Palahniuk	Tıkanma	(E/L)

Belge	Dr. Gazi Çağlar	12 Eylül Yargılanıyor	(S/P)
Bilge Karınca	Murat Kürüz	Kadın-Erkek Faaliyet Raporu	(K/C)
Bumerang	Azize Çelik	Şeriat İsteriz	(S/P)
Çetin	A. Öcalan	Partileşme Sorunları	(S/P)
Çetin	A. Öcalan	Güney Kürdistan'da Egemenlik	(S/P)
Çetin	Compilation	Öğrenci Gençlik Hareketi	(S/P)
Çiviyazıları	M. de Sade	Juliette	(E/L)
Deng	Nureddin Basut	Hayat Bir Kere Yaşanır	(E/L)
Deng	Kemal Burkay	Geçmisten Bugüne Kürtler	(S/P)
Deng	Kemal Burkay	Carin	(E/L)
Deng	Cigerquin	Divan 3: Kine Em?	(E/L)
Deng	Cigerquin	Divan 4: Ronat	(E/L)
Doz	Mesut Barzani	Barzani ve Özgürlük Hareketi	(S/P)
Doz	Mustafa Balbal	Ararat'taki Esir General	(E/L)
Era/St. Imge	Compilation	Eminem	(E/L)
Era/ SI	Eminem	Show	(E)
Era/ SI	Eminem	Kızgın Sarışın	(E/L)
Era/ SI	Sibel Torunoğlu	Travesti Pinokyo	(E/L)
Era/ SI	Irwine Welsh	Porno	(E/L)
Era/ SI	Irwine Welsh	Olağanüstü	(E/L)
Everest	Meltem Arkan	Yeter Tenimi Acıtmayın	(E/L)
Evrensel	Ahmet Kahraman	Kürt İsyanları	(S/P)
Güncel	Nedim Şener	Uzanlar: Bir Korku İmparatorluğunun Çöküşü	
Haziran	Compilation	Cezaevi Direnişi 3: Ulucanlar	(S/P)
Hevi	Compilation	21. Yüzyıl Kadın Manifestosu	(S/P)
Hevi	Compilation	Kadının Toplumsal Sözleşmesi	(S/P)
Hevi	Berjin Hakli	Kawa'nın Ezgisi	(S/P)
İletişim	Herkül Millas	Göç: Rumların Anadolu'dan Mecburi Ayrılışları (1919-1923)	(A/R)
Peri	Naci Kutlay	21. Yüzyıla Girerken Kürtler	(S/P)
Si	Müslüm Yücel	Kürtlerde Ölüm ve İntihar	(E/L)
Senfoni	Koray Düzgören	Türkiye'de Kürtçe Hakkı	(S/P)
Senfoni	Kerim Yıldız	Kürt Göçü	(S/P)
Sorun	Talat Turan	Mehmet Eymur, Bir MİT'çinin Portresi	(S/P)
Tohum	A. Dursun Yıldız	Özgürleşmeye Pedagojik Bakış	(S/P)
Tohum	Oturan Boga	Kemalizm	(S/P)
Tohum	Compilation	Koçgiri: Kuzeybatı Dersim	(S/P)
Umut	Compilation	Bir Meşale: İbrahim Kaypakkaya	(S/P)

Umut	Compilation	Komsomol	(S/P)
Umut	Compilation	Parti ve Devrim Şehitleri Albümü	(S/P)

Note: A/R: Anı/Recollections S/P: Siyasi/Political E/L: Edebiyat/Literature
K/C: Karikatür/Caricature U/U: Üniversite yayını/University publication

FREEDOM OF THOUGHT AND EXPRESSIONS AWARDS

2005

LEVENT ERSEVEN

Publisher

Levent Erseven was born in İstanbul in 1959. In 1980, he began his higher education at the Academy of Fine Arts. He started his publishing career in 1983, launching his first title the same year. So far, he has published more than 500 works.

The first court case he faced in his publishing career took place while he was working as the Editor-in-Chief of Leman Magazine. Currently six of his published works are the object of ongoing trials.

The titles published by Erseven that have been seized and are currently the object of prosecution are as follows:

1- *Porno*

Writer: Irvine Welsh, Translator: Kıvanç Güney

Court: Beyoğlu 2nd Penal Criminal of First Instance (Docket No: 2003/9)

The Court ruled that the translator and publisher should receive a fine of 4.285.744.000 TL and that the books be seized. The case is currently under deliberation at the High Court of Appeals.

2- *Angry Blonde*

Writer: Eminem, Translator: Fuat Şeşen

Court: Beyoğlu 2nd Criminal Court of First Instance (Docket no: 2003/134)

The book was seized by the Beyoğlu Criminal Court of Peace on 08.05.2003 and a case was brought against it by the Public Prosecution Office. The file is still being investigated by the court expert committee.

3- *The Real Slim Shady*

Writer: Eminem, Translator: Sabri Kalıç

Court: Beyoğlu 2nd Criminal Court of First Instance (Docket No: 2003/119)

The book was seized by the Beyoğlu Criminal Court of Peace on 06.05.2003 and a case was brought against it by the Beyoğlu Public Prosecution Office. The file is still being investigated by the court expert committee.

4- *Show*

Writer: Eminem, Translator: Sabri Kalıç

Court: Beyoğlu 2nd Criminal Court of First Instance (Docket No: 2003/113)

The book was seized by the Beyoğlu Criminal Court of Peace on 06.05.2003 and a case was brought against it by the Beyoğlu Public Prosecution Office. The file is still being investigated by the court expert committee.

5- *Ecstasy: Three Tales of Chemical Romance*

Writer: Irvine Welsh, Translator: Kıvanç Güney

Court: Beyoğlu 2nd Criminal Court of First Instance (Docket No: 2003/86)

The book was seized by the Beyoğlu Criminal Court of Peace on 30.04.2003 and a case was brought against it by the Beyoğlu Public Prosecution Office. The file is still being investigated by the court expert committee.

6- *Travesti Pinokyo (Pinocchio The Travestite)*

Writer: Sibel Torunoğlu

Court: Beyoğlu 2nd Criminal Court of First Instance (Docket No: 2003/17)

The case brought against the book by the Beyoğlu Public Prosecution Office is ongoing and the file is still under the expert committee's investigation.

HERKÜL MILLAS

Writer

Herkül Millas was born in 1940 in Ankara. He completed his higher education at Robert College in 1965. He took part in the student movements of the 60's. He became a member of the Workers Party of Turkey (TİP). He settled in Athens in 1971. He translated the works of Ritsos, Seferis, Elitis and other poets from Greek to Turkish. He has taught at the Department of Greek Literature of the Faculty of Linguistics, History and Geography at the University of Ankara. He completed the research for his Political Science doctorate during this period. His books and articles on Turkish-Greek relations and reciprocal perceptions have been published in many countries, in Turkish, Greek and English.

Herkül Millas's works *Ayvalık ve Venezis: Yunan Edebiyatında Türk İmajı (Ayvalık and Venezis: The Image of Turk in Greek Literature)*, *Geçmişten Bugüne Yunanlılar: Dil, Din ve Kimlikleri (Greeks from Past to Present: Language, Religion and Identity)*, *Türk ve Yunan Romanlarında 'Öteki' ve Kimlik (The 'Other' and Identity in Turkish and Greek Novels)*, *Yunan Ulusunun Doğuşu (Birth of Greek Nation)* and the Turkish print version of *Exodus (Göç)* which he compiled, have been published by İletişim Publishing.

Upon a ruling of the İstanbul 2nd Criminal Court of First Instance, Damla Demiröz, the translator of the Turkish edition of the work *Exodus* compiled by Herkül Millas, and the publisher's representative, Osman Nihat Tuna, were given a suspended sentence of imprisonment of one year and three months each for

defiance of Law No. 5816. The case is currently being assessed by the High Court of Appeals.

İSMAİL DÖNMEZ

Bookseller

İsmail Dönmez was born in 1935, in the village of Bedi in the Gölpaazarı province of Bilecik. Enrolled in the Arifiye Village Institute in 1948, he began teaching in 1954. He became a primary school inspector in 1963. He retired in March 1982. Upon retirement he began selling books in Balıkesir and has worked continuously for 23 years as a book vendor at the Dönmez Publication Distribution (Dönmez Yayın Dağıtım) company, which he founded.

FREEDOM TO PUBLISH REPORT 2005

In the past year Turkey has made important democratic reforms towards compliance with the European Union acceptance criteria, but the effects of these reforms have not been truly seen in real life. In fact, it is possible to say that there has been a certain resistance towards their application as regards the democratization process. Very recently, there has been an apparent increase in old prohibitory tendencies. Positive steps taken forward with respect to freedom of thought and expression within the new laws have started moving backwards. We feel bound to underline this negative development and the necessity of reversing it.

WORLD SITUATION

The International Publishers Association (IPA), of which we are a member, follows up applications and trials that restrict freedom of thought and expression in other countries as well as in Turkey, through the International Freedom to Publish Committee. Among these, a court case which was opened in Greece, on the grounds of “insult to holy things” against a comic strip with Jesus Christ as its subject, ended with acquittal after interventions from the IPA. In Lebanon, Dan Brown’s popular novel *The Da Vinci Code* was banned on the same grounds. This book was also placed on the Vatican’s “list of prohibited books”. We also learned that Paul Coelho’s book *Zahir* was banned in Iran.

The Association of American Publishers (AAP), a member of the IPA, carried out a signature collection campaign raising concerns on the responsibility placed on libraries to provide information by the PATRIOT Act, passed by the Bush Administration in America, and took the signatures collected to Parliament. It also carried out another campaign related to books that are banned from libraries in certain states.

We congratulate Abdullah Keskin, editor of Avesta Publishing, our member, on receiving the 2005 Jeri Laber International Freedom to Publish Award, given by AAP every year. Abdullah Keskin had been fined TL 800 million for the book *After Such Knowledge, What Forgiveness?* written by the American journalist, Jonathan C. Randal. Keskin has been prosecuted for many books he has published in previous years.

Meanwhile, Ragıp Zarakolu, Chairman of the Freedom to Publish Committee of our Association, was given the Freedom of Thought Award, organized by the

Norwegian Writers Association and the Norwegian Ministry of Culture and Tourism.

THE TURKISH PENAL CODE

The new Turkish Penal Code (TCK) carries future restrictions against freedom of thought. The freedom brought to writers and publishers under the Press Law is now being taken away once again and sentences of imprisonment are being brought back. A new criminal offence has been created under Article 305 of the Law described as “engaging in actions which are against the fundamental good of the Nation”. This article, together with appended explanations in its 4th paragraph, is subject to ideological, narrow interpretations. It also means the restoration of Article 140, abolished in 1991. Many other articles also carry the potential to restrict freedom of the press and information with ambiguous definitions, open to interpretation. In the past, many publications containing information of a critical nature were interpreted as “insult to the State, its institutions and Turkish identity” and were banned on the grounds of being a cause for ideological concern and both writers and publishers were imprisoned. The new draft also opens the way for new trials with narrow interpretations, without making a concrete differentiation between criticism, insult and humiliation. The right of access to information on continuing trials is also under threat with the new law.

While it is possible to observe a decrease in the number of bans and trials directed towards writers and publishers specific to book publishing in the past year, and more acquittals won in trials for previously opened cases, problems continue. The key reason for the decrease in the number of bans and an increase in acquittals was without doubt the government’s desire to make legal changes, albeit limited, to increase the area of freedom of thought and expression and thus make headway in the context of the EU process.

Although important legal modifications were made, namely the removal of Article 8 of the Anti Terror Law (TMK), which presented an important problem from the publishers’ point of view and the partial, albeit insufficient, amendment of TCK Article 312, nevertheless problems in the area of freedom to publish have not ended. Moreover, it is possible to observe attempts to establish different kinds of pressure and control mechanisms around already existing formal problems. For example, Prof. Dr. Cemal Anadol, writer of the book *İsrail ve Siyonizm Kiskacında Türkiye (Turkey in the Vice of Israel and Zionism)* is being tried under TCK Article 312. In the indictment, the accusation of “inciting racial or ethnic enmity” was included. Recently, in the reasoned decision announced in the Mehmet Şevki Eygi case, the High Court of Appeals, referring to this particular article of the law,

declared that freedom of thought may be prevented in subjects such as secularity. We believe that the free dissemination and discussion of all types of ideas and thoughts is the basic principle of democracy, “shocking thoughts” included. Regrettably, the High Court’s previous case law decision in this subject was reversed in a later decision.

PRESS LAW

We report that the modifications made to the Press Law have again prepared a future full of problems, as also indicated by the International Publishers Association, bringing important restrictions on freedom to publish. These new restrictions have been brought to printing houses and to certain formal arrangements for periodical publications. High fines have been stipulated, of a magnitude incomparable with the monetary penalties imposed for formal deficiencies provided by laws regulating other sectors. Such as in the obligation on printing houses to submit samples of books and periodicals to the police and public prosecutors. In fact, in democracies, printing houses are not obliged to submit the books they print to the police and offices of public prosecutors because book is seen as a cultural product, not as a potential object for criminal offence.

Investigations and lawsuits were opened against some printing houses on the grounds of late submission in relation to books with “apparently coincidental” dissident content. This pushes printing houses to act as a type of preliminary censorship organ. They therefore prefer not to print books which they think “may be problematic”, rather than experience these problems. On the other hand, in the new regulations brought in relation to periodicals, very heavy monetary fines can be given for late notification of address changes, chief editor replacements or forgetting to print the identification column.

For example, with a temporary article added to the Press Law, owners of periodical publications are obliged to notify the prosecutors’ offices of the nature of their publications (whether it is local, regional or national) within 30 days starting from the date the law becomes effective. Many amateur literature and art magazines, unaware that the law had introduced such an obligation, were fined up to TL 20 billion in administrative monetary fines, separately for each issue they published after the law was passed, for not having submitted this information within the period given. Many literature and art magazines had to close down for this reason.

LAW ON INTELLECTUAL AND ARTISTIC WORKS

The Law on Intellectual and Artistic Works (FSEK) imposed an obligation,

unprecedented in any country in the world, to stick banderole (revenue stamps), to be purchased from the state, on all books, on the grounds of preventing publication piracy. While the law was being prepared, we warned the relevant authorities that banderole application was contrary to the freedom accorded by both the Turkish Constitution and the European Convention on Human Rights to publish without prior permission or payment. We also warned that it would create great drawbacks with respect to freedom to publish and that state officials could even prevent the publishing of books by simply refusing to issue banderoles. Our warnings went unheeded. In 2004, banderole sales were not made in August, when the textbook season starts, and in October, when the trade book season starts, for periods of nearly one month, in spite of many prior warnings made by the Publishers Association indicating that a need for high volumes of revenue stamps would arise and that the necessary precautions should accordingly be taken. De facto, books could not be published and freedom to publish was prevented.

The Law on Intellectual and Artistic Works, which came into effect on March 2004, with modifications, again brought obligations to printing houses which print publications that are not periodicals, as well as to the publishers who distribute them and bookstores who sell them, to buy certificates from the Ministry of Culture and Tourism at a specific price, on the grounds of preventing publication privacy. TL 10 billion to TL 100 billion fines were imposed on those who print, distribute or sell books without obtaining a certificate. Thus, a de facto clause preventing non-periodical publications without obtaining a certificate from the Ministry of Culture and Tourism was passed contrary to the European Convention for Human Rights and also clauses in Article 28 of the Constitution which states that “The press is free, and shall not be censored. The establishment of a printing house shall not be subject to prior permission or the deposit of a financial guarantee”, as well as Article 29 which states that “Publication of periodicals or non-periodicals shall not be subject to prior authorization or the deposit of a financial guarantee.”

THE PRIME MINISTER’S LAWSUITS

In the past year, Prime Minister Tayyip Erdoğan has filed indemnity suits for libel against many journalists, caricaturists in particular. Writers and publishers have also had their share. Penguen Magazine is under threat of having to pay heavy fines. Prime Minister Erdoğan requested that publication of the book by Yalçın Küçük named *İsyân (Rebellion)* be stopped by temporary injunction and claimed damages amounting to TL 40 billion on grounds of violation of personal rights. The Ankara 14th Court of the First Instance did not accept the tempo-

rary injunction request for the book. A temporary injunction request for stopping publication of a book had thus been made for the first time in a lawsuit for libel. It was seen as an interesting paradox that Prime Minister Erdoğan was requesting seizure of books on the one hand, while at the same time claiming that he was trying to create a Turkey that had freedom to publish and was seen to be passing laws in accordance with this claim. It is a known fact that certain personalities such as Mehmet Ağar, Fatih Terim, Tarkan etc., famous in different areas such as politics, Turkish broadcasting, sports and music, have had books written about them seized. Now musician İbrahim Tatlıses has also joined this list. The seizure and confiscation of 8,000 copies of Hasan Baran’s book *Ayağında Kundura (Wearing Shoes)* on the pretext of “having separatist colors on its cover” is an incomp- rehensible event whichever way it is viewed. “Separatist colors” has also been the subject of many investigations and court cases in the past. (Two years ago, a theatre’s roller blind decorated with rainbow colors was seized in Hakkari and a lawsuit filed against Mahir Günşiray.) The identification of “separatist organization” in the rainbow on a cover is a first and presents an interesting example of the dimensions that prohibitive attitudes may reach. We think that gravitating people in the world of art, which is a creative area, towards prohibitive tendencies should be condemned most strongly.

THE DESIRE TO DESTROY BOOKS

It was discovered that Mustafa Altınpınar, the district official of the Sütçüler township of Isparta, angered by the explanations given to claims of Armenian genocide, gave instructions for the seizure of books in libraries and on bookshelves by the writer Orhan Pamuk. A letter was sent from the Sütçüler District Office on February 15 to public institutions and establishments, requesting the seizure of the books by Orhan Pamuk in libraries and on bookshelves. As the Turkish Publishers Association, we held a press conference condemning this event, which was inciting a lynch-mob atmosphere, and we requested the State to hold district officials accountable for their decisions to seize and destroy books, when these decisions were taken on their own personal initiative, despite the fact that State institutions had no legal authorization. The Ministry of Interior announced that the Sütçüler District Official Mustafa Altınpınar who had requested the destruction of Orhan Pamuk’s books had received an official reprimand. Even the Minister of Interior had to admit that it was insufficient to punish such behaviour with an official reprimand. This event was followed by the request from the Milas District Official for the arrest of a high school student for reciting a poem about Nazım Hikmet.

Last year's developments that had created hope in relation to freedom of thought and expression have unfortunately paved the way for apprehension. Partially positive developments provided by the Press Law, such as not including imprisonment for members of press in press trials, were reversed with the new TCK, brought into effect by Parliament, without taking into consideration the criticisms and suggestions from press establishments. Members of the press once again face the threat of imprisonment. On the other hand, threats from some extremist groups have also started to become a preventive factor in terms of the realization of freedom of thought and expression. Because of threats, the Yapı Kredi Publications (YKY) Cultural Center had to cancel a series of conferences on the Armenian problem in March. A press report relating to minority rights prepared by a committee attached to the Prime Ministry was subject to the threat of violence. The response to an investigation started against Turkish Historical Association (TTK) president Yusuf Halaçoğlu, following a complaint made by a Swiss public prosecutor about a conference he had given in Switzerland on the Armenian problem, should not have been the cancellation of an academic conference on the same subject in Turkey. The analysis and discussion of a subject relating to a human drama requires much deeper calm and a real effort by people to understand each other, refraining from polarization on the issue. This polarization may only serve some marginal and extremist groups and should be prevented at all costs. Regrettably, the campaign started against Orhan Pamuk, the investigation initiated in Switzerland against Halaçoğlu, the cancellation of the Ottoman Armenians Conference, the two lawsuits filed against the editor of the newspaper Agos, Hrant Dink, known for his efforts for normalization of Turkish-Armenian relations and who draws reactions from extremist groups on both sides for this reason, all indicate a rising trend and alert us to the fact that freedom of thought, expression and information in a very sensitive area is seriously under threat. Unfortunately, the passive attitude displayed towards its successful implementation has opened the way for the aforesaid rising trend. We think this trend should be calmly halted.

TRIALS, SEIZURES

In 2004 and in the first half of 2005, a total of 37 authors and 43 books belonging to 25 publishers have faced trial. Four compilations have also shared this fate.

Acquittals are becoming more frequent in trials dealing with freedom of thought. Very recently the books entitled *Lazona* (Akyüz Publishing) by Selma Koçiva, known for her work related to maintaining and developing Laz culture, *Pontus Culture* by Ömer Asan (Belge Publishing), *12 Eylül Yargılanıyor* (September 12 on

Trial) by Gazi Çağlar (Belge Publishing), *Akıntıya Karşı Yazılar* (Essays Against The Current) were acquitted.

The trial against the book entitled *Kürt Milliyetçiliğinin Tarihi Kökenleri ve Gelişimi* (Historical Roots and Development of Kurdish Nationalism, İletisim Publishing) by Wadie Jwaideh, re-opened as a result on the insistence by obvious circles, and which has continued for two years, ended with acquittal, with a detailed reasoned decision relating to the freedom of academic research. We may add to the list of acquittals the comprehensive compilation by Naci Kutlay *21 Yüzyıla Girerken Kürtler* (Kurds at the beginning of the 21st Century -Peri Publishing), Tori's book *Ünlü Kürt Bilgin ve Aydınları* (Famous Kurdish Scholars and Intellectuals, Sorun Publishing) and Mehmet Bayrak's books entitled *Geçmişten Günümüze Kürt Kadını* (The Kurdish Woman from Past to Present) and *Kürt Müziği, Dansları ve Şarkıları* (Kurdish Music, Dances and Songs). The book *Mustafa Barzani ve Kürt Özgürlük Hareketi* (Mustafa Barzani and the Kurdish Independence Movement, Doz Publishing) by Mesut Barzani, a politician in a neighbouring country, was also among the books acquitted after the recent regulations. We can say, therefore, that the recent reforms have made publishing of books related to the Kurdish problem less problematic. However, in the past few months, the book entitled *Kürt İsyanı* (The Kurdish Revolt, Evrensel Publishing) by journalist Ahmet Kahraman was banned and its publisher put on trial. The ban on the famous Kurdish epic *Mem-u Zin* (Deng Publishing) still continues. There has been no change in the convictions related to the books *Kürdistan Tarihi, Celile Celil'in Kürt Aydınlanması* (The History of Kurdistan, Celile Celil's Kurdish Enlightenment) by Lazaref and *After Such Knowledge, What Forgiveness?* by Jonathan C. Randal, both published by Avesta Publishing. While eight books were tried and acquitted in the context of the Kurdish problem, minorities and regional cultures, three books were convicted. The fine amounting to a total of TL 25 billion for five books by Aram Publishing was ratified. The books entitled *Gerilla Şiirleri* (Guerrilla Poems), *Gerilla Anıları Antolojileri* (Anthologies of Guerrilla Memories), Hüseyin Kaytan's *Ammar İşaretleri* (Signs of Ammar), Gülçiçek Güneltekin's *Dilimiz Kimliğimiz* (Our Language Our Identity) and Menaf Osman's novel entitled *Gire Şeran* (The Hill of Heroes) were convicted. While the acquittal for the book entitled *Dersim'de Alevilik* (Alevi Sect in Dersim, Peri Publishing) was overturned, two different lawsuits were also filed against the book and its publisher Ahmet Önal (TPA award winner). Peri's book entitled *Acının Dili Kadın* (Woman The Voice of Pain) is also among those convicted.

Herkül Millas' compilation entitled *Göç* (Migration, İletisim Publishing), which deals with events in 1924 when Turkish and Greek governments exchanged their citizens on the grounds of difference of religion and compiles the memories

of Anatolian Greeks who were exchanged, was convicted. This decision drew attention to the law relating to “insult” to the memory of Atatürk which limits freedom of thought in terms of documentation or critique. Nowhere in the world are protection laws made for persons who have taken their places in history and have been ingrained in memories. The need felt for such a law means, above all, disrespect to this memory.

One of the latest lawsuits opened this year in this context was the lawsuit filed on the grounds of insult to Atatürk’s memory against the book entitled *Gerçek Bizi Özgür Kılacak: Türk Ermeni Barışması* (*The Truth Will Make Us Free: Turkish Armenian Reconciliation*, Belge Publishing) by George Jerjian. The book entitled *Yitik Köyler* (*Missing Villages*) by journalist Zülküf Kışanak dealing with the evacuation of people from Kurdish villages, published by the same publishing house, also joined the books tried on grounds of insult against the State. An investigation was also started on the same grounds in relation to the book by Dora Sakayan entitled *Bir Ermeni Doktorun Yaşadıkları* (*Experiences of an Armenian Doctor*), published by the same publishing house.

There are some interesting instances of conviction verdicts given. For example, it is no longer possible to discuss the Susurluk* event. Sırrı Öztürk of the Sorun Publishing who published the book *Mehmet Eymür: Ziverbey’den Susurluk’a Bir MİT’çinin Portresi* (*Mehmet Eymür: From Ziverbey to Susurluk, Portrait of an MIT Agent*) was convicted together with the writer Talat Turhan. This drew attention to another taboo area. The sanctity of the State, perceiving criticism directed at it as an insult and covering up crimes committed by abusing state power. Article 159 of the TCK remained an all-powerful factor in continuing to restrict freedom of thought and criticism. Chief editor Özcan Sapan (TPA award winner) is also under threat of heavy fines for similar reasons. Especially after the passing of the revised TCK, we are particularly anxious about further restriction of freedom of thought, expression and information by an even broader interpretation of the concept of “libel”.

From among the lawsuits opened against four books published by Tohum Publishing, that of *Özgürleşmeye Pedagojik Bakış* (*A Pedagogical Perspective on Liberation*) resulted in an acquittal. Imprisonment and fines have been requested for Mehmet Ali Varış for his books *Çok Kültürlülüğten Tek Kültürlülüğe Anadolu* (*From a Pluricultural to a Monocultural Anatolia*), *Koçgiri: Kuzey Batı Dersim* (*Koçgiri: Northwestern Dersim*) and *Kemalizm* (*Kemalism*) which are among those whose trials continue.

Decisions regarding the prohibition and destruction of erotic literature and art

*An incident where a number of officials were killed in a car crash, seen as an assassination

books passed by the Prime Ministry Council for the Protection of Minors against Harmful Publications within the framework of TCK Article 426 also continued in 2004, although new legislation was passed, leaving art and literature works outside its legislative scope. The publisher of Irvine Welsh’s book entitled *Porno* and its translator were convicted and fined. The caricatures by Murat Kürüz in his book entitled *Kadın-Erkek Faaliyet Raporu* (*Report on Male and Female Activity*), published by Bilge Karınca Publishing, were found to be obscene and the İstanbul 3rd Criminal Court of Peace ordered seizure of the book. The publishing house was further ordered to pay a heavy fine of approximately 4.5 billion TL. Acquittals given for the books named *Elma* (*Apple*) by Enis Batur and *Pazar Sevişgenleri* (*Sunday Lovers*) by Metin Üstündağ, claimed to be obscene, were annulled by the High Court of Appeals and their trial resumed.

Our Publishers Association supported the legal modification which was seen to provide a wider interpretation to art and literature books. Literature and artwork was removed from the scope of TCK Article 426. As a result of this development, the books entitled *Yeter Tenimi Acıtmayın* (*Enough-Don’t Hurt My Skin*) by Meltem Arıkan, *Tales of Patty Diphusa* by Pedro Almodovar, *Sex Revolts* by Simon Reynolds and Joy Press, *Choke* by Chuck Palahniuk, *Kadın Argosu Sözlüğü* (*Women’s Slang Dictionary*) by Filiz Bingölçe were acquitted. Decisions for the destruction and imposition of fines against the books entitled *Philosophy in the Bedroom* and *The Last Exile* published by Ayrıntı Publishing were annulled by the High Court.

According to the basic principles of law, there is no crime without law. In 1991, Article 142 of TCK was removed from effect. As a result, banning verdicts were also removed, along with the conviction verdicts given. Due to the removal of Article 8 of the Anti Terror Law (TMK), the conviction and banning verdicts given on this basis should also de facto have been annulled. Yet applications made by Yurt Publishing to Ankara State Security Court Number 1, in accordance with this, for the return of İsmail Beşikçi’s seized books were rejected one after the other. The Court did not accept removal of the ban and return of the books, stating that TMK Article 7 had been violated and that without a new indictment and trial (this could only be valid for a new print) this would not be possible. This decision has made the latest democratic changes appear to be no more than adjustments made to save appearances and which do not in practice affect the content. If nothing is to change, what is the point of making these changes?

The new TCK which came into effect recently without sufficient prior discussion, apart from the subject of “adultery” which was brought into discussion again by the opposition party in parliament, also carries the potential for creating serious problems in the future with respect to freedom of thought, expression, press and

to publish, due to the ambiguity of its definitions. The borderline between “insult” and “criticism”, “obtaining information and news and its dissemination” and “confidentiality of private life” and “state secrets”, “organizational propaganda” and “political analysis and news collection”, “the provocation of citizens against each other” and “the realities and problems of social groups”, “obscenity” and “science and art”, “humiliation” and “social criticism” has become fuzzy and has increased the potential for arbitrary interpretation according to a particular ideological point of view. Press and publishing have been alerted that they will encounter new problems resulting from definitions such as “slander”, “for the national good”, “for the political good”, “disclosure of classified information”, “provocation of war against the State”, “provocation of foreign state officials”, and “crimes against foreign state presidents, flags, etc.” These definitions may be interpreted differently from person to person. In conclusion, the new TCK has already come face to face with the necessity of modification before it has even truly come into effect. To prevent it from creating serious problems in the future with respect to basic press, expression, information and publication rights, we consider the rearrangement of articles 125, 134, 214, 215, 216, 220, 226, 301, 304, 305, 318, 323, 327, 329, 334, 336, 339, 340, 341, and 342 to be a top priority. Unfortunately, suggestions from press and publishing circles relating to these modifications have not been taken into consideration.

In order for freedom of expression and freedom to publish to develop in Turkey, a great responsibility falls on the shoulders not only of the legislative powers that be, but also on those who hold judicial and executive power. We must end the trend towards restricting the basic rights of citizens on ideological grounds. Judicial powers that have in their hands an important tool to pave the way for freedom of thought and to benefit, for example, from the international laws and contracts, an important number of which Turkey is a signatory to. Unfortunately, the application of case law has been used in a completely opposite way over the past ten years, towards the direction of narrowing the frame of rights, which is already narrow, on ideological grounds. Greater responsibility falls on lawyers to contribute to the realization of the freedom of expression and freedom to publish. We want to be able to hope that the judiciary especially will subject the new TCK, which includes such ambiguous definitions, to a wider interpretation in the frame of the universal contracts and agreements to which Turkey is a signatory party. The judiciary has not adopted an approach where freedom of thought and expression is treated on a universal level. We want to hope that the judiciary especially will adopt a more independent and free decision-making process in implementing freedom of expression of thought in real life.

All these examples make it evident that the intent of governments and the modifications made by the legislative organs alone are not sufficient with respect to freedom of thought and freedom to publish. We have seen that these may bring out contradictory inclinations according to subjective whim and conjecture, and that a fundamental change in mentality is needed in all three basic organs with respect to understanding of basic rights and freedoms. We want to hope that the Judiciary will perform a final redemptive function, especially in critical periods, with respect to the freedom of thought, expression and information.

Unless this happens, even if problems decrease, they will not end. They may even start accelerating again.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN 2004 AND IN THE FIRST HALF OF 2005

PUBLISHER	WRITER	BOOK	TYPE
Aram	Menaf Osman	Gire Şekan (Yiğitler Tepesi)	(E)
Aram	Mehmet Sabatli	Kasırga Taburu	(E)
Aram	Kayhan Adnut	Tufanda 33 Gün (Acquittal)	(E)
Aram	Timur Şahan	İtirafçı/ Bir Jitemci Anlatı	(A)
Ayrıntı	S. Reynolds – J. Press	Seks İsyancıları: Toplumsal Cinsiyet, Başkaldırı Rock'n Roll' (Acquittal)	(U)
Ayrıntı	C. Palahniuk	Tıkanma (Acquittal)	(E)
Belge	George Jerjian	Gerçek Bizi Özgür Kılacak	(S)
Belge	Zülküf Kışanak	Yitik Köyler	(S)
Bilge Karınca	Murat Kürüz	Kadın-Erkek Faaliyet Raporu	(K)
Ceylan	Hasan Basri Aydın	Tanrıya Metuplar (Acquittal)	(E)
Çetin	A. Öcalan	Güney Kürdistan'da Egemenlik	(S)
Çetin	Derleme	Öğrenci Gençlik Hareketi	(S)
Çetin	Gülseren Aksu	Güneşin Sofrasındayız	(A)
Çetin	A.Öcalan	Sosyal Devrim ve Yeni Yaşam	(S)
Çetin	Mahsun Şafak	PKK Kongre Belgeleri	(S)
Çiviyazıları	M. de Sade	Juliette	(E)
Deng	Kemal Burkay	Seçme Yazılar	(S)
Deng	Ehmede Xani	Mem u Zin	(E)
Deng	Munzur Cem	Alevilik, Zazaki ve Dersim	(E)
Deng	Ali Dicleli	Kürt Sorunu Barış Demokrasi	(S)
Doz	Mesut Barzani	Barzani ve Özgürlük Hareketi (Acquittal)	(S)
Everest	Meltem Arıkan	Yeter Tenimi Acıtmayın	(E)
Evrensel	Ahmet Kahraman	Kürt İsyancıları	(S)

Güncel	Nedim Şener	Uzanlar / Bir Korku İmparatorluğunun Çöküşü	
Haziran	Derleme	Cezaevi Direnişi 3: Ulucanlar	(S)
İletişim	Herkül Milas	Göç: Anadolu Rumları 1919-1922 (Convicted)	(A)
Metis	Filiz Bingöl	Kadın Argosu Sözlüğü (Acquittal)	
Ozgur Üniversite	Fikret Başaya	Akıntıya Karşı Yazılar (Acquittal)	(S)
Pencere	Fevzi Karadeniz	Eski Zamanlar (Convicted)	(A)
Peri	Naci Kutlay	21. Yüzyılda Girerken Kürtler (Acquittal)	(S)
Sel	Metin Üstündağ	Pazar Sevişgenleri (The High Court of Appeals Annulled Acquittal)	(K)
Sel	Enis Batur	Elma Senfoni (The Supreme Court Annulled Acquittal)	(E)
Sorun	Talat Turan	Mehmet Eymür, Bir MIT'çinin Portresi (Convicted)	(S)
Stüdyo/İmge	Sabri Kaliç	Eminem	(E)
Stüdyo/İmge	Irvine Welsh	Porno	(E)
Stüdyo/İmge	Sibel Torunoğlu	Travesti Pinokyo	(E)
Stüdyo/İmge	Eminem	Kızgın Sarışın	(E)
Stüdyo/İmge	Suat Bilgi	Show	(E)
Stüdyo/İmge	Irvine Welsh	Olağanüstü, Üç Kimyasal Roman	(E)
Tohum	Derleme	Kuzey Batı Dersim: Koçgiri	(S)
Umut	Derleme	Bir Meşale: İbrahim Kaypakkaya	(S)
Yeni Gökyüzü	Hasan Baran	Ayağında Kundura	(A)
-	Cemal Anadol	İsrail ve Siyonizm Kiskacında Türkiye	(S)

Not: A: Memoirs and Biography S: Political E: Literature K: Caricature U: University publication

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2006

SIRRI ÖZTÜRK

Publisher

Born in 1932, in the village of Taşağıl, in the district of Aşkale, province of Erzurum, Sırrı Öztürk was taken from his village to Erzurum after he lost his father in 1936. He first studied at the Gazi Paşa and the İnönü primary schools (1937-1942) and then graduated from the Woodwork Department of the Erzurum Art Institute for Boys. From 1949 onwards he worked as a wood and metalwork teacher for the Traveling Village Courses organized by the Erzurum Art Institute he had previously attended. He took up odd jobs in 1950 when his teacher status became tenuous due to the “legal predicament” of his brother Avni Öztürk (Memedoğlu) who had close ties with the Turkish Communist Party (TKP). Öztürk became a member of the Turkish Workers Party (TIP) in 1962. He also took part in the founding and organizing of the Confederation of Progressive Trade Unions of Turkey (DİSK) and worked as a member of the board of the Mine Workers Union of Turkey (Maden-İş). He also played a role in the organization of the Proletarian Revolutionary General Assembly (PDK), which he chaired (on September 29-30, 1970). He was arrested and tried for his involvement in this organization.

While a worker at Türk Kablo (Turkish Cable) Öztürk was arrested on the order of the Martial Law Court in 1970 for organizing and taking part in the June 15th-16th resistance, and convicted for defying the Law on Meetings and Demonstrations. He was again arrested following the 12 March (1971) military coup and sentenced to 8 years imprisonment under the Turkish Penal Code (YTCK) Articles 141 and 142. He was released in 1975.

In 1975 Öztürk joined the publication committee that formed the Sorun Publishing Collective. The publishing house was closed down during the 12 September 1980-1986 period and kept locked up together with its managing personnel for six years. The books printed by the collective were burnt at the Selimiye barracks. He was acquitted from all charges filed against him in this case after many years of legal struggle. He had also faced numerous other legal actions for material or moral damages and was repeatedly imprisoned while many raids, burglaries and acts of arson were carried out against his publishing house. He has been on

trial and sentenced many times under the TCK Articles 312, 159, etc., and Article 8/1 of the Anti Terror Law (TMK). (He is currently on trial under Article 301/1 of the TCK together with Osman Tiftikçi, the author of *Osmanlı'dan Günümüze Ordunun Evrimi (The Evolution of the Army, from the Ottoman Era to Today)*).

He is currently the official owner and acting director in charge of the publishing collective. He is also the owner and Editor-in-Chief of Sorun Polemik, a Marxist investigation-research-critique periodical.

Öztürk has had more than 30 works and numerous articles published. His prominent works are:

İşçi Sınıfı, Sendikalar ve 15/16 Haziran 1976 (2001), Olaylar-Nedenleri-Davalar-Belgeler-Anılar-Yorumlar, 2. Edition (Incorporated into the VI.Lenin Institute). It was also used as Text book at IG-Metall and CGT.); *Oportünizm Yargılanıyor (1980)*; *İlerici Yayıncılığımızın Sorumluluğu (1985)*; *Partileşme Sorunu-I (1986)*; *Partileşme Sorunu-II (1987)*; *Partileşme Sorunu-III (1988)*; *15/16 Haziran-Direnişinin Anıları (1990)* 2. Ed.; *Gecikmiş Bir Hesaplaşma (1992)*; *Sosyalizmin Sorunları Üzerine Açılım Tartışmaları (1992- Collective Writing)*; *DİSK'in "Ören Tezleri" ve Sosyalist Tavrı (1992-Collective Writing)*; *12 Mart 1971'den Portreler-I (1993-1999)* 6. Ed.; *12 Mart 1971'den Portreler-II (1994)* 4. Ed.; *12 Mart 1971'den Portreler-III (1997)* 2. Ed.; *"Terörist" in Günlüğü (1995)*; *1995 Milletvekili "Seçim"lerinde Marksist Solun Tavrı (1995)*; *"Seçim" Hesaplaşmasının Marksist Yorumu (1995)*; *What is This Party? ÖDP vb. Üzerine (1996- Collective Writing)* 2. Ed.; *Gelenekten Geleceğe 15/16 Haziran (1996)*; *Deney ve Belgeler Arasında Marksist Solun Krizi (1996)*; *Durum-Kuşatma-Sataşma-Eleştiri Üstüne Polemikler (1998- Collective Writing)*; *Hangi "Hukuk"?(1998)*; *Hangi "Restorasyon"?(1998)*; *Hangi "Birlik"?(Partileşme Mücadelesinin Neresindeyiz? Komünistlerin Birliği (1998)*; *Seçimlerde Solun İki Taktiği (1999)*; *Tarihselden Güncele Bağımsız Sınıf Tavrı (1999)*; *Politika-Sanat-Estetik Yolunda Emeğin Ressamı: Avni Memedoğlu (1999)*; *Devrimci Siyasî Terbiye-Diplomasi-Ahlâk (2001)*; *Marksist Sol Yığınağı Nereye Yapmalı? (2001)*; *İşçi-Kitle Gazetesi İçin Sınıf Bilinçli İşçilere Çağrı (2005)*.

PROF. BASKIN ORAN

Writer

Born in İzmir in 1945, after graduating from the Faculty of Political Science in 1968, Baskın Oran completed his doctorate in political science in 1974 while working as a faculty research assistant. He was dismissed from his post for the first time after the 12 September coup (November 1982) following a Council of Higher Education (YÖK) decision, and, having won the case he had logged against this decision at the Council of State, a second time (in July 1983), with

the enforcement of Martial Law decree No 1402. He was finally reinstated to his post in 1990 by a decision of the Council of State taken during its plenary session. He became associate professor in 1991 and professor in 1997. His work focuses mainly on nationalism, minorities and Turkish foreign policy.

As of 2006, Baskın Oran delivers courses on the following subjects at the Faculty of Political Sciences (SBF): Turkish Foreign Policy I, II, III, Nationalism, Globalization, Minorities, Current International Issues, the Kurdish Question and the Armenian Question.

The Ankara Chief Prosecutor filed a case against Baskın Oran, who is also a member of the Human Rights Association Advisory Committee (İHDK) and chairman of the Minority and Cultural Rights Commission, and Prof. Dr. İbrahim Kaboğlu, Chairman of the Prime Ministerial Human Rights Advisory Committee, (BİHDK) for a report they prepared together on Minority and Cultural Rights. The prosecutor requested up to five years of imprisonment for Oran and Kaboğlu under TCK Laws 216 (previously 312) and 301 (previously 159), accusing them of writing a report which was a reminder of the (World War I) Sevres treaty, itself equivalent to the partition of the nation. The trial ended with an acquittal.

The works published by Baskın Oran, who also writes a column in the weekly Agos and the daily Birgün are (in the order of their first publication date):

Az gelişmiş Ülke Milliyetçiliği: Kara Afrika Modeli (Nationalism in Underdeveloped Countries: Black Africa Model) (1997),

Türk-Yunan İlişkilerinde Batı Trakya Sorunu (Problem of Western Thrace in Turkish-Greek Relations) (1991), *Atatürk Milliyetçiliği: Resmî İdeoloji Dışı Bir İnceleme (Atatürk Nationalism: An Analysis Outside Official Ideology) (1999)*, *Kenan Evren'in Yazılmamış Anıları (Kenan Evren's Non-Written Memoirs) (1990)*,

Kenan Evren'in Yazılmamış Anıları: Son Defter ((Kenan Evren's Non-Written Memoirs: The Last Notebook) (1990),

Nerde O Eski Mapusaneler (Where are Those Old Prisons?) (1991),

Devlet Devlete Karşı, (The State against the State) (1994),

Kalkık Horoz: Çekiç Güç ve Kürt Devleti (Combined Task Force and Kurdish State) (1998),

Yunanistan'ın Lozan İhlalleri (Greece's Infringements of Lausanne Treaty) (1999),

Küreselleşme ve Azınlıklar (Globalisation and Minorities) (2001),

Türk Dış Politikası: Kurtuluş Savaşından Bugüne Olgular, Belgeler, Yorumlar (Turkish Foreign Policy: Facts, Documents, Comments from War of Independence to the Present) (Editor), (2001),

Dalavera Memet'in Bodrum Tarihi (Mehmet the Chicane's History of Bodrum) (2004),

Enište Gözüyle Bodrum (Bodrum in My Uncle's Eyes) (2004),

Türkiye'de Azınlıklar: Kavramlar, Lozan, İç Mevzuat, İctihat, Uygulama (Minorities in Turkey: Concepts, Lausanne, Interior Legislations, Case Law, Implementation) (2004),

M.K. Adli Çocuğun Tehcir Anıları: 1915 ve Sonrası (Deportation Memoirs of a Child Named M.K.: 1915 and Aftermath) (Edit.Superv.) (2005),

Türkiye İnsan Hakları Bilançosu: 2005 İzleme Raporu (Human Rights Account of Turkey: 2005 Monitoring Report) (2006).

PROF. İBRAHİM KABOĞLU

Writer

A professor of constitutional law, İbrahim Özden Kaboğlu was born on 10 April 1950 in the district of Borçka Province of Artvin. He studied at the Bursa Atatürk High School after completing his primary and lower secondary school education at different schools within Borkça. After graduating from Ankara University Faculty of Law, he completed his PhD at the University of Limoges in France. His official appointments include: Ministry of Interior, the Ankara Economic and Commercial Sciences Academy - Gazi University, Dicle University and Marmara University.

Since 1986 he has been a guest lecturer at Limoges University, also lecturing annually as a guest lecturer at other European Universities, mainly in France.

In addition to his academic career, Kaboğlu has worked mostly as a volunteer on Human Rights issues in the following capacities: Chairman of the Prime Ministerial Human Rights Advisory Committee (2003 – 2005); Chairman of the Turkish Bar Association Human Rights Research and Application Center (2001 – 2005); member of the National Committee to the United Nations Human Rights Education Decade (2001-2004), and Chairman of the Bar of İstanbul Human Rights Center (1998 – 2001).

Kaboğlu was prosecuted together with Baskın Oran, chairman of the Minority and Cultural Rights Commission by the Ankara Chief Prosecutor while he was Chairman of the Prime Ministerial Human Rights Advisory Committee because of the “Minority and Cultural Rights Report” prepared by his committee. The trial against Oran and Kaboğlu, during which the Ankara Chief Prosecutor had requested 5 years of imprisonment on the basis of TCK articles 216 (previously 312) and 301 (previously 159) ended with an acquittal.

Kaboğlu has worked for the following national and international non-governmental organizations (and public office status professional associations): the Bar of İstanbul, the Professional Organization for Copyright Owners of Intellectual

and Artistic Works (BESAM), the Association for the Support of Contemporary Life (ÇYDD), the Human Rights Foundation of Turkey (İHD), the Foundation of International Constitutional Lawmakers, and the International Institute of Law for French Speaking Countries.

Kaboğlu, who is still the Chairman of the Constitutional Law department at the Marmara University Faculty of Law, continues to lecture at French universities alongside the courses he gives at the Haydarpaşa campus of Marmara University. Mr. Kaboğlu takes part in numerous international scientific research projects and continues to serve on the Executive Board of the International Association of Constitutional Jurists.

His main publications are:

In Turkish: *Kolektif Özgürlükler (Collective Freedoms)*, *Çevre Hakkı (Environmental Right)*, *Anayasa Yargısı (Judgement on the Constitution)*, *Dayanışma Hakları (Rights for Solidarity)*, *Türkiye'de Düşünce Özgürlüğü (Freedom of Expression in Turkey)*, *Anayasa ve Toplum (Constitution and Society)*, *Özgürlükler Hukuku (Law of Liberties)*, *Anayasa Hukuku Dersleri (Courses on Constitutional Law)*.

Books published under his supervision: *Bağımsız idari otoriteler/Autorités administratives indépendantes*, *Lâiklik ve Demokrasi (Laicism and Democracy)*, *Kopenhag Kriterleri/Criteres de Copenhague/Criteria of Copenhagen*, *Ulusal, Ulusalüstü ve Uluslararası Hukukta Azınlık Hakları (United Nations, European Council and Treaty of Lausanne)*, *İnsan Hakları Danışma Kurulu Raporları* (co-written with lawyer Kemal Akkurt).

Translations from French: *Kamu Hukuku (Public Law)* (by P. Lalumière- A. Demichel).

The author has also written over 100 Turkish and 30 French articles on constitutional law and political sciences. (Some of his articles having been translated into Arabic, English and Italian).

ŞAKİR TUNALI

Bookseller

Born in 1933 in the Aksu district of the province of Antalya, Tunalı attended primary school at the Aksu Village Institute, then the Antalya Industrial Vocational Secondary and High Schools.

Tunalı graduated as a non-commissioned officer from the Land Forces Command Ankara Army Equipment School in 1952, and was assigned to various army equipment units throughout Turkey during the next 27 years. Following his retirement in 1973, he founded the Tekirdağ Bookshop, at the location of his last post, beginning his new career as a bookseller. For 33 years, he has pursued his

career in his bookstore, which also functions as cultural center, organizing various cultural activities there.

BİANET

Independent Communication Network

Bianet.org is an Internet news website that follows the international and national agenda through the perspective of those whose rights have been violated and those struggling for their rights.

Bianet.org constitutes the news division of the Freedom of the Press and Independent Journalism Follow up and News Network (Medya Özgürlüğü ve Bağımsız Gazetecilik İzleme ve Haber Ağı), in brief BİA². The site is run by one reporter and four editors, who each specialize on one of the following topics: Women's Rights, Children's Rights, Freedom of Expression, and Human Rights.

Within the scope of the BİA² project, some 1,500 regional journalists, rights activists and lawyers have taken part in training aimed at supporting regional journalists and reporters who give priority to "rights" in their work. This wide interaction allows Bianet.org to function as a common communication platform where journalists and activists throughout the country can pool their work and information. While the Legal Support unit and the Freedom of Expression Monitoring program are aimed at helping journalists and reporters whose rights have been violated, they also serve as a watchdog against breaches of rights caused by the media itself.

Bianet's English news website is internationally considered to be a reliable reference source on issues of freedom of expression and rights in Turkey. For regional radio stations and newspapers, not only in İstanbul but also throughout Turkey, Bianet.org functions as a news agency that enables "the voice of the voiceless" to be heard.

Bianet was considered "commendable" by the Internet section of the 2004 Journalism Success Awards event, organized by the Turkish Journalists Association. The same year The Union of Chambers of Turkish Engineers and Architects (TMMOB) granted them their City Planning Press Award.

CONCERNING THE TRIAL RELATED TO THE "REPORT ON MINORITY AND CULTURAL RIGHTS"

The Human Rights Advisory Committee (İHDK) was established in 2001 under Law number 4643. It held its first meeting on 26 February 2003 to elect Prof. İbrahim Kaboğlu as its president together with its other leading members. During

its extraordinary meeting on 9 May 2003, it established 13 working commissions, in accordance with its by-laws, one of which was the Minority and Cultural Rights Commission lead by Prof. Baskın Oran.

The İHDK pursued its work as normal during the first six months. It even benefited from government support. On the other hand, neither the parliament nor the government consulted the Committee concerning its reform laws. In December 2005 Abdullah Gül, then Deputy Prime Minister in charge of human rights, appointed the very person who had lost the 26 February 2003 İHDK Presidency election to the Human Rights Presidency in charge of the İHDK Committee's secretarial work. This turned out to be a turning point after which the Committee began to meet increasing obstacles. In order to overcome the problem arising from the secretarial services, 30 İHDK members requested a meeting with Minister Gül, who did not even bother to answer their request.

Despite this negative environment and difficult circumstances the Committee pursued its activities selflessly and presented the two following reports at its ordinary meeting on 1 October 2004, "Türkiye'de İnsan Hakları Raporu 2004" (Human Rights in Turkey Report, 2004) and "Azınlık Hakları ve Kültürel Haklar Raporu" (Minority and Cultural Rights Report).

Approximately three weeks later, the Prime Ministry Human Rights President held a press conference declaring that the second of these two reports had no validity, whereupon some opponent members of the İHDK and some groups calling themselves "nationalist" launched a campaign against the report. The campaign benefited from the direct or indirect support of the government, the party in power, the opposition party, the President of the Republic and the Office of Commander in Chief.

A press conference held by the Committee President Kaboğlu on 1 October 2004 to inform the public on the said report was impeded by a certain Fahrettin Yokuş who tore the text of the report to pieces. Yet it was not the person who destroyed the report but the Committee President who was again criticized by the persons and institutions mentioned above.

On 3 February 2005, the Ankara Office of the Press Prosecutor called Kaboğlu and Oran to question them in relation to an investigation he had launched concerning the said report.

On 14 November 2005 the prosecutor's office opened a case against Kaboğlu and Oran, requesting a five year imprisonment sentence for each, under the allegations that they had been "inciting hate and enmity among the people" (TCK Article 216 / previously 312) and "insulting the Constitutional Court" (TCK 301 /

previously 159). In fact the trial's real issue was the fact that the report proposed the word "Türkiyelilik" (of Turkey) instead of "Türk" (Turk/Turkish) as a nationality identifier and criticized some of the Constitutional Court's rulings.

The first hearing took place at the 28th Ankara Criminal Court of First Instance on 15 February 2005 and lasted nine uninterrupted hours. The court ruled that authorization from the Ministry of Justice was required for the case based on Article 301, so the hearing continued only for the case based on Article 216. In his defense speech Kaboğlu claimed that he had used his freedom of speech which was bestowed to him by Law No 4643 in the framework of the task assigned to him, and that the TCK was not applicable, as the charge was equivalent to the creation of a "thought offence". As for Oran, he refuted each of the Press Prosecution Office's allegations in his defense statement, which he titled a "counter-indictment". Moreover, both Kaboğlu and Oran, together with their lawyers, repeatedly claimed that no authorization from the Ministry of Justice was needed concerning Penal Code Article 301 and that the said article was moreover contrary to the Constitution.

At the second hearing which took place on 10 April 2005 and lasted five hours, the Court continued to listen to witness statements that had begun at the first hearing, despite objections made as to their relevance. Thus, issues related to the substance of the case were treated only in Kaboğlu's second defense speech.

At the third and last hearing which took place on 10 May 2005 and lasted four hours, the prosecutor presented his opinion on the accusations, stating that, be it indirectly, the case had been opened upon a complaint filed by the Prime Ministry Human Rights Presidency. Concerning the incriminations of the indictment, the prosecutor requested that an acquittal verdict be given in the case concerning TCK Article 216 on the grounds that there had been no "incitement to hate and enmity among the people" and that the views expressed in the report remained within the range of freedom of expression guaranteed by Article 10 of the European Convention on Human Rights (ECHR). On the other hand, concerning the "insult to the Constitutional Court" case, based on TCK Article 301, the prosecutor requested that it be "dropped", since the required authorization from the Ministry of Justice had not been issued.

Despite the insistence of the accused and their lawyers that the Court had the competence to rule concerning Article 301 and that it should give an "acquittal" verdict for this case as well, the judge, acting according to the opinion of the prosecutor, concluded with an acquittal in the case related to Article 216, while ruling that the one based on article 301 should be "dropped".

Acting upon the conviction that no authorization from the Ministry of Justice was required any more for cases related to TCK Article 301, Kaboğlu and Oran appealed to the High Court of Appeals in order to have an acquittal verdict given for this case as well.*

Many European based international campaigns were launched in support of Kaboğlu and Oran in their trial. Among these was the signature campaign organized by a group of nine Professors of Law in Germany, Belgium, France and Italy. The campaign lasted from December 2005 to May 2006, with 1,257 University members and jurists taking part from 38 countries. Among them were high court judges, parliamentarians, ex-prime ministers and ministers, university rectors and people holding high positions in international organizations. In Turkey, Üniv-Der took the lead in a similar campaign, while many presidents and members of Turkish bar associations, beginning with that of İstanbul, contributed to the defense of the accused on a voluntary basis.

*The High Court of Appeals ruled that the trial should be reheard. 28th Ankara Criminal Court of First Instance on 17 December 2008. The court accorded with the High Court's opinion and sent the file to the Ministry of Justice for the suspects to be retried based on TCK Article 301. The Minister Şahin did not give permission for the retrial for Kaboğlu and Oran.

FREEDOM TO PUBLISH REPORT 2006

In the case of book publishing, this past year witnessed a decrease in bans imposed on publications, fewer prosecutions of publishers and an increase in the number of not guilty verdicts, but issues surrounding the right to publish still persisted and even increased. The government's commitment to pass legislation that relatively expanded the scope of freedom of speech and freedom of expression in Turkey in order to proceed with the EU accession process is the most important reason behind the decrease in bans and increase in the not-guilty verdicts.

According to the figures of the Ministry of Interior, 284 books were banned between 2000-2005. Following the latest legislative changes, the ban on 47 of those was lifted, while 237 continued to be banned. In the course of last year, 22 publishers, 47 authors and 49 books were subject to trial. Of these, 11 cases ended with not-guilty verdicts while another 11 resulted in guilty verdicts. In two cases courts said the matter was beyond their jurisdiction. Trials against 25 controversial books are ongoing. Since October 2004 books have rarely been banned; however, books, authors and publishers are still accused of being "insulting," "deceptive", "erotic", "separatist", "damaging", "fundamentalist" or "anti-religious." The exemption of translators from legal responsibility for their translations is a recent change for the better. But publishers continue to be held legally liable for books whose authors either live abroad or are foreigners.

Unfortunately, the new Turkish Penal Code (TCK), that includes reforms that received EU approval, includes new means for the prosecution of authors and publishers. Unfortunately, warnings issued by our Association and other associations of journalists and authors prior to the passing of the legislation were not heeded. In the end, the damage is and will continue to be inflicted on the democratic reform process towards becoming a member of the European community.

INCREASE IN IDEOLOGICALLY GROUNDED CASES

The most interesting aspect of this period has been the fact that authors, journalists and publishers were denounced by ideological groups. The number of trials resulting from such complaints has skyrocketed. The judiciary's valuable time was wasted with frivolous complaints made under TCK Article 301 by such ideological groups on the grounds of "denigration of Turkishness" and "insult to

the Government of the Republic of Turkey, the judicial institutions of the State, the military or security organization". The courts have handed down many guilty sentences as a result of such complaints.

Furthermore, Orhan Pamuk, Perihan Mağden, Murat Belge, İsmet Berkan, Hasan Cemal and some other authors and journalists were confronted with direct violence as they stood for trial. Elif Şafak is the latest internationally renowned author subjected to trial upon being denounced for her new book *Baba ve Piç (The Bastard of Istanbul)*. An investigation was opened with the charge of "denigration of Turkishness" against her and the editor of the Metis Publishing, Semih Sökmen. Such denunciations are the work of a small ideological group of extreme nationalists who attempt to turn the courtrooms into their campaign platform. We note that the Ministry of Justice has not fulfilled its duty of securing the impartial working of justice in such cases. The prosecutors could have ignored these denunciations just as they do the numerous complaints made by human rights institutions with regard to infringement of basic rights. These attempts at subjecting the justice mechanism to ideological pressure could be averted if prosecutors reject such complaints at the outset.

Another recent development of interest is the increase in the number of trials opened against journalists who wrote articles critical of the restrictions on freedom of expression under the charge of attempts to "influence" a trial. While some such complaints were dismissed, the Chief Editor of the daily *Agos*, Hrant Dink, his son Arat Dink, Serkis Seropyan and Aydın Engin have been charged. The accused were met with physical violence and insult during court hearings, similar to those that occurred during the Orhan Pamuk case, in May. Perihan Mağden's trial witnessed a similar example of belligerence. While books on the Armenian question had not been subject to prosecution for the past ten years, 2006 witnessed a number of such trials opened for various reasons. The first conviction in this vein came for Erkan Akay, a writer for the periodical *Çağrı*, for his article titled "90 Yıl Sonra Tarihle Yüzleşme Zamanı" (Time to Face History after Ninety Years) with a sentence of five months imprisonment based on TCK Article 301/1.

INCREASE IN THE NUMBER OF MEDIA TRIALS, RENEWAL OF CENSURE AND THE THREAT POSED AGAINST FREEDOM OF EXPRESSION BY THE NEW ANTI TERROR LAW

The number of trials involving journalists increased in the last year. Newspaper bans resurfaced with the bans imposed on Birgün, Evrensel and Özgür Gündem. During the last two years, 530 cases were opened at the İstanbul High Criminal Courts (ex State Security Courts) and the 2nd Beyoğlu Criminal Court of

First Instance, responsible for media cases, against the general manager, owner, writers and reporters of the Özgür Gündem newspaper based on articles 6 and 7 of the Anti Terror Law and Articles 213, 214, 215, 216, 218, 220, 301, 312 and 318 of the new Turkish Penal Code. Of these, 104 ended in a guilty verdict, and 22 not-guilty. Owner Ali Gürbüz was sentenced to a monetary fine of TL 192,755. Editor Hasan Bayar was sentenced to 15 years, 11 months and 10 days imprisonment, and an additional fine of TL 134, 391. The owner, reporter and editorial reporter respectively of the newspaper Cumhuriyet, İlhan Selçuk, Mehmet Sucu and Alper Turgut were sentenced under the charge of “influencing” a court case, for a news report titled “İşkenceye Beraat (Not-guilty of Torture). İlhan Selçuk, İbrahim Yıldız, Mehmet Teoman Sucu, and İlhan Taşçı are currently standing trial for the book *Kızıltepe Çelişkiler Yumağı (Kızıltepe: A Mess of Contradictions)*.

Hürriyet newspaper reporter Sebati Karakurt who interviewed Kurdish youth on Kandil Mountain is on trial under the Article 7 of the Anti Terror Law, together with responsible editors Necdet Tatlıcan and Hasan Kılıç. The producer of the program 32. Gün, Mehmed Ali Birand, is also accused of violating the same article for his interview with Kurdistan Workers Party (PKK) leader Abdullah Öcalan’s lawyers. Neşe Düzel of the Radikal newspaper was also charged under the same article for her interview with Kurdish politician Orhan Doğan. An article written by Emin Karaca in the daily Akşam to mark the anniversary of 12 March, led to his conviction and an arrest warrant for the editor Doğan Özgüden, a veteran of Turkish journalism and the ex-editor of Ant Publishing. A writer for the Turkish Daily News, Burak Bekdil was convicted with the charge of “insult” to the court. The new Turkish Penal Code poses serious potential to cause problems for freedom of expression and freedom to publish due to its confusing and vague definitions and the leeway it grants to prosecutors to impose indefinite bans on publications. Like the example of a minister in Ottoman times who said he would manage education just fine if there were no schools, it imagines a media without a dissenting voice. When the draft articles are read carefully along with their justifications, it becomes apparent that the law opens the door for some archaic practices regarding the media and its owners. As was pointed out during the preliminary debates on TCK Article 301, the law does not specify sufficiently clearly the offenses deemed punishable. Anything becomes subject to prosecution if and when a judge or a citizen deems it offensive.

The draft law is archaic as it includes bans of periodical, non-periodical, or electronic publications and the discretion it allows to prosecutors in this regard will surely cause a series of controversial practices. With this new measure, all publications will be subject to an indefinite ban upon a decision by a court. Ad-

ditionally, some cases previously receiving monetary fines will now be punishable by prison sentences.

Furthermore, the Article 8/B of the draft law states that “If the offenses listed in this law are committed under a legal entity, security measures listed in Turkish Penal Code’s Article 60 will be applied,” putting publishing companies under serious risk. A publishing company enters an irreversible process that might culminate in the closing down of the company if a book it published is convicted. The aforementioned article provides for sentences ranging from control of the commercial activities of the company to its downright closure. The new Turkish Penal Code is currently on the agenda of the Justice Commission of the Turkish Parliament.

ABUSE OF CIVIL LAW TO CURTAIL FREEDOM OF EXPRESSION

The trend of abusing civil law in order to curtail freedom of expression and freedom to publish persisted this year. Claims of “personal insult” are put forth when the categories specified by the law are deemed inapplicable. Unlike the case in most western democracies, the prevailing tendency in Turkey is still an old one of exempting politicians and statesmen from criticism as if they are in some way holy. While politicians can be legitimately criticised almost to the degree of insult in the West and politicians are expected to bear this criticism as a natural burden, not only our politicians, but even our artists ascribe to a certain “untouchable” status. How can a society that takes criticism as insult attain progress?

The complaint demanding the confiscation and ban of *Cancer Murders* by journalist Yaşar Güven published by Ozan Publishing, on the grounds that it insulted the medical profession was rightly rejected by the prosecutor. Was it because doctors were not deemed as important that such a decision was given? The association of doormen demanded the ban of a television serial, claiming that it insulted “doormanship.” This complaint was rightfully turned down as well. Are certain citizens more important, untouchable and “respectable” than others in the eyes of law? In our view, every citizen is equally respectable and has to be open to criticism and humor. A contemporary society has to be as such and the social hysteria we observe can only be a sign of backwardness.

Writer and journalist Ahmed Kahraman had to leave the country due to the insult and compensation cases opened against him and threats he received from politician Mehmet Açar following his book *100 Ünlü Türk (100 Famous Turks)* which dealt with the Susurluk scandal in which he was implicated in an alleged assassination of four people. Öteki Publishing considered one of the leading institutions of high quality literary and philosophical publications had to be closed

by its editor Vedat Yeniçeri, due to the heavy fines levied against him. Özcan Sapan, editor for Çiviyazıları Publishing, faced serious problems for similar reasons. Editor for Sorun Publications, Sırrı Öztürk, faces a heavy fine for Talat Turhan's *Mehmet Eymür: Bir MİT'cinin Portresi (Mehmed Eymür: Portrait of an MIT Agent)*. Muzaffer Erdoğan, editor for Pencere Publishing, was sentenced to a heavy fine in relation to *Eski Zamanlar (Old Times)* by Fevzi Karadeniz which allegedly insulted Doğu Perinçek, leader of the Worker's Party. Muzaffer Erdoğan currently stands trial at the 6th Ankara Criminal Court of First Instance for criticisms by academic Taner Akçam against the parliamentarian Şükrü Elekdağ, in his foreword for the *Blue Book* by English historian Arnold Toynbee, facing a sentence of a TL 20,000 fine. The same fine is also demanded from Taner Akçam, the translator of the book and Abdullah Onay, the editor of the periodical Birikim, where the article was previously published.

The complaints filed by the Prime Minister Tayyip Erdoğan against journalists and writers fall under this category. The prime minister filed numerous defamation complaints against many journalists and notably cartoonists this past year. Writers and publishers too received their share. Caricaturist for the Cumhuriyet newspaper, Musa Kart, was sentenced to TL 10 billion for depicting the prime minister as a cat entangled in a ball of wool. However, the High Court of Appeals overturned the decision and gave a not-guilty verdict. The complaints filed against caricaturists of one of the most popular comic humor magazines in Turkey, Penguen, for insulting the Prime Minister by depicting him as various animals were again rejected by courts which decided that the cartoons were within legitimate limits of criticism.

Erdoğan filed for a cessation of publication of Professor Yalçın Küçük's *İşyan (Rebellion)* and a compensation of TL 40 billion, claiming a violation of his rights. This case too was rejected. Writer Yücel Sarpdere of the newspaper Evrensel and Erbil Tuşalp from the newspaper Birgün were convicted as a result of complaints filed by the prime minister. The decision concerning Sarpdere was later overturned by the High Court of Appeals.

Overall, there were 59 complaints filed for violating the prime minister's rights. In 21 of them, the prime minister was found to be in the right, earning a total of TL 111, 500 in compensation. Ten cases were dismissed and 28 are still continuing. Painter and seasoned journalist, Fikret Otyam, a writer for Aydınlık, is among those convicted.

A complaint filed by 312 generals against the newspaper Vakit is one of the most interesting examples of such cases. The conviction against the newspaper of a fine of TL 624 billion was later overturned by the High Court of Appeals due to lack of sufficient investigation.

On the other hand, because of their articles and cartoons in the "Disiplinsiz Paşalar" (Generals without Discipline) issue of the journal Türkiye'de Cuma, Mustafa Karahasanoğlu, Abdurrahman Dilipak, Hüseyin Arı, Mustafa Hacımustafoğulları, Yalçın Turgut and Cengiz Almış were charged with "defaming generals in a way that would harm relations of hierarchy in the army," under Article 94 of the Military Penal Code.

While the penal case opened against *Birgün* writer Yalçın Ergünoğan upon a complaint filed by Haydar Baş, the leader of the Independent Turkey Party, was still pending, Baş also filed a "compensation" claim for TL 5,000, "reserving his right for more." Kemal Güler, caricaturist for the newspaper Vakit, was charged and convicted of violating the personal rights of the ex-parliamentarian and artist Arif Sağ. *Katille Buluşma: Bir JİTEM Dosyası, Musa Anter Cinayeti (Interview with the Murderer- A Gendarmerie Intelligence Service file: Murder of Musa Anter)* was confiscated upon a decision by the 3rd Diyarbakır Civil Court of First Instance. Mehmet Ali Altındağ, owner of Gün TV, filed a complaint demanding the confiscation of the book, claiming that it violated his personal rights.

In conclusion, this new period witnessed an increase in personal "violation" claims, while public "violation" cases continued as before.

TCK ARTICLE 301

As the draft new Turkish Penal Code (TCK) was being debated last year, TCK Article 301 emerged as one of the most controversial articles. Its structure was said to pose a threat to freedom to publish as its vague definitions would be open to interpretation. This was one of the articles upon which Turkish Publishers Association's criticism of the TCK rested. Even though the Minister of Justice Cemil Çiçek stated that "The draft code has received no criticism, everybody is happy," in fact, we had communicated to him in writing our reservations regarding this article and others like it. According to Article 301; 1- A person who publicly denigrates Turkishness, the Republic or the Turkish Parliament, shall be punishable by imprisonment of between six months and three years. 2- A person who publicly denigrates the Government of the Republic of Turkey, the judicial institutions of the State, the military or security organizations shall be punishable by imprisonment of between six months and two years. 3- In cases where denigration of Turkishness is committed by a Turkish citizen in another country the punishment shall be increased by one third. 4- Expressions of thought intended to criticize shall not constitute a crime.

Following the enactment of the law, this article soon began to be used to bring charges against writers and publishers, as we had anticipated. The eyes of the

world began to watch how this law, that was supposed to be “a significant step for freedom of thought”, began to curtail freedoms instead. Along with Orhan Pamuk, many writers and journalists began to stand trial.

Hrant Drink was charged with “denigrating Turkishness” and sentenced to six months in prison for an article in the daily Agos. The court justified its decision saying that “This article is not an expression of thought with an intention to criticize, but is rather insulting and hurtful in character.” Dink’s clean record and the court’s conviction that he would not repeat the crime led to the postponement of the sentence. The prosecutor appealed to overturn the decision. While the High Court of Appeals Circuit rejected this, the Prosecutor of the Court of Appeals went to the General Council demanding acquittal.

Mehmed Şevket Eygi, a columnist for the daily Milli Gazete, was charged under Article 216, paragraph 1 of the TCK (“inciting hatred and enmity among the people”) and was sentenced to one year in prison for his article titled “Gayret ve Hamiyet Kalmadı” (Lack of Enthusiasm and Patriotism), despite the prosecutor’s demand for his acquittal. The sentence was not postponed.

Following an interview with İbrahim Güçlü, the spokesperson for Kurd-Der published in the weekly Tempo brought about charges against Güçlü, reporter Enis Tayman and editor Neval Barlas for “denigrating Turkishness” and “incitement for disobedience to laws”.

Prof. İbrahim Kabaoğlu, head of the Human Rights Advisory Commission, and Prof. Baskın Oran, a member of the Commission, were charged under TCK 216/1 “inciting hatred and enmity among the people” and TCK Article 301/2 “denigration” of the judiciary for publishing the Azınlık Hakları ve Kültürel Haklar Çalışma Grubu Raporu (Minority and Cultural Rights in Turkey Working Group Report), which proposed a redefinition of Turkish identity in reference to the State of Turkey rather than to ethnic Turkishness.

Journalist-writer Emin Karaca was sentenced to five months in prison on charges of “denigrating the armed forces” under TCK Article 301/2, for the articles published in the periodical Türkiye’de ve Avrupa’da Yazın, commemorating the twentieth anniversary of the execution of the revolutionary leaders of the 1968 generation, Deniz Gezmiş, Yusuf Aslan and Hüseyin İnan. The prison sentence was later commuted to a suspended fine of TL 900. The 9th International İstanbul Biennale, a festival of arts, fell under the shadow of TCK Article 301 as well. The catalogue of an exhibition featured in the Biennale was accused of “insulting” the armed forces and a confiscation order was issued. According to the Radikal newspaper, curator Halil Altındere was invited to organize a photography exhibition displaying the works of 34 artists in the “Hospitality suite” on an entire floor of

the Antrepo 5 building. The exhibition catalogue was distributed free of charge during the exhibition.

While the exhibition was still ongoing, the Beyoğlu Criminal Court of Peace ordered the confiscation of the catalogue on October 13 based on an anonymous denouncement and the prosecutor’s request. The decision stated that three photographs with the theme of soldier, rank and uniform, insulted the army and added that “It is understood that by publishing pictures that portray the Turkish soldier as a target that has to be attacked under any circumstance, the defendants showed their bad intent and publicly insulted the armed forces”. The Beyoğlu Criminal Court of First Instance overturned the lower court’s decision, referring to Articles 9 and 10 of the European Convention of Human Rights which overrides national law. The decision stated that “None of the said photographs violate the prescriptions of the law. While the photographs are of questionable artistic merit and are suggestive of the use of violence which a majority of the populace might deem offensive, it should not be forgotten that democracy is about tolerating such emotions as long as the content is in accordance with the ECHR’s norms.” Meanwhile the Beyoğlu public prosecutor charged Halil Altındere under TCK Article 301, demanding six months to two years imprisonment.

An investigation was opened with regard to retired army captain Murat Pabuç for his book *Boyalı Bank Nibetini Terk Etmek (Abandoning the Guard over the Painted Bench)* upon a complaint filed by the Military General Staff that alleged that the book insulted the army. According to a news story in the daily Radikal, a “secret” memo was sent to the Ministry of Justice with the signature of Brigadier Hıfzı Çubuklu, legal counsel to the Military General Staff, claiming that the book commits the crime of “denigrating the armed forces” under TCK Article 301 and asking for due process. The memo also suggested merging this investigation with the ongoing trial about Pabuç.

In his defence, Murat Pabuç stated that his book is a memoir of his 21 years in service, during which he filed many reports of corruption. Pointing out that the book is about his real life experiences, Pabuç said that he had no intention to insult the army. Pabuç was previously charged upon a complaint by the Military General Staff concerning his articles published in the monthly Sol magazine entitled “Türk Silahlı Kuvvetlerinin Toplumsal Rolündeki Değişim” (The Change in the Social Role of the Turkish Armed Forces) and “NATO’cular İşlerini Sağlama Alıyorlar” (Nato-ists Keep Themselves at Work). The case against Pabuç, accused for violating the infamous but now defunct article 159 of the old TCK, fell as the case was not opened in time.

Journalist Ertuğrul Mavioğlu, who expressed his views on military prisons

during a debate on the 12 September 1980 military coup on the ATV television's Siyaset Meydanı, was acquitted from charges brought against him under the Article 7 of the Anti Terror Law.

Lastly, writer Perihan Mağden was charged under TCK Article 318 with “prompting, encouraging and spreading propaganda to deter people from fulfilling their military service” in an article on conscientious objection she wrote in the weekly magazine Aktüel. Mağden faces other trials as well.

Journalist-writer Ahmet Altan, who criticised reports issued by the Adana and Istanbul Institutions for Forensic Medicine concerning the alleged rape of a nine-year old boy, without giving the names of the institution or doctors, was sentenced to a fine of TL 6,000.

Erol Özkoray, the Chief Editor of the periodical İdea Politika faces retrial under the new TCK. Özkoray was previously convicted for his articles “Ordu Ne İşe Yarar?” (What is the Army for?) and “Yeni Barbarlar, Apoletli Talibanlar” (New Barbar, Talibans with Epauettes). In the trial held at the 2nd Şişli Criminal Court of First Instance, the General Director of Journalists without Borders (RSF) also faces charges.

Eren Keskin, former head of the İstanbul branch of the Human Rights Association (İHD), who was charged with “insulting the moral character of the army” in a speech she delivered at a conference under the theme “Women's Rights are Human Rights” in Germany in 2001, was sentenced to ten months imprisonment under TCK Article 301 on March 15. The Kartal 3rd Criminal Court of First Instance later converted the sentence to a monetary fine.

Editor of Belge Publications, Ragıp Zarakolu, faced trial for publishing Dora Sakayan's *Accounts of an Armenian Doctor: The İzmir Diary of Garabet Haçaryan*. The counsel for the publisher objected, arguing that the defendant cannot be charged for a book by an identifiable author, referring to the Press Law which states that publishers cannot be charged for books by identifiable authors, adding that as Sakayan is not a Turkish citizen, to do so constitutes a violation of constitutional principle of equality. The court decided to suspend the decision until the unconstitutionality claim is decided upon. Zarakolu is charged with “denigrating Turkishness and the armed forces” and faces imprisonment up to five years.

The 12th Ankara Criminal Court of First Instance acquitted journalist Rahmi Yıldırım, who had been charged with insulting the armed forces in his article “İş Bilenin Kılıç Kuşananın” (The qualified one gets the job done), in accordance with the prosecutor's opinion that “even the harshest criticism and all thought should have unlimited freedom.” Yıldırım's statement that “generals are protectors of the capitalist system” led to his indictment of “insulting the state's military forces”

under Article 159 of the now defunct Penal Code. As the new Penal Code went into effect on 1 June, the trial continued under TCK Article 301. During the first two hearings, Yıldırım said that he was merely being critical and asked for his acquittal, saying that “the army is not merely the protector of capitalism, but it is itself capitalist.”

Fatih Taş, the owner and the editor of Aram Publishing, was sentenced to six months in prison for “denigrating the Turkish Republic” in a book entitled *Kayıpsın Diyorlar (They Say You are Missing)*. The book tells the story of reporter Nazım Babaoğlu, who was kidnapped in March 1994 in Siverek, where he had gone to follow up a news story. He has not been heard from since then.

The press office of the Beyoğlu Public Prosecutor charged Mara Meimaridi's *The Witches of Smyrna* under TCK Articles 159/1 of Law No. 765 and e 301/2. The novel, which reached hundreds of thousands of readers in Greece and Turkey and which has been serialised for television, captures the story of Greek citizens' migration from Smyrna to Greece around the theme of women's interest in witchcraft.

Zülküf Kışanak, who narrated the story of 14 evacuated villages in Southeast Turkey in his book *Yitik Köyler: Bin Yılların Mirası Nasıl Yakıldı? (The Lost Villages: How the Heritage of A Thousand Years was Burnt Down)* was sentenced to five months imprisonment on the charge of “denigrating the Republic” under previous TCK Article 159, now Article 301. The sentence was later converted to a fine of TL 3,000.

Publisher Aziz Özer was sentenced to six months in prison for “denigrating the moral character of the Turkish Republic” in the article titled “80 Yıl Türkiye Cumhuriyeti, 80 Yıl Faşizm” (80 Years of the Turkish Republic, 80 Years of Fascism) which he published in the periodical *Yeni Dünya İçin Çağrı*. Aziz Özer received another six months sentence under the same charge for his article (No to Partnership for the Invasion of Iraq) published in the same journal.

Ali Rıza Vural, editor of the Doz Publishing, faced charges regarding Mesut Barzani's two volumes *Barzani ve Kürt Ulusal Özgürlük Hareketi (Barzani and Kurdish National Movement)*. The initial case opened in relation to the first edition fell due to the change in legislation, but the book is still under prosecution for the second edition published in May 2005. Vural stands trial at the 2nd Beyoğlu Criminal Court of First Instance. Beyoğlu Public Prosecutor Nihat Erdem's indictment dated October 2005 charges Vural with “denigrating the Republic in print” and asks for Vural's imprisonment up to three years under TCK Article 301/ 2.

For *Acının Dili Kadın (The Language of Suffering: Woman)* by Murat Coşkun, he and the owner of Peri Publishing Ahmed Önal, were charged with “publicly deni-

grating the armed forces of the state” under TCK 159/1. The second case opened for the same book under the charge of “fomenting enmity and hatred among the public based on race” has been merged with this first one. A total of 27 cases have been opened against Ahmet Önal for the books he has published and eight of those are still pending.

The investigation opened against Sorun Publishing editor Sırrı Öztürk and writer Osman Tiftikçi for the book *Osmanlı’dan Günümüze Ordunun Evrimi (Evolution of the Army from the Ottoman Times up to Today)* upon a complaint by the Military General Staff has led to the charge of “publicly denigrating the army.”

It appears that many other cases will be opened under TCK Article 301. The problem stems from the ambiguity of the law, which leaves it open to interpretation, as well as some prosecutors’ and judges’ disregard for the last clause of the Article that exempts criticism from punishment. It also appears that not much thought has gone into the content of the word “denigration” or “insult”. When criticism of any kind is deemed as an insult, any book or news report written about the institutions protected by TCK Article 301 becomes subject for charges and writers easily find themselves as defendants in a court of law.

The “denigration of Turkishness” article, which has formed the basis of the charges brought against Orhan Pamuk and Hrant Drink, is far too vague and can be used to file a case against anyone who writes critically about Turkey or Turkish citizens. The solution to this conundrum is pointed out by the judge at the Beyoğlu 3rd Criminal Court of First Instance who stated that as international treaties and conventions take precedence over national law and since Turkey is a signatory to the European Convention of Human Rights, the Article 9/10 of the Convention, rather than TCK Article 301 has to be applied if and when there is a contradiction between them.

As a conclusion, old TCK Article 159, and subsequently the new TCK Article 301 has been the most restrictive piece of legislation with regard to freedom of expression.

INSULTING ATATURK CASES

The memory of Mustafa Kemal Atatürk, the leader of the War of Independence and the founder of the Republic, is protected by a special Law No. 5816 on Crimes Committed Against Atatürk. This law has been the basis of many cases during this past year.

The İstanbul Public Prosecutor opened an investigation concerning the 290 page İstanbul City Guide distributed by MasterCard at the UEFA Champions League Final. Public Prosecutor Nazmi Okumuş apparently considered the news

story published in daily Zaman on 30 May 2005 as a denouncement and wrote to İstanbul Police Department asking for a copy of the guide. The Prosecutor then opened an investigation about the guide which included statements such as “genocide of the Armenians,” “Atatürk banned the Kurdish language in order to assimilate the Kurds” and “30 thousand people died in the war continuing since 1984.” It was learned that MasterCard General Director for Southeast Europe, Özlem İmece, will also be asked to give a deposition upon a directive sent to the Police Department to that effect.

Fatih Taş of Aram Publishing is on trial for John Tirman’s *Spoils of War: Human Cost of America’s Arms Trade* in Turkish, which allegedly “denigrates the armed forces” and “insults Atatürk. Taş, who had 30 books banned in the last six years and who faces 27 cases opened against him, was also sentenced to six months imprisonment by the 2nd İstanbul Criminal Court of First Instance for the book *Kayıpsın Diyorlar* which tells the story of the reporter Nazım Babaoğlu.

Mehmet Ali Varış, the owner of the Tohum Publishing, was charged under Law 5816 for the book titled *Kemalizm: Oturan Adam (The Sitting Man: Kemalism)*. The same publisher was also charged for *Çokkültürlülüğten Tekkültürlülüğe Anadolu ve Koçgiri (From Multiculture to Monoculture Anatolia and Koçgiri)*.

Ahmet Önal is currently on trial at the Fatih 2nd Criminal Court of First Instance for violating the law concerning offenses against Atatürk in the book *Derimde Alevilik (Alevi Sect in Dersim)* by Munzur Çem. Önal, who previously stood trial for the same book under TCK Article 312, had also been convicted by the 13th İstanbul High Criminal Court to a fine of TL 6,000 for an anonymous folk song.

The publisher was convicted under the same charge to a sentence of 18 months imprisonment for Evin Aydar Çiçek’s *Tutkular ve Tutsaklar (Passions and Prisoners)* as well. Önal is also on trial for *Diaspora Kürtleri (Diaspora Kurds)* by Hajare Şamil under TCK Article 220/8, under the charge of “propaganda of a terrorist organization or its objectives.” 11th İstanbul High Criminal Court claimed lack of jurisdiction and referred the case to the Kadıköy Criminal Court of First Instance. This court decided to continue the case under Article 7 of the Anti Terror Law.

LAW ON INTELLECTUAL AND ARTISTIC WORKS

With the changes on the Law on Intellectual and Artistic Works dated 12 March 2004, printing houses, publishers and bookstores were required to pay a fee to get a certificate from the Ministry of Culture and Tourism in order to publish, distribute and sell non-periodicals. Those who do so without this certificate would face a fine ranging from TL 10 billion to 100 billion. Therefore, contrary to the European

Convention of Human Rights Article 10 and the Article 28 of the Constitution which stipulates that “Press is free and shall not be censored” and the Article 29 of the Constitution which states that “Publication of periodicals or non-periodicals shall not be subject to prior authorisation or the deposit of a financial guarantee,” the publication of non-periodicals has been made conditional on the acquisition of a certificate from the Ministry of Culture and Tourism. Following the objection of publishers, the implementation has been postponed to 31 December 2006. It is expected that the legal changes that would lift the certificate requirement for publishing and selling non-periodicals will be put into effect until that time.

According to Radikal newspaper, it will no longer be possible to publish Adolf Hitler’s *Mein Kampf*, a book banned in many countries but which became a best-seller in Turkey, attracting the world’s attention. In this case where there were no legal grounds for a ban, the Minister of Culture and Tourism gradually put an end to sales of the book, as the Directorate for Copyrights stopped issuing certification stamps for it.

ACQUITTALS FOR OBSCENITY

Choke by Chuck Palahniuk, *The Sex Rebellion: Gender, Rebellion and Rock’n Roll*, by Simon Reynolds and Joy Press, *Philosophy in the Bedroom* by Marquis de Sade, *Last Refugee* by Dragan Babic, *Aum* by Murat Hiçyılmaz, Metin Üstündağ’s cartoon-book *Pazar Seçişgenleri (Sunday Lovers)*, French writer Alina Reyes’ *Lilith* and Enis Batur’s *Elma (Apple)*, all published by Ayrıntı Publishing were charged with offending public morals and confiscated, while some were even ordered to be destroyed. Nonetheless, all the books were eventually acquitted.

Despite the new arrangement that exempts artistic and literary works, Article 426 of the Turkish Penal Code was still used to ban erotic literature and art books in 2006. The publisher and the translator of Irvine Welsh’s book *Porno* was sentenced to a monetary fine. Murat Kürüz’s caricatures in *Kadın-Erkek Faaliyet Raporu (Man-Woman Activity Report)* published by Bilge Karınca Publishing were found obscene. The 3rd İstanbul Criminal Court of Peace decided to confiscate the book.

BOOKS BY İSMAİL BEŞİKÇİ

Despite the repeal of Article 8 of the Anti-Terror Law, the 11th Ankara High Criminal Court rejected the request to annul its decision to confiscate books by sociologist Dr. İsmail Beşikçi, prompting action by the Ministry of Justice. The Ministry sent a written notice to the court, stating that “non-violent thoughts should be expressed freely.” The Prosecutor for the High Court of Appeals agreed

with this opinion and accordingly, the 9th Penal Circuit of the High Courts of Appeals overturned the confiscation decision. Nonetheless, the court is still upholding its decision.

THE LITTLE PRINCE

A.S. Exupéry’s *The Little Prince* was listed among the 100 books that the Ministry of Education has recommended for primary school students, but it was removed from the list upon pressure from Islamic groups. The children’s classic had been subject to discussion in the press upon claims that the dictator in the book suggests an insult directed at Atatürk. The ministry officials say that public opinion was influential in removing this popular book from the list.

INSULT TO RELIGION

The issue of the French humor magazine Charlie Hebdo which included the Prophet Mohammed cartoons originally published in Denmark was not granted entry to Turkey and could not be sold at newsstands. Kaynak Publishing stated that expressions insulting religion in Sumerologian Muazzez İlmiye Çığ’s *Vatandaşlık Tepkilerim (My Reaction as a Citizen)* would be removed from the book. Kaynak Publishing issued a statement following a news story in the daily Zaman, with the title “Perinçek’in yayıncısına dine hakareten suç duyurusu” (Perinçek’s publisher accused of insult to religion). The publishers claimed that statements insulting religion in the book by Muazzez İlmiye Çığ had escaped from attention, but that they would be removed in the second edition.

DENIGRATION OF TURKISHNESS

Journalist-writer Yalçın Pekşen’s latest book, *The Türkler (The Turks)* continues to cause a stir. Bülent Deniz, head of the Consumers Association, filed a complaint about the book with the claim that it “insults Allah, the common deity of all humanity.” The book has met criticism for its anti-nationalist style. The complaint, filed at İstanbul Public Prosecutor’s Office, claimed that the book parodies Islam, Christianity and Judaism’s basic principles of creation as well as the concept of God. Stating that the book openly violates Articles 125 and 126 of the TCK, it was argued that any believer would be insulted by the book and that any person with a normal intelligence would necessarily react against it.

CONCLUSION

In conclusion, we have to further emphasize the point we made last year: The TCK, passed without being assessed in detail, poses serious potential to

cause problems for freedom of expression and freedom to publish due to its confusing and vague definitions. The increase in the number of the charges brought under “denigrating Turkishness”, “denigrating the armed forces” and “insulting Atatürk” can be seen as an indication of this point. “Insult” and “criticism”, “right to gather and distribute information” and “privacy of personal life”, “state secrets”, “organizational propaganda” and “political investigation and news reporting”, “inciting the public against one another” and “the realities and problems of social groups”, “obscenity” and “science and art”, “denigration” and “social criticism” has become impossible to distinguish from one another and it has become ever more possible to interpret laws according to an ideological viewpoint. Press and publishing is confronted with new problems as concepts such as “libel,” “national interest,” “political interest,” “publicizing secret information,” “incitement to war against the state,” “instigation against officials of a foreign state,” “offenses against foreign heads of state and flags” are wide open to interpretation.

We believe that the articles 125, 134, 214, 215, 216, 220, 226, 301, 304 305, 318, 323, 327, 329, 334, 336, 339, 340, 341 and 341 of the new Penal Code have to be reviewed in order for it to cease being an impediment in the way of freedom of expression, the press and to publish. Unfortunately, calls for amending articles related to the freedom of the press and freedom to publish were ignored.

The new Anti Terror Law poses an even greater threat to freedoms.

In order to establish and develop freedom of expression and freedom to publish, not only parliament but also the judiciary and the government has responsibilities to ensure they are upheld. Circumscribing basic freedoms for ideological reasons is a worldview that has to be left behind. The judiciary holds in its hands the important means of case law, which could be developed in reference to the major international laws and conventions to broaden the scope of freedom in Turkey. However, for the past ten years, the institution of case law was rather used to curtail the already narrow framework of rights. We believe that the legal profession bears a greater responsibility towards contributing to the realization of freedoms of expression and to publish. We would like to hope that the judiciary would interpret the vague definitions of the new TCK more liberally, in view of the universal conventions and treaties to which Turkey is a signatory. While the legislative branch has failed to subscribe to Turkey’s commitments to internationally upheld standards of freedoms of thought and expression, we would like to hope that the judiciary would embrace a more independent and liberal approach in its practices.

All these examples show that the intention of the government and legislative changes alone do not suffice on their own to secure freedom of thought and freedom to publish, that these might show varying tendencies according to changing

circumstances and that a fundamental change in mentality is necessary with regard to basic rights and freedoms. We would like to hope that the Judiciary would serve as a last resort in these critical periods. If this is not the case, problems would never come to end, and can only increase.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN 2005 AND IN THE FIRST HALF OF 2006

PUBLISHER	WRITER	BOOK
Aram	Timur Şahan	İtirafçı/ Bir Jitemci Anlatı
Aram	Menaf Osman	Gire Şekan (Yigitler Tepesi)
Aram	Mehmet Sabatlı	Kasırga Taburu
Aram	Kayhan Adnut	Tufanda 33 Gün (Acquittal)
Aram	Fatih Taş	Kayıpsın Diyorlar (Conviction)
Aram	John Tirman	Savaş Ganimetleri
Aykırı	Seyfi Öngider	İki Şehrin Hikayesi/ İstanbul-Ankara
Ayrıntı	S. Reynolds	Seks İsyancı - Toplumsal Cins (Acquittal)
Ayrıntı	C. Palahniuk	Tıkanma (Acquittal)
Ayrıntı	Dragan Babic	Son Sürgün (Acquittal)
Ayrıntı	Marquis de Sade	Yatak Odasında Felsefe (Acquittal)
Belge	George Jerjian	Gerçek Bizi Özgür Kılacak
Belge	Dora Sakayan	Bir Ermeni Doktorun Yaşadıkları
Belge	Zülküf Kuşanak	Yitik Köyler (Conviction)
Bilge Karınca	Murat Kürüz	Kadın-Erkek Faaliyet Raporu (Conviction)
Doz	Mesut Barzani	Barzani ve Özgürlük Hareketi
Evrensel	Ahmet Kahraman	Kürt İsyancı
Güncel	Nedim Şener	Uzanlar / Bir Korku İmparatorluğunun Çöküşü
Güncel	Ersin Kalkan	Katille Buluşmak
Güncel	Alina Reyes	Lilith (Acquittal)
İstanbul Bienali	Halil Altıntepe	9. Bienal Kataloğu
Kaynak	Muazzez İlmiye Çığ	Vatandaşlık Tepkilerim
Literatür	Mara Meimaradi	İzmir Büyüğüleri
Mastercard	Özlem İmece	İstanbul Şehir Rehberi
Mektup	Emine Şenlikoğlu	Burası Cezaevi (Conviction-Postponement)
Metis	Elif Şafak	Baba ve Piç
Parantez	Almadovar	Patty Dyphusa Öyküleri (Acquittal)
Pencere	Fevzi Karadeniz	Eski Zamanlar (Conviction)
Pencere	Toynbee	Mavi Kitap
Peri	M. Erol Coşkun	Acımın Dili Kadın (Conviction)

Peri	Evin Çiçek	ŞTutkular ve Tutsaklar (Conviction)
Peri	Hejare Şamil	Diaspora Kürtleri
Peri	Munzur Cem	Dersim'de Alevilik (Conviction)
Peri	Mahmut Baksi	Teyre Baz / Hüseyin Baybaşın (Conviction)
Peri	Hejare Şamil	Öcalan'ın Moskova Güleri (nol. prosequi)
Say	Yalçın Pekşen	The Türkler
Sel	Metin Üstündağ	Pazar Sevişgenleri (Acquittal)
Sel	Enis Batur	Elma (Acquittal)
Sol	Murat Pabuç	Boyalı Bank Nöbetini Terk Etmek
Sorun	Osman Tiftikçi	Osmanlı'dan Günümüze Ordunun Evrimi
Sorun	Talat Turan	Mehmet Eymür, Bir MIT'cinin Portresi (Conviction)
Stüdyo/İmge	Irvine Welsh	Porno (Conviction)
Tohum	Mehmet Ali Varış	Kuzey Batı Dersim: Koçgiri
Tohum	Mehmet Ali Varış	Kemalizm-Oturan Adam
Tohum	Aytekin Yılmaz	Çok Kültürlülükten Tek Kültürlülüğe Anadolu
Yeni Gökyüzü	Hasan Baran	Ayağında Kundura (Confiscation cancelled)
-	Cemal Anadol	İsrail ve Siyonizm Kıskaçında Türkiye (Acquittal)
-	Hitler	Kavgam
-	Sinan Kara	Sinan'ın Kara Kitabı

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2007

RAGIP ZARAKOLU

Publisher

Born in Büyükkada in 1948, Zarakolu graduated from the Kabataş High School and the Faculty of Economics, İstanbul University. His doctorate studies were interrupted twice; first by the 1971 coup, secondly by the assassination of his tutor Tütengil. He began writing in 1968 for the *Ant* and *Yeni Ufuklar* magazines. In 1971 Zarakolu was one of the defendants of the "Intellectuals Case" brought after the military coup of 1971 in response to the first Amnesty International related Turkish Freedom of Expression campaign (the Şadi Alkılıç campaign). He was sentenced to two years' imprisonment for his article on Ho Chi Minh and the Vietnam War in 1972 and was released following the general pardon of 1974. In 1977 he founded the Belge Publishing with his wife Ayşe Nur Zarakolu. In 1979 he co-founded the newspaper *Demokrat* with 36 other intellectuals, acting as its administrator. He was detained in 1982 for a short period due to his connection to the newspaper. Zarakolu was prohibited from leaving the country during the years 1971-91. Following the 1980 coup he began publishing the *Dünyada Neler Oluyor (Etat du Monde)* annuals. He founded the Alan Publishing House in 1982, and took on the edition of theoretical periodicals such as *Dünya Sorunları-Türkiye Sorunları, 11.Tez (World Problems-Turkey Problems, Thesis 11)*. Zarakolu was one of the founders of the Human Rights Association (İHD) in 1986, as well as of the History Foundation of Turkey (Tarih Vakfı). He has been the chairman of the Turkish Publishers Association Freedom to Publish Committee for the last 12 years. He is also a member of the International Publishers Association Freedom of Thought and Expression Committee.

There are several ongoing court cases against Zarakolu for works he has published.

His awards up to 2007:

The 1999 Turkish-Greece Peace and Friendship Award from the Abdi İpekçi Committee (for his extensive inclusion of Greek literature in his *Marenostrum* series)

The 2003 Oxfam/Novib PEN International Freedom of Expression Award The 2004 Freedom of Expression Award from the Norwegian Writers Union and Nor-

wegian Ministry of Culture and Tourism, an award given to individuals who have struggled for the Freedom of Expression

The 2007 Turkish Publishers Association Freedom of Thought and Expression Award

The 2007 IAGS (International Association of Genocide Scholars) award in Sarajevo.

ELİF ŞAFAK

Writer

Elif Şafak was born in Strasbourg in 1971. She graduated from the Middle East Technical University (ODTÜ) International Relations Department, completed her post-graduate studies in the same institution's Department of Gender and Women's Studies and her doctorate in Political Sciences. Her master's thesis on "Femininity-Circularity in Bektashi and Mevlevi Reasoning" was awarded by the Social Sciences Association. Her first book of short stories *Kem Gözlere Anadolu (Anatolia to Envious Eyes)* was published in 1994. Her first novel *Pinhan* was awarded the Mevlana Grand Prize in 1998. This was followed by *Şehrin Aynaları (Mirrors of the City)* and *Mahrem (The Gaze)* which earned the author the 2000 Turkish Writers Union Award. Now known to a wide audience, the writer published *Bit Palas (The Flea Palace, 2002)* and *Araf (The Saint of Incipient Insanities, 2004)* under the Metis Literature Series, where she had also published her previous works. She gathered her writings on womanhood, identity, cultural division, language and literature together in *Med-Cezir (Tide, 2005)*. Elif Şafak who has been living in the US for some time, writes for various American and European newspapers and magazines, and lectures at the University of Arizona having previously taught at the University of Michigan. Her books have been translated into numerous languages and her last novel *Baba ve Piç (The Bastard of Istanbul, 2006)*, which was written in English, was printed by one of the world's leading publishing houses, Viking/Penguin. The trial launched against her concerning this book concluded with an acquittal.

Her books published up to 2007: *Pinhan*, (1997), *Şehrin Aynaları* (1999), *Mahrem* (2000), *Bit Palas* (2002), *Araf* (2004), *Beşpeşe* (2004), *Med-Cezir* (2005), *Baba ve Piç* (2006).

ESEN ALIŞ

Bookseller

Esen Aliş was born in Bartın in 1944. He completed his higher education at the Faculty of Economics of the İstanbul University. He took over the Azim Book-

shop in 1975 from the previous second generation owners. The shop had been founded by Ahmet Kemal Aliş and his elder brother Cemal Aliş in 1925, together with the Bartın newspaper, which has remained in existence until today, basing its editorial policy on the revolutionary principles and precepts of Atatürk.

The two founding brothers started their enterprise at a time when the rate of literacy was very low, in a small city of some five thousand inhabitants in a Black Sea coastal district, fueled by their faith and their passion for books and reading and by a desire to enlighten the people and enrich their cultural life. Their exceptional mission has continued uninterrupted until today, some 82 years.

According to the results of a yet unofficial survey covering the whole country, which was carried out by the Ministry of Culture and Tourism six months ago, the Azim Bookshop, with its history spanning the last 82 years, enjoys the privilege of being the oldest bookshop in Turkey.

Esen Aliş has pursued his work at both the bookshop and the newspaper for 32 uninterrupted years.

FREEDOM TO PUBLISH REPORT 2007

2006 was one of the most negative years in terms of the freedom of expression and freedom to publish and unfortunately, problems continue in 2007. The most important aspect of this negative state of affairs is that it entails violence directed at freedom of thought and this violence comes from ideologically oriented groups, and worse still, this ideological orientation tries to affect institutions of justice. This tendency, which we had noted last year, reached its nadir with the assassination of the journalist Hrant Dink in January 2007. From the politicians to the press and to judiciary mechanisms, this murder reminded all of the crucial importance of freedom of expression and of not turning those who think differently into targets. This dangerous development subsided only with the country's entrance to the process of general elections. For us publishers, the positive development of the year was that the banning and recall of books has become very rare and that publishers are no longer held legally liable for the books they publish. For that reason, the charges against many of our publisher friends have been dismissed or they were acquitted. Yet this happiness has been overshadowed as translators are now being held liable for the books we publish. They continue to be held liable for books whose authors are either foreigners or are living abroad.

On the other hand, the cases where publishers and authors face personal insult charges opened for political reasons are on the increase, constituting an abuse of civil law. We also consider the influencing of judiciary mechanisms by ideological considerations a problem to be reckoned with.

On the other hand, the relative increase in acquittals, dismissal of proceedings and our prosecutors' and judges' references to the international judiciary documents, and specifically to the European Convention of Human Rights, should be counted among positive developments.

Last year, we witnessed the positive results of the legal change that exempted the works of art and literature from the scope of "obscene publications" legislation. Five out of the six cases opened against books published by Stüdyo/Imge Publishing, the recipient of our Association's Freedom of Thought and Expression Award, concluded with acquittal. The court sentence for Irvine Welsh's *Porno* is at the High Court of Appeals. We hope this case to also end positively. Similar cases against Sel and Parantez publishing houses were concluded positively.

From the perspective of our main area of interest, publishers, the numbers for the year 2006-7 are as follows: 43 authors and 24 publishing houses were taken to court for the 43 books they had either written or published. Hence there was not a significant change in the number of cases opened. Eight acquittals, 13 convictions and five dismissal of proceedings were given, while 17 cases are still pending. In 2006, prison sentences were generally turned to monetary fines except for the cases of publishers Mehmet Ali Varış and Ahmet Önal.

In 2007, the author Mehmet Pamuk was sentenced to 15 months of imprisonment for his book *Kemalism, Secularism and Martyrdom* (Ekin Publishing) for allegedly infringing the Article 216 (the old Article 312) of the Turkish Penal Code by the Fatih 2nd Criminal Court of First Instance.

Authors, journalists and publishers who have been facing courts as a consequence of expressing their thoughts, also had to face the ideology-based violence and lynch threats of some fanatic groups this year. Unfortunately, this wave of violence against the freedom of expression reached its nadir with the murder of the journalist/writer Hrant Dink on 19 January 2007.

While this wave has relatively subsided toward the end of last year, problems appear to be continuing in 2007 as well. The prosecutors have been showing more "discretion" in deciding against proceeding with investigations in cases of works seen as influencing the judiciary, and the courts are dismissing cases more often. That the first investigation of 2007 was opened against the academic Taner Akçam in relation to the Armenian issue as a result of a complaint filed by an ideological group exemplifies one side of the coin, while the dismissal of proceedings afterwards, the other. The said researcher was also assaulted during his conferences abroad and lists of names of those who share his views that were publicized on extreme right websites. The fact that neither the government nor the legal authorities took any preventive measures against such actions testifies to the difficulty of overcoming this tendency for violence.

It became legally clear that naming the tragic events of 1915 as genocide does not constitute a crime, with the acquittal decision given in the Dadrian/Ayşe Nur Zarakolu case, which was opened for the book *Ulusal ve Uluslararası Hukuk Sorunu Olarak Jenosid: 1915 Ermeni Olayı ve Hukuki Sonuçları* (*Genocide as a problem of national and international law: The World War I Armenian case and its contemporary legal ramifications*) and its approval by the High Court of Appeals. As a consequence of this decision becoming a case law, other acquittal decisions were given and many books with the theme "Armenian Genocide" could be published. We consider the law passed by the French Parliament which bans "The Denial of the Armenian Genocide" as negative from the perspective of freedom of expression

and we hope that it would not be approved by the Senate. On the other hand, we consider the reprisal draft law kept on the agenda of the Turkish National Assembly, that bans the “Acceptance of the Armenian Genocide,” as a backward step that would curtail the freedom of expression.

While there are no legal grounds for punishing the term “genocide,” we are concerned from the perspective of freedoms of thought, expression and freedom to publish, about the case opened in defiance of the High Court of Appeals case law, against Hrant Dink (murdered in January 2007) and continued in the persona of his son Arat Dink and the Agos newspaper owner Sarkis Seropyan, for using this term, as well as the prosecutor’s claim that it “insults Turkishness by way of allusion.” If cases are to be opened based on vague concepts open to interpretation such as “alluding,” we are certain to face many more problems in the future. It is urgently imperative for the judiciary to absolve itself from ideological influences, to base its decisions on legal principles and concepts and to allow for the penetration of international law.

TURKISH PENAL CODE ARTICLE 301

While the Orhan Pamuk case, based on Article 301 and which had found wide range media coverage, was dismissed, the journalists Ali Kurca, Ertuğrul Mavioglu, İlhan Selçuk, Rahmi Yıldırım, chair of the Urfa branch of Mazlum-Der, Şehmus Gülek and lawyer Hasip Kaplan were also among the acquitted. However, Hrant Dink, Mehmet Pamak, Erol Özkoray, Mustafa Balbal, Emin Karaca, Zülküf Kışanak, Erkan Atay, Emine Şenlikoğlu, Mehmet Şevki Eygi, Abdurrahman Dilipak, human rights activist Eren Keskin, periodical editor Aziz Özer and publishers Fatih Taş (there are 20 cases currently in court and pending at the High Court of Appeals for Taş as editor of the Aram Publishing), Mehmet Ali Varış and Ahmet Önal, were not as lucky. Their names were added to the list of “prisoners of thought” following the sentences they received. Journalist İbrahim Çeşmecioğlu, Yalçın Ergündoğan, and Sinan Kara (imprisoned in 2007) were other names facing trial.

The author of the novel *The Baba ve Piç (Bastard of Istanbul)* Elif Şafak was acquitted in the first hearing, and the translator of the book, Aslı Biçen and the publisher of Metis Publishing Semih Sökmen, were exempted from the case as the first instance of the application of “publishers’ not being held liable” when the author was “in Turkey.”

The author of *Ararat’taki Esir Generalden Kan Çiçekleri (Flowers of Blood From A Captive General on Ararat)*, Mustafa Balbal, was sentenced based on Article 301. Sentenced twice with the same article, Balbal received two separate five month terms in prison.

The investigation opened with the charge of “publicly insulting the army” based on a complaint by the Military General Staff against the author of the book *Osmanlı’dan Günümüze Ordunun Evrimi (The Evolution of the Army from the Ottomans to the Present)*, Osman Tiftikçi, and the book’s publisher Sırrı Öztürk, later led to a case. An arrest warrant has been issued for the author in his absence.

The editor of Belge Publishing, Ragıp Zarakolu, had to face the judge for publishing Dora Sakayan’s *Bir Ermeni Doktorun Yaşadıkları Garabet Haçeryan’ın İzmir Güncesi (An Armenian Doctor in Turkey: The İzmir Diary of Garabet Haçeryan)*. The case opened against Zarakolu for “denigrating” Turkishness and the military ended with acquittal on May 3, with the translator Atilla Tuygan being held liable.

The other case opened against Zarakolu with the charges of “publicly insulting Turkishness” and of “insulting the memory of Atatürk,” for publishing George Jerjian’s *Gerçek Bizi Özgür Kılacak: Ermeni ve Türk Barışması (The Truth Will Set us Free)* is still continuing with a possible prison sentence of up to three years, as both the author and the translator are “abroad.”

The case opened against the publishing house representative and the two persons who prepared for print the book *The Production of Consent: The Political Economy of Mass Media* by the famous philosopher and linguist Noam Chomsky and Edward S. Herman, for “publicly insulting Turkishness, the Republic and the National Assembly” and “instigating the people to enmity,” ended with acquittal.

The editor of Doz publishing, Ali Rıza Vural, faced the judge for the book by Mesut Barzani, called *Barzani and Kurdish National Freedom Movement*. The case opened against the first edition in February 2003 fell due to change in the law, but the book was again put on trial after its second edition in May 2005. The case against Vural has begun in Beyoğlu 2nd Criminal Court of First Instance. The indictment asks for imprisonment up to three years for the editor Vural, under Article 301/2, charging him with “insulting and degrading the Republic in print.” The case is still pending.

For the book *Acının Dili Kadın (The Language of Pain: Woman)*, the author Murat Coşkun and the owner of Peri Publishing, Ahmet Ünal, were charged with “insulting” the armed forces of the State under Article 159/1 (now 301). For the same book, Ahmed Önal also faced a second trial under Article 312, with the charge of “incitement to religious or racial hatred”. Meanwhile, the investigation opened “due to complaint” against Erol Özkoray, the author of the book *Ordu Ne İşe Yarar? (What Good is the Army for?)* ended with a dismissal decision that cited the European Convention on Human Rights. The articles inside the book which had been subject to prosecution beforehand were also acquitted.

The champion of the year was, without doubt, the Turkish Penal Code Article

301. The chance of legal revision for this article, which is currently the most problematic one from the perspective of freedom of thought and freedom to publish, is unfortunately currently frozen with the stalling of the EU accession process. There is more need for prosecutors and judges to take heed of the international norms on freedom of thought and expression while using their discretion in order for the article to cease to be problematic.

THE ANTI TERROR LAW

One of the most negative developments in 2006 has been the reversal of the positive changes in the Anti Terror Law and furthermore, its amendment in a way that will lead to even more negative consequences. In this framework, newspapers such as *Özgür Gündem*, *Atılım*, *Birgün* and *Evrensel*, radio stations such as Free Radio, and Voice of Anatolia, and periodicals such as *Özgür Halk*, *Yürüyüş* and *Kaos GL*, have been banned or closed down (*Özgür Gündem*, *Anadolu'nun Sesi*) from time to time, and some even faced raids (*Atılım*) by the security forces. The editor of the periodical *Sanat ve Hayat* and the chair of the BEKSAV Institution for Art and Culture, *Hacı Orman*, has been the target of serious threats and was arrested. The cases opened against the now closed-down *Özgür Gündem* reached 550 and the editor-in-chief *Hasan Bayar* has been sentenced to a total of five years and 10 months imprisonment. The editor-in-chief of the newspaper *Hüseyin Akyol*, was charged under the Anti Terror Law for an interview he gave. Even mainstream media newspapers such as *Hürriyet* and *Radikal* got in trouble with the Anti Terror Law for the interviews they published.

The editor of *Peri Publishing*, *Ahmet Önal*, was charged under TCK Article 220/8 for making propaganda for a terrorist organisation and its objectives for the book *Diaspora Kurds* by *Hejare Şamil*. The İstanbul 11st High Criminal Court dismissed the proceedings and sent the case over to the *Kadıköy Criminal Court* of First Instance. The case opened against *Önal* under Article 220, will be continued under the Article 7 of the Anti Terror Law which punishes terrorist propaganda with up to five years in prison and a monetary fine.

CASES OF INSULTING ATATÜRK

The personal memory of the leader of the Independence War and the founder of the Turkish Republic, *Mustafa Kemal Atatürk*, is protected by a special law, No. 5816, "The Law Concerning Crimes Committed Against Atatürk". This year, insult to *Atatürk's* personal memory has been the justification for many cases.

The case opened against *İpek Çalışlar*, author of *Latife Hanım (Lady Latife)*, with the charge of insulting *Atatürk* and defiance of Law 5816 threat of imprisonment up to four and a half years ended with acquittal.

The case opened against *Fatih Taş*, representative of *Aram Publishing* for publishing author *John Tirman's Spoils of War: The Human Cost of American Arms Trade* in Turkish, with the charges of "publicly insulting the military forces" and "insulting *Atatürk*," also ended with acquittal.

The case opened against the owner of *Tohum Publishing*, *Mehmet Ali Varış*, for the book *Kemalizm: Oturan Adam (Kemalism: the Sitting Man)*, in accordance with the Law on Crimes Against *Atatürk*, concluded with sentencing.

The owner of *Peri Publishing*, *Ahmet Önal*, is currently standing trial at the *Fatih 2nd Criminal Court of First Instance*, for a violation of the Law No. 5816 the book *Dersim'de Alevilik (Alevi Sect in Dersim)* by *Munzur Çem. Önal* had been previously sentenced by the *İstanbul 13th High Criminal Court* because of certain expressions in the same book, which were considered to infringe on the old Penal Code's Article 312.

DEEP STATE

The case opened against journalist *Belma Akçura's Derin Devlet Oldu Devlet (Deep State became the State)* which ended with conviction in January, the banning of journalist *Ersin Kalay's Bir JİTEM Dosyası (A JİTEM File)*, on the murder of the writer *Musa Anter*, and the sentencing of publisher *Fatih Taş* for his book *Kayıpsın Diyorlar (They Say You are Missing)* on the missing journalist *Nazım Babaoğlu*, indicate that the taboo on the "deep state" remains unbroken.

LAW ON INTELLECTUAL AND ARTISTIC WORKS

With the changes brought about with the Law on Intellectual and Artistic Works that came into force in 12 March 2004, the printing houses that print, the publishers that publish, and the bookstores that sell non-periodicals, are required to get a certificate from the Ministry of Culture and Tourism in return for a certain fee. The change is justified on the grounds of preventing pirate publishing. Those who print, publish or sell books without a certificate are held liable for a fine of between TL 10 billion to TL 100 billion. In this way, contrary to the European Human Rights Convention and also to Article 28 of the Constitution which states that "The press is free and cannot be censored. The establishment of a printing house shall not be subject to prior permission or the deposit of a financial guarantee" and to the Article 29 of the Constitution which says that "Publication of periodicals or non-periodicals shall not be subject to prior authorization or the deposit of a financial guarantee", publishing a non-periodical became conditional on acquiring a certificate from the Ministry of Culture and Tourism. Following the publishers' objection to this change, stating that this practice is contrary to the

freedom to publish as defined in the Constitution and international conventions, the implementation has been postponed to 31 December 2007. It is expected that necessary changes will be made in the law in the meantime and the precondition of attaining a certificate for publishing and selling non-periodicals will be lifted.

LIBEL CASES OPENED BY THE PRIME MINISTER

The highest number of libel cases were opened personally by the Prime Minister Recep Tayyip Erdoğan and institutionally, by the office of Chief of Staff. Opposition People's Republican Party (CHP) parliamentarian Şükrü Elekdağ has opened an indemnity case TL 20, 000 against the editor of Pencere Publishing, Muzaffer Erdoğan, with the claim that his personality as a member of parliament has been insulted in the foreword of the historical document titled *The Blue Book*, prepared by the English historian Arnold Toynbee. Unfortunately, civil law is being manipulated in such cases as a means to curtail the freedom of criticism, expression and freedom to publish. Besides these institutions, a group of nationalist lawyers have come forward as a body that tries to curtail the freedom of thought and expression "in the name of the nation," without having either such a right or authorization. The number of cases opened by the prime minister with the claim that he was insulted was 57. Only 10 have been rejected, 21 of them ended in favour of the prime minister to receive damages, and 28 cases are still continuing. Among these, there is also the case of the renowned caricaturist Turhan Selçuk.

CASES OPENED BY THE MILITARY GENERAL STAFF

Retired General Osman Pamukoğlu was charged with "disclosing secrets" upon a complaint by the Military General Staff to the military court. Journalist Abdullah Dilipak also faces a similar situation. Journalist Erol Özkoray, editor of Sorun Publishing Sırrı Öztürk, Osman Tiftikçi (who has an arrest warrant in absentia), retired army captain Murat Pabuç, Cüneyt Arcayürek, Tuncay Özkan, Belma Akçura, Adnan Bulut, and Perihan Bulut have also been tried based on complaints filed by the military. For this reason, a new case has opened at the end of the year, based upon a complaint by the Military General Staff against the sociologist Dr. İsmail Beşikçi, who has been tried many times for his thoughts for the past 35 years, for the interview titled "Konuşmadık Bastırdık" (We didn't Speak, We Crushed) published in the popular culture magazine Esmer, along with its editor, Ferzande Kaya.

The military head prosecutor of the Military General Staff opened a case against the retired major general Osman Pamukoğlu for disclosing secret information in his book *Unutulmalar Dışında Yeni Bir Şey Yok* (*Nothing New Besides the Forgotten*).

The indictment against Pamukoğlu stated that the information in the book "did not qualify as state secret, but it has begun to be used by the PKK." For this reason, the head prosecutor opened a case against Pamukoğlu based on the Article 95 of the Military Penal Code, demanding imprisonment from six months to three years. The Article 95 of the Military Penal Code demands "imprisonment of up to three years of persons who disclose and write about the military information that they have come to know as a result of their military duty."

On 19 January 2006, the Chief of Staff filed a complaint classified as "secret," with regard to the Ferzande Kaya and Mehmet Ali İzmir, executives of the journal Esmer for İsmail Beşikçi's article titled "We didn't Speak, We Crushed" in the December 2005 issue of the magazine to the Ministry of Justice General Directorate of Criminal Affairs. Consequently a case was opened.

CENSURE OF SCHOOL BOOKS

The Ministry of National Education censored a world famous painting depicting a woman baring her bosom in the seventh grade Citizenship and Human Rights Education textbook. The painting by famous French painter Eugene Delacroix, *Liberty Leading the People*, dated 1830 and considered a symbol of the French Revolution, was removed from the textbook.

INVESTIGATION OF A TURKISH-KURDISH PLAY BOOK

The mayor of Sur district of Diyarbakır in south east Turkey, Abdullah Demirtaş and three officials were under investigation for distributing a Turkish-Kurdish play and handbook for teachers and students' parents on World Teachers Day. Following the completion of the preliminary investigation by the Ministry of Interior inspectors, Diyarbakır public prosecutor opened his own investigation. The mayor and three officials were called in to the prosecutor's office and gave testimony. The Diyarbakır public prosecutor is presently continuing the investigation with the charges of defiance of the 1928 *Law on Adoption and Application of Turkish Letters* and "abuse of duty."

AHMET ÜMİT'S BOOK WAS UPHELD

Writer Ahmet Ümit's *Tapınak Fahişeleri* (*Temple Whores*), and an unpublished book in his novel series *Başkomser Nevzat* (*Police Chief Nevzat*), was found "pornographic" by the Prime Ministry Council for the Protection of Minors against Harmful Publications for caricatures by İsmail Gülgeç that it contained. The committee banned the sale of the book to under 18 year olds and posting advertisements. Previously, Doğan Books had withdrawn from publishing the book with

the excuse that the pictures showed the “male organ.” The Law on the Protection of Minors against Harmful Publications includes the precept that “printed works are subjected to limitations.”

INSULT TO RELIGION

One of the positive developments of the year was the conclusion with acquittal of the case opened against the 92-year-old Sumerologist Muazzez İlmiye Çığ, of charges of violating TCK Article 216 and 218; that is, “inciting hatred and enmity among the people”. Muazzez İlmiye Çığ and the director of the Analiz Printing & Publishing Company, İsmet Ögütücü, were acquitted in the case of Çığ’s book *Vatandaşlık Tepkilerim (My Citizenship Objections)* which allegedly instigated the people to enmity and was insulting. Beyoğlu 2nd Criminal Court of First Instance based its acquittal decision regarding Çığ on the “the absence of the legal components of the crime,” and on Ögütücü, on “his unaccountability according to the Article 11 of the Law 5187.”

CONCLUSION

To conclude, this year was a year of conflicts as well as of an intensive struggle for freedom of expression and freedom to publish. For the first time, a Turkish author received the Nobel Prize for Literature. Besides being a universal recognition and praise of Orhan Pamuk’s success as an author, this award also means the crowning by the world of the struggle for the freedom of writing, publishing and reading that brave authors and publishers in Turkey have continued for generations in Turkey.

We congratulate our Zimbabwean colleague publisher Trevor Ncube, who received the 2006 Freedom To Publish Prize granted by the International Publishers Association (IPA), of which we are a member, at the Cape Town Book Fair.

We also thank the IPA for giving a “Special Prize” to Anna Politovskaya, the Russian journalist who was killed in October 2006 for bravely investigating the Chechnya tragedy and to Hrant Dink, who was assassinated in İstanbul on 19 January 2007.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN 2006 AND 2007

PUBLISHER	WRITER	BOOK
Aram	Gülçiçek Günel	Dilimiz Varlığımız Dilimiz Kültürümüzdür
Aram	Timur Şahan	İtirafçı/ Bir Jitemci Anlattı
Aram	Tayhan Umut	Tufanda 33 Gün (Acquittal)
Aram	Ali Aydın	Kayıpsın Diyorlar (Conviction)

Aram	Serdem Çiyayi (Derl.)	Gerilla Şiiri Antolojisi
Aram	Ayhan Kaya	Mordemin Güncesi
Aram	John Tirman	Savaş Ganimetleri (Acquittal)
Aram	Noam Chomsky	Rızanın İmalatı (Acquittal)
Aykırı	Seyfi Öngider	İki Şehrin Hikayesi (Dismissal of Proceedings)
Belge	George Jerjian	Gerçek Bizi Özgür Kılacak
Belge	Dora Sakayan	Bir Ermeni Doktorun Yaşadıkları
Belge	Zülküf Kışanak	Yitik Köyler (Conviction)
Belge	Peter Balakian	Kaderin Kara Köpeği (Dismissal of Proceedings)
Belge	Erol Özkoray	Ordu Ne İşe Yarar (Dismissal of Proceedings)
Bilge Karınca	Cemal Anadol	İsrail ve Siyonizm Kısacasında Türkiye (Acquittal)
Boran	Derleme	Tecrit’te Yaşayanlar Anlatıyor
Doz	Mesut Barzani	Barzani ve Özgürlük Hareketi
Doz	Mustafa Balbal	Ararat’taki Esir General (Conviction)
Ekin	Mehmet Pamak	Kemalizm, Lâiklik ve Şehitlik (Conviction)
Evrensel	Ahmet Kahraman	Kürt İsyanları (Dismissal of Proceedings)
Evrensel	Zeynep Özge	İmran, Bir İsyandır
Güncel	Ersin Kalkan	Katille Buluşmak (Recalled)
Güncel	Belma Akçura	Derin Devlet Oldu Devlet (Conviction)
İnkılap	Osman Pamukoğlu	Unutulanlar Dışında Yeni Bir Şey Yok
İstanbul Bienali	Halil Altıntepe	9. Bienal Kataloğu
Kaynak	Muazzez İlmiye Çığ	Vatandaşlık Tepkilerim (Acquittal)
Literatür	Mara Meimaradi	İzmir Büyüğüleri (Acquittal)
Mastercard	Özlem İmece	İstanbul Şehir Rehberi
Mektup	Emine Şenlikoğlu	Burası Cezaevi (Conviction)
Metis	Elif Şafak	Baba ve Piç (Acquittal)
Merkez	Perihan Mağden	Hangimiz Uğramadık Haksızlıklara (Acquittal)
Ozan	Sinan Kara	Sinan’ın Kara Kitabı
Pencere	Toynbee	Mavi Kitap
Peri	M. Erol Coşkun	Acımın Dili Kadın (Conviction)
Peri	Evin Çiçek	Tutkular ve Tutsaklar (Conviction)
Peri	Hejare Şamil	Diaspora Kürtleri
Peri	Munzur Cem	Dersim’de Alevilik (Conviction)
Peri	Mahmut Baksi	Teyre Baz / Hüseyin Baybaşın (Conviction)
Peri	Hejare Şamil	Öcalan’ın Moskova Güleri (Dismissal of Proceedings)
Sol	Murat Pabuç	Boyalı Bank Nöbetini Terk Etmek (Dismissal of Proceedings)

Sorun	Osman Tiftikçi	Osmanlı'dan Günümüze Ordunun Evrimi
Sorun	Talat Turan	M. Eymur, Bir MIT'cinin Portresi (Conviction)
Tohum	Mamo Baran	Kuzey Batı Dersim: Koçgiri (Conviction)
Tohum	Erdal Yeşil	Kemalizm-Oturan Adam (Conviction)
Tohum	Aytekin Yılmaz	Çok Kültürlülüğten Tek Kültürlülüğe Anadolu

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2008

SONGÜL ÖZKAN

Publisher

Songül Özkan was born in Akçadağ, Malatya in 1960. She was sent to prison in 1978, while still a high school student, for political reasons. She was released after eight months of detention as she was still a minor, but she could not finish her high school studies. In 1979, she was convicted for the same case. She spent the 1980s under arrest and in prison on many different occasions. In 1988, she came to İstanbul. In 1989, she was tried under Articles 141 and 142. Once again she was imprisoned, along with her husband. When those articles were repealed, her case was dismissed.

In 1992, she became a publisher, taking over Evrensel Printing and Publishing. She still owns the culture, art and literature periodical Evrensel Kültür (Universal Culture) and the theory-politics periodical Özgürlük Dünyası (The World of Freedom). For a brief period, she also owned the daily Evrensel.

She was tried under a series of cases for various issues of the periodical Özgürlük Dünyası, as well as for over 40 books published by the publishing house.

In 1994, she was tried at the State Security Court No. 5 for the book *Emperyalizm, Milliyetçilik ve Kürt Sorunu* (Imperialism, Nationalism and the Kurdish Question), and received a sentence of six years and eight months alongside a fine of TL 3,800,000. The High Court of Appeals approved the sentence, but the European Court of Human Rights upheld her appeal there. The state was sentenced to pay a fine of 5,000 Euros. In 2002, a case was opened at the Fourth State Security Court against the brochure titled "Kürt Sorununa Demokratik Çözüm" (Democratic Solution to the Kurdish Question) and she was sentenced again to six months and ten days of imprisonment and TL 4,200,000 fine. The decision was approved by the High Court of Appeals. The case is currently being reviewed at the ECHR.

In 2003, the State Security Court opened a case regarding the book by Ahmet Kahraman titled *Kürt İsyanları Tedip ve Tenkil* (Kurdish Revolts, Punishment and Relocation). The State Security Courts were dissolved whilst the case was still being tried. It is still continuing at the Beyoğlu 2nd Criminal Court of First Instance.

PERİHAN MAĞDEN

Writer

Perihan Mağden was born in İstanbul in 1960. She studied at Robert College and received her degree in psychology from Boğaziçi University.

For a few years, she travelled in Asia. She worked as writer in an advertising agency for about two years. In 1991, her first book titled *Haberci Çocuk Cinayetleri* (*The Messenger Boy Murders*) was published followed in 1994, by her second book, *Refakatçi* (*The Companion*). In 1995 *Mutfak Kazaları* (*Kitchen Accidents*) a collection of her poems carried in periodicals since her early youth was published. Her articles in the feminist periodical *Pazartesi* became a book in 1997 under the title *Pazartesi Yazıları ya da Hiç Bunları Kendine Dert Etmeye Değer mi?* (*The Monday Articles or is it worth at all to make these an issue?*)

In 2002, *İki Genç Kızın Romanı* (*Two Girls*) was published. This book which was turned into a film by Kutluğ Ataman, was translated into many languages. In 2007, her latest novel *Biz Kimden Kaçıyorduk Anne?* (*Who were we running from, mother?*) was published. She has seven other books which are collections of her newspaper writings. She continues to write for the daily *Radikal*.

Recognized as a bold and original writer of the Turkish press, Perihan Mağden had to stand trial on many occasions for columns she wrote. The case opened for her “Şantaj Çeşitlemeleri” (Blackmail variations) (published in *Radikal*, 11.09.2003) ended with an acquittal. The case opened for “Şimdi Vicdani Red” (Conscientious Objection, Now) (*Radikal*, 08.01.2008) under Article 318 of the Turkish Penal code for “discouraging people from performing military duty,” is currently continuing. Perihan Mağden was acquitted earlier from another case opened under the same article for another piece she had written. The conviction given for her article “Mavi Gözler” (Blue Eyes) (*Radikal*, 20.08.2003) is now pending at the High Court of Appeals.

The writer is also facing trial for two other pieces titled “Plan Yapmayın Plan, Çakal Yesun Ananu” (Don’t make plan/Let the wolves eat your mother) (*Radikal*, 18.09.2007) and “Feci Şahsi Yazı” (An extremely personal writing) (*Radikal*, 16.10.2007). Another case had been opened regarding her book titled *Hangimiz Uğramadık Sanki Haksızlıklara?* (*Which One Among us Didn’t Become a Victim of Unfairness?*), published by Merkez Publishing.

Perihan Mağden had been acquitted from the charge of “insult” regarding an article she wrote on the suspect accused of killing the priest Andrea Santoro in Trabzon, as well as from the case opened with the charge of “attempting to influence fair trial,” regarding her article title “Pınar Selek Kimdir?” (Who is Pınar Selek?) on the case of Pınar Selek which lasted for eight years.

VURAL OKUR

Bookseller

Vural Okur was born in 1935 in Fethiye. He completed his primary and secondary education in Gündoğmuş, Antalya, Bursa and Ankara. He studied philosophy at the Faculty of Language, History and Geography thanks to a scholarship granted by the Armed Forces. He taught sociology, psychology and logic in Erzurum, Kuleli and Işıklar military high schools. He stayed in İstanbul for 12 years. Meanwhile, he completed a degree in journalism at the İstanbul University.

In 1972, he published a psycho-social research study on murders committed in Turkey, titled *Neden Öldürüyorlar?* (*Why do they kill?*) The work was given a monetary fine. In 1975, his high school ethics book was published. In 1976, the primary, secondary and high school ethics books that he wrote together with Süheyla Cankat were published by Gül Publishing. Between 1979-1980, he worked as a guest teacher at Röttgener Gymnasium in Bonn, Germany. In 1981, he published his book titled *Hipnotizma* (*Hypnotism*). At the end of the same year, he retired from the army with the rank of colonel. The same year, he opened the Bilge Bookstore and Secondhand Bookstore. His *Felsefe Tarihi* (*History of Philosophy*) and *Gizemli Güç Hipnoz* (*The Mysterious Power*), *Hipnotizma* (*Hypnotism*) were published by İm Publishing in 2003 and 2006, respectively. Okur is married and the father of two children.

Wanting to open a bookstore since 1960, Okur has initiated secondhand book selling in Bursa. More than a place of business, Okur sees his establishment as a home for discussion, communication, psychotherapy and information exchange.

FREEDOM TO PUBLISH REPORT 2008

Following the worrisome and violent turn of events of 2007, 2008 has witnessed a number of positive, albeit insufficient developments from the perspective of freedom of expression and freedom to publish, although certain problems nonetheless continue.

In our previous reports, we had called attention to the politicization of the judicial mechanisms; pointing out the danger their new-found reflexes to react based on ideology rather than law posed to freedom of expression and freedom to publish.

So far, 2008 has seen a political crisis going well beyond the problems of freedom of thought and freedom to publish. There is nothing more threatening to a democratic society than the politicization of the judiciary and it becoming a political actor itself. How then are we to protect our rights, and who can then protect our law? The politicization of the judiciary that had continuously pressured authors and publishers and that had made the defence of these freedoms difficult has now become a problem for Turkey as a whole. And the government has a large role and responsibility in this turn of events as it acted too slowly and too selectively in implementing democratic reforms. Since 1980, Turkey has been undergoing the struggle of becoming a true and full democracy and the civilian politicians also bear responsibility.

Both our politicians and those who have the institutional prerogative to use state power can demand the prosecution of authors, journalists and intellectuals because of their critical thoughts. This lack of tolerance at the top can easily spread to society as a whole. Is it really a coincidence that the Prime Ministry and the Military General Staff share a common attitude when it comes to opening cases against critical viewpoints?

The number of court cases opened and sentences given regarding books on the Kurdish question had begun to increase the year before, and this trend intensified this year. This was due, for the most part, to the changes made in the Anti Terror Law, about which the press, publishing and writers associations had previously issued warnings that the law was becoming increasingly detrimental to freedom of thought and expression. As a consequence of these changes, people of diverse opinions, including writers and journalists, can now be taken into custody under

extraordinary circumstances; newspapers and periodicals of different viewpoints can more easily be closed down; charges are not made readily clear either to the defendants or their lawyers, and the accused can be kept under custody without being brought before a court as for extraordinarily long periods. Respectable people of age and social standing can be arrested in the middle of the night, as exemplified by the circumstances of journalist İlhan Selçuk and the chair of the Turkish Doctors Association, Prof. Gençay Gürsoy. The arrest of the editors of the newspapers Azadiya Welat or Gündem, constituted the most recent examples of a process that had begun with the directors of Atılım and Özgür Radio, which shows how the Anti Terror Law is open to abuse. Such changes made with political objectives and without taking stock of the universal standards for basic rights and freedoms, may end up endangering the rights of people coming from very different backgrounds. Certainly, no person has the freedom to commit a crime in a true democracy and under the rule of law. However, it should be known that this prescription also includes those using power in the name of the state. No person can be granted the freedom to commit crimes in the name of the state. On the other hand, the practice of basic human rights by citizens can never be defined as a "crime." Unfortunately, whilst freedom of basic rights is an issue in our country, some power elites are granted almost complete freedom to commit crimes themselves. Under such a situation, everybody can be victimised.

There are also other ongoing problems. Trials continue for long durations of time without any end in sight. Cases get opened under a number of different articles of the Turkish Penal Code (TCK). It is possible for a single book to be charged with different articles in different courts, such as in the cases against the Aram and Peri publishing houses.

Another similar example are the cases opened for the publication of Ahmet Kahraman's *Kürt İsyanları (Kurdish Revolts)* and Zeynep Özge's *İmran: Bir İsyan Andı (İmran, a Rebellion Oath)* against Evrensel Publishing, literary and intellectual works which had contributed immensely to the understanding of the cultural and social wealth of our country.

Unfortunately in our country, criticism is hardly ever appreciated and is often perceived as insult. Certainly, the authoritarian state, family and school traditions and order have played a great role in this.

That democracy has often been suspended in our society has unfortunately strengthened these tendencies. For that reason, authors and journalists who do not compromise their critical position are often brought to trial. Yet, these authors nonetheless contribute greatly to expanding the horizons of our society, our administrators and also our judiciary towards critical thinking. In that regard,

Perihan Mağden comes to the fore as a successful literary author with her poems, essays and novels, as well as being one of the most influential and successful columnists. Nonetheless, her freedom to write can be put seriously under threat.

According to the data gathered by our committee in the first half of 2008, 47 books by 38 different authors, published by 22 publishing houses have been subject to investigation, taken to court, or sent for appeal at the High Court of Appeals. Charges were either repealed or dismissed regarding seven books, while 17 were convicted. Convictions were on the increase. Five books were recalled without a final court decision. Cases regarding 18 books currently continue. The case file regarding one book was sent back to the Ministry of Justice, following changes made to Article 301.

THE PARTIAL AMENDMENT OF ARTICLE 301

Certainly, the most important development of the first six months of 2008 was the changes made to Article 301. We consider this as cosmetic, involving merely a change of few words and a reduction of sentences. Unfortunately, the call of writers and publishers associations for a total repeal of Article 301 did not win favour. Just as the changes made in the Article 8 of the Anti Terror Law and Article 312 of the Turkish Penal Code during the nineties, the change made to Article 301 today is aimed to serve the same purpose of temporarily easing the burden on the Ministry of Justice for the incredible number of cases that have been opened and relieving it of the critical national and international pressure.

However, new cases continued to be opened based on Article 301, now going all the way down to the level of the street and daily conversations. Members of a family in İzmir, whose son was shot by the police during a routine road block, are now charged for infringing the Article 301 for their criticism of the event. Again in İzmir, a philosophy teacher was taken to court for his critical expressions while travelling on public transport, on the basis of the testimony of an undercover police officer. Article 301 now serves to curb the freedom of expression of not only writers, journalists and publishers, but also the citizens on the street.

Unfortunately, the problems around Article 301 again concentrated around ideological bases, namely, around the concept of "Turkishness." Meanwhile, another important detrimental facet of Article 301 is that it expresses the notion of the infallibility of the state and its institutions. No changes were made to the unclear and the prejudicial wording of the article that enables the interpretation of critical views expressed against the state and its institutions as "insult." For example, writer Mehmet Pamak and Yusuf Tanrıverdi were taken to court for organizing a panel debate titled "The Education System Under the Grip of Official Ideology" under the Foundation for Scientific and Cultural Research (İKAV).

As a conclusion, according to the data gathered by the free speech monitor, Bianet, over 120 journalists, publishers, activists and politicians were charged by Article 301 during the three years since its implementation. The chair of our Association's Freedom to Publish Committee, Ragıp Zarakolu, was the first person to receive a sentence under the revised Article 301, for being the publisher of the UK based author George Jerjian's *Gerçek Bizi Özgür Kılacak (The Truth will Set Us Free)*.

On the other hand, Minister of Justice, Mehmet Ali Şahin, disclosed that 835 cases were opened against 1,533 people, of which 12 are children, under Article 301 in 2006, while the numbers are 1,189 people and 744 cases just for the first three months of 2007. The minister also stated that in the last five years, 1481 cases were opened under Article 301, with 6,075 people becoming defendants, and 745 facing convictions.

Şahin stated that the article that previously existed as Article 159 in the Turkish Penal Code and which became Article 301 in the new Turkish Penal Code that came into force in 2005, was used to open 429 cases in 2003, 318 in 2004, 221 in 2005, 328 in 2006 and 185 in the period from January to September 2007. His answer also included the following information: "Of the 400 cases concluded in 2003, 252 people received sentences, while 155 were acquitted. Of the 334 cases concluded in 2004, 145 people were convicted, 317 were acquitted. Of the 314 cases concluded in 2005, 133 were convicted, 249 were acquitted and in 2006, of the 299 cases concluded, 131 were convicted and 255 were acquitted, while in the 217 cases concluded in the period from January-September 2007, 84 people were convicted and 168 were acquitted." The answer also stated that in the year 2007, of the total of 744 cases brought under Article 301-of which 536 were continued from the year before, 185 were opened within the year, and 23 came back following appeal- 217 were concluded and 527 were passed on to this year. In the last five years, 6,075 people became defendants in cases under Article 301. This number was 1,313 for 2003, 1,385 for 2004, 1,533 for 2006 and 1,189 for 2007. These numbers testify to how problematic these articles have become for Turkey in general, going well beyond the realm of press and publishing.

In our view, this ideological article reflecting the worldview of the 1930s should be gotten rid of in its entirety. Insult should be judicially prosecuted solely within the confines of civil law. That is, a military official, a policeman, the prime minister or a judge, should only appeal to law on the basis of personal defamation, without referring to their institutional identity. Furthermore, the abuse of civil law with political objectives to curb the freedom of expression and to gain some kind of immunity should also be prevented. Imbuing institutions with a personal identity is common in countries with a totalitarian tradition and not a democratic one.

What word can we have to say when even the president is in such a pessimistic mindset that he says, “These problems would never get solved unless there is a profound change in mentality”? We had mentioned this problem of mentality ourselves in our previous reports.

How will this problem get resolved? Since the Turkish Republic is already on the path of accession with the EU, she can take advantage of the processes previously enjoyed by other candidate countries. Many central and east European countries that had been under totalitarian regimes as recently as ten years ago are now members of the EU. These countries carried out their legal reforms during these ten years, as well as putting their judiciary mechanisms through an education process on the basis of universal human rights conventions and norms. That the Turkish Republic, which had been a member of the Council of Europe and NATO in the 1950s remains behind not only that of the democratization process undergone by countries such as Spain, Portugal and Greece (Turkey had a more advanced democracy than these countries in the 1960s) but even that underwent by Eastern Europe, is neither comprehensible, nor acceptable.

While the Article 301 is presented as the single most important obstacle in the way of freedom of thought and expression, other articles are also present in Turkish Penal Code that curtail the freedom of expression and freedom to publish. These articles can be implemented in an even more intolerant and heavy manner in places outside the big cities, far away from the attention of the press and the public opinion.

Based on the cases opened, other articles that make it almost impossible to express any opinions specifically on the Kurdish question are as follows:

Narrow minded interpretations of Article 215 of the Turkish Penal Code under the title “praising a crime or a criminal” (which has begun to be used more extensively in recent times), make it difficult to publish documents and texts pertaining to the last 40 years of Turkish political history. For example, although decisions banning books have become very rare, the *Toplu Yazılar (Collected Writings)* of Mahir Çayan, a leader of the 1968 youth movement, as well as *Devrimci Mars ve Türküler (Revolutionary Marches and Songs)*, both published by Su Publishing, were banned recently. A similar collection by Bora Publishing was also banned in 2004. Writer Temel Demirel is currently standing trial for speaking about İbrahim Kaypakkaya, another leader of the time, at a panel debate in Tunceli. Another case opened against the same writer for his speech at the memorial ceremony for Hrant Dink is currently suspended as a result of the changes made to Article 301. In the past, writer Haluk Gerger was sentenced for a talk he gave on Deniz Gezmiş and put in prison. In recent days, an ex-parliamentary deputy, Mahmut Alnak, has been sentenced for proposing to give the names of Deniz Gezmiş, Musa Anter and

Vedat Aydın to streets in Kars.* Unfortunately, the convictions regarding freedom of thought remain valid even after the death of the defendant. We were happy to learn that the name of publisher Ayşe Nur Zarakolu, who had received our and International Publishers Association’s awards, was given to a park in Diyarbakır. However, this decision was later reversed due to the objection of the Diyarbakır governor. Ayşe Nur Zarakolu’s imprisonment in infringement of her freedom of thought was used as a justification, even though the Turkish Republic had already conceded to pay indemnity to Ayşe Nur Zarakolu herself at the European Court of Human Rights for this unfair conviction.

Just this past month, the trial of the 74 people, including 53 municipal directors of the Democratic Socialist Party (DTP), who had sent a letter to the Danish Prime Minister Anders Rasmussen, with the message saying “Don’t close down Roj TV” concluded with monetary fines.

The editor of Peri Publishing, Ahmet Önal, stood trial under the TCK Article 220/8 on making propaganda on behalf of the terrorist organization for publishing the book *Diyaspora Kürtleri (The Kurds in Diaspora)*. The dismissal verdict is currently on appeal. The first hearing of the case opened regarding the book *Acının Dili Kadın (Woman, the Voice of Pain)* will be held on 2 August.

According to data gathered by Bianet, 13 people were tried this year on accusation of “making propaganda on behalf of a terrorist organization”. The owner of the periodical *Çağrı (The Call)*, Aziz Özer was sentenced to 15 months, Aydın Budak of the DTP was sentenced to two years and six months, while Selahattin Demirtaş received a sentence of a year and 6 months.

INSTIGATING PEOPLE TO HOSTILITY ON THE BASIS OF RELIGION, RACE OR ETHNICITY (TCK ARTICLE 216, FORMERLY ARTICLE 312)

According to Bianet data, of the four people standing trial under TCK Article 216 on accusation of “instigating hatred or hostility,” publisher Erol Karaaslan and radio host Cemal Doğan were acquitted; while the politicians Nurettin Demirtaş and Mahmut Alnak are still on trial. The case opened against publisher Ahmet Önal under this article for the book *Tutkular ve Tutsaklar (Passions and Prisoners)* is still continuing, as is another under Article 301. The conviction given for the book *Teyribaz* is currently on appeal. It should also be pointed out that Article 216 is used for the protection of groups other than the majority for the first time. Members of the Association of Social Race (Toplumcu Budun Derneği) were charged for infringing Article 216 for insulting the Gypsies and the Kurds.

* Political activist, Gezmiş was executed in 1972, Anter and Aydın were Kurdish journalists, assassinated in 1992 and 1991.

ARTICLE 222 ON VIOLATING THE PROHIBITIONS SPECIFIED WITHIN THE LAW ON THE TURKISH ALPHABET AND ITS APPLICATIONS

The number of cases opened for using letters such as w, q and x, which do not exist in the Turkish alphabet, increased significantly during the past year. Mehdi Tanrikulu, the editor of Tevn Publishing, was sentenced for infringing Article 222 for two books, as well as by defending himself in court and giving a petition in Kurdish. The mayor of the Sur district of Diyarbakır, Abdullah Demirtaş, was removed from office for committing the crime of “harming the public by abusing official duty” stipulated in the Article 257 of the Penal Code and was convicted of “violating the revolutionary laws”; that is, for violating the “hat and Turkish alphabet law”^{*} by using Kurdish, Armenian and Syriac, alongside Turkish and English, in the tourism fliers. Osman Baydemir, the mayor of Diyarbakır, is currently standing trial for allowing advertisement boards and for sending invitations in Kurdish. It is quite a controversial situation that certain Latin characters in the Kurdish alphabet that do not exist in the Turkish alphabet are considered an object of legal prosecution. There is hardly any doubt that this makes the country look rather ridiculous. The cases opened against the newspapers Huduteli and Kent, published in Kilis, for using “objectionable” letters while writing “Newroz” have been concluded with acquittals.

TCK ARTICLE 288 ON ATTEMPT TO INFLUENCE FAIR TRIAL

This article, supposedly intended to protect the rights of those on trial is currently being used to open new cases against defendants. The latest incident is the case against the owner of Agos newspaper, Serkis Seropyan and its editor-in-chief, Aris Nalçı, for an article that criticized their own conviction under Article 301. The general editor of the periodical Gerger Fırat, Hacı Boğatekin, was arrested for “attempting to influence a trial.”

TCK ARTICLE 318 ON DISCOURAGING PEOPLE FROM PERFORMING MILITARY SERVICE

Not only is the right of conscientious objection recognized in Turkey, but artists such as Perihan Mağden and Bülent Ersoy can be taken to court for expressing their opinions that defend this right. The eight people currently on trial for this charge include Yıldırım Türker, Halil Savda, Mahmut Alınak, Gökhan Gençay, Birgül Özbarış and Yasin Yetişgen.

^{*} A law passed in the 1920s that banned the wearing of the fez, and enforced the Turkish alphabet

ARTICLE 7/2 OF THE ANTI TERROR LAW ON MAKING PROPAGANDA ON BEHALF OF A TERRORIST ORGANIZATION

This article seems to be used especially against the press. The newspaper Alternatif was banned for a month after being published for only a week. The same fate awaited also the newspaper İşçi-Köylü (Worker-Peasant). On the other hand, negative effects of the changes made in the Anti Terror Law last year also came to the surface. As the professional organization for the press and publishing sectors, we had pointed out the negative effects of these changes beforehand. An appeal case opened by the ex-President Ahmet Necdet Sezer regarding these changes is currently pending at the Constitutional Court.

Besides the oppositional leftist press, even big media can get into legal trouble because of this article. Füsün Erdoğan, the Editor-in-Chief of Özgür Radio and four representatives of the newspaper Atılım, are charged with membership of an illegal organization”. We note as a positive development that Vedat Kurşun, the editor of the only Kurdish daily, Welat, who was being tried under arrest for committing the same crime and whose trial we have been following, has been released. However, Ali Turgay, the licence holder and the editor-in-chief of the newspaper Yedinci Gün, was arrested at the Beşiktaş Court House where he went to file a statement, for “aiding and being an accessory to an illegal organization.” We would like to also state that we find it difficult to understand the reasoning behind not releasing the Editor-in-Chief of the periodical Odak, even though he is struggling with a terminal illness. The recent changes made in the Anti Terror Law allow for suspects to spend long periods of time under arrest without standing trial or seeing the evidence filed against them. All around the world, writers and publishers associations criticize such anti-terrorism laws for enabling the curtailment of the freedom of expression in an abusive manner.

TCK ARTICLE 278 ON NOT REPORTING A CRIME

Another article that has recently begun to be deployed against the press has been that of “not reporting a crime”. The Doğan News Agency reporter in Beytülşebab is currently standing trial under this article for refusing to provide information on a news story he did on a demonstration.

CONCLUSION

As a conclusion, while the problems regarding the freedom of thought and freedom to publish have decreased regarding book publishing in the first half of 2008, they continued in general. The practice of book seizures started to be seen again.

The changes made to Article 301 will enable the suspension of ongoing cases.

At least, fewer people will be taken to prison or pay fines. Yet the situation resembles the partial and temporary solutions found in the 1990s.

However, unless there is a change in the mentality of the judiciary and the executive regarding basic rights and freedoms including freedom of thought, expression, press, publishing and information, the problems we have are likely to continue.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN 2008

PUBLISHER	WRITER	BOOK
Aram	Gülçiçek Günel	Dilimiz Varlığımız Dilimiz Kültürümüzdür.(Acquittal)
Aram	Timur Şahan	İtirafçı/ Bir Jitemci Anlattı (Conviction)
Aram	Tayhan Umut	Tufanda 33 Gün (Conviction)
Aram	Ali Aydın	Kayıpsın Diyorlar
Aram	Ayhan Kaya	Mordemin Güncesi.
Aram	Qahir Bateyi	Gulen Azadiya (Conviction)
Aram	Mordem Delibaş	Kırbaşı Baskını (Conviction)
Aram	Serdem Çiyayi	İçimizde Bir Parça Ülke
Aram	Serdem Çiyayi	Yarınlara Yol Almak (Conviction)
Aram	Serdem Çiyayi	Patika mah
Aram	Sarya Baran	Bu Yürek Dağlar Aşar (Conviction)
Aram	Hüseyin Kaytan	Ammar İşaretleri (Conviction)
Aram	Halil Uysal	Dağlarda Yaşamın Dili (Conviction)
Aram	Menaf Osman	Gira-Şeran-Serhildan (Conviction)
Aram	Hüseyin Kaytan	Dağın Mecnunu
Aram	Sarya Baran	Kürtler Ne İstiyor (Seized)
Aram	Hikmet Şenol	Ape Musa'nın Küçük Generalleri
Avesta	Sheri Laizer	Şehitler Hainler Ve Yurtseverler
Belge	George Jerjian	Gerçek Bizi Özgür Kılacak (Conviction)
Belge	Dora Sakayan	Bir Ermeni Doktorun Yaşadıkları
Bora	Mahir Çayan	Toplu Yazılar
Boran	Derleme	Tecrit'te Yaşayanlar Anlatıyor
Çetin	Duran Kalkan	Kürdistan'de Demokratik Siyasetin Rolü (seized)
Çetin	Derleme	Demokratik Konfederalizm (Seized)
Do	Aras Erdoğan	Haberlerin Ağında Öcalan
Doz	Mesut Barzani	Barzani ve Özgürlük Hareketi
Doz	Mustafa Balbay	Ararat'taki Esir General (Conviction)
Ekin	Mehmet Pamak	Kemalizm, Lâiklik ve Şehitlik (Conviction)
Evrensel	Ahmet Kahraman	Kürt İsyanları

Evrensel	Zeynep Özge	İmran, Bir İsyan Andı
Güncel	Belma Akçura	Derin Devlet Oldu Devlet(Conviction)
İnkılap	Osman Pamukoğlu	Unutulanlar Dışında Yeni Bir Şey Yok
Kuzey	Richard Dawkins	Tanrı Yanılgısı (Acquittal)
Merkez	Perihan Mağden	Hangimiz Uğramadık Haksızlıklara (Acquittal)
Ozan	Sinan Kara	Sinan'ın Kara Kitabı
Pencere	Toynbee	Mavi Kitap
Peri	M. Erol Coşkun	Acının Dili Kadın
Peri	Hejare Şamil	Diaspora Kürtleri(Acquittal)
Peri	Mahmut Baksi	Teyre Baz / Hüseyin Baybaşın (Conviction)
Peri	Hejare Şamil	Öcalan'ın Moskova Günleri (Dismissal of Charges)
Sol	Murat Pabuç	Boyalı Bank Nöbetini Terk Etmek Dismissal of Charges)
Sorun	Osman Tiftikçi	Osmanlı'dan Günümüze Ordunun Evrimi
Su	Mahir Çayan	Toplu Yazılar (Seized)
Su	Derleme	Devrimci Türkü ve Marşlar (Seized)
Tohum	Aytekin Yılmaz	Çok Kültürlülüğten Tek Kültürlülüğe Anadolu
Tevn	Zülfikar Tak	Diyarbakır Cezaevinde İşkence
Tevn	Ergün Sönmez	Emperyalizm Sürecinde Kürt Özgürlük Hareketi

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2009

İRFAN SANCI

Publisher

İrfan Sancı was born in Amasya in 1955. After high school he continued his studies at the Faculty of Political Sciences. He was arrested and taken to court for 'thought' crimes. This prevented him from completing his university studies. Sancı worked at various newspapers and agencies in İstanbul before founding Sel Publishing with his wife Selma Sancı in 1990. He has published close to five hundred translated and original novels, short stories, essays, biographies, dictionaries and anthologies.

He was prosecuted and tried for some of the books he has published. He was acquitted at the end of a three year trial regarding the work *La Mort de Blanche-neige* by French author Jeanne Cordolier, following the court's ruling that this was a work of literature.

Metin Üstündağ's *Pazar Sevişenleri (Sunday Lovers)*, a book of caricatures the author had published in the *Leman* magazine was seized, giving rise to a prosecution, on the grounds that it offended the public's sense of decency. The case ended with an acquittal after two years of trial. However, the case was reopened on the grounds that an error had been done during the proceedings. After an additional five years of trial the case was once more concluded with an acquittal.

Enis Batur's novel *Elma (Apple)* was seized on the same grounds for containing a photograph of Gustave Courbet's painting "L'Origine du Monde", which is displayed at the Orsay museum in Paris.

Mehmet Ergüven's book *Pusudaki Ten* was also banned and prosecuted. Both cases resulted in an acquittal.

In 2009 four of the books published by Sancı in his series of prominent erotic works titled *Cinsel Kitaplar (Sexual Books)* gave rise to an investigation. One of the books was deemed a work of literature. The other three books were indicted for obscenity in accordance with TCK Article 226.

NEDİM GÜRSEL

Writer

Nedim Gürsel was born in 1951 in Gaziantep. He completed his primary and secondary schooling at the Balıkesir 6 Eylül Primary School and the Galatasaray High School. Having graduated from the Modern French Literature Department of the Sorbonne University, he completed his doctorate studies on comparative literature at the same university. Gürsel currently lectures on Turkish literature at the French Scientific Research Center. Besides his academic career he also works as a journalist and is a member of the PEN Writers Association, the Paris Writers House and the Mediterranean Academy.

His first essay was published in 1966 by the *Yeni Ufuklar* periodical, while his short stories and essays on modern thought and literary trends have been published in various literature periodicals. His short story "İlk Kadın" was adapted for the theatre and staged by the İstanbul State Theatre. He has prepared programs for Radio France Internationale and Radio Berlin. His short stories, novels and reviews have been translated into 12 languages, beginning with French. His works have been the subject of numerous doctoral theses at the universities of Boğaziçi, the Sorbonne and Nanterre.

The author has received the Turkish Linguistic Society Story Award in 1976, the French PEN Club Freedom award and the Abdi İpekçi Friendship and Peace Award in 1986, the Haldun Taner Short Story Award in 1987, the Radio France Internationale International Best Short Story Award in 1990, The Struga Golden Plaque in 1992, the French Governments' Art and Literature Knighthood Award and the France Turquie Award in 2004.

He was prosecuted according to Article 216 of the TCK for hurting the people's religious feelings and for causing one segment of society to exert pressure on another in his novel *Allah'ın Kızları (Daughters of God)*. Even though the Prosecutor gave a non-prosecution verdict, Gürsel was re indicted. The case is ongoing.

NACİ İPEK

Bookseller

Naci İpek was born in 1932 in Urfa. He completed his secondary studies at the Urfa High School. He worked as the Urfa correspondent of the dailies *Cumhuriyet*, *Akşam* and *Yeni İstanbul* until 1985. He developed a love for books and a passion for journalism. He founded the newspapers *Urfa* in 1952 and *Karakoyun* in 1958. He opened his first bookstore in Urfa in 1955. Following the 1960 revolution he changed the name of his newspaper in Urfa from *Karakoyun* to *Fırat*. He acted as an ideological and literary trailblazer for the GAP (South East

Development) project. The slogan of the Fırat newspaper was “Adımız Davamız” (Our name Our Cause). He was forced to shut down the daily Fırat having failed to attract advertising due to his dissident views. He founded the Özlem Bookstore in 1964.

He presented poetry lovers with his poetry periodical Anzılha in 1966. He published the book *İlimiz Şanlıurfa (Our Province Urfa)* and the poetry book *Urfa Antolojisi* in 1969. He continued his publishing work with the books *Urfalı Güznel ve Gönlümde Şiirleştiğin An... (The Beauty of Urfa and the Moment She Became a Poem in My Heart)*, *Milli Mücadelede Urfa (Urfa During National Struggle)*, *Dumanlı Dağlar (Smoky Mountains)*, *Tühvet ül Haremeyn, Özellikleri ve Güzellikleri ile Çiğ Köftemiz (Our Raw Meatball)*, *Kayıp Ozan (Lost Poet)*, *Dünden Bugüne (From Yesterday to Today)*.

He prepared the documentary “Son Urfalılar” for regional TV.

He actively took part in the foundation of the Urfa Faculty of Agriculture. This faculty has now become the Harran University.

He has been imprisoned three times for his ideological struggle, dissident views and under the pretext of his banned works.

Naci İpek who is still a member of the board of trustees of the Şanlıurfa and of the University of Harran foundations, has pursued his passion, the business of bookselling for 54 years.

FREEDOM TO PUBLISH REPORT 2009

During the 2000s, there were many lawsuits against books and writers, although we saw a trend towards fewer bans imposed on books. Although courts have refrained from passing bans and seizures of books, nevertheless, bans imposed on books have been on the increase in the last two years. In the first four months of 2009, we note some negative measures against writers and publishers.

NEW TOOL FOR CENSORSHIP: BANDEROLE

The most negative development in 2009 was the introduction of the banderole procedure as a censorship mechanism, and our concerns proved justified. The process for publishing books and rules for passing judgment are determined by the law, so we think other processes should not interfere. Our concerns on the banderole procedure were justified in the following cases: A book by Abdullah Öcalan, *Kültür ve Sanat Devrimi (Revolution in Culture and Art)* was seized during the printing process carried out by Aram Publishing. The last case of a book being seized before production was in 1989 with the seizure of *Devrimci Yol Savunması -12 Eylül Öncesi ve Sonrası (Defence of the Revolutionary Path: Pre and Post September 12th)* published by Simge Publishing. But after being acquitted, books were given back to the publisher. It seemed as if we have gone 20 years backwards for freedom to publish. Therefore, our concerns that the banderole system might be used as a censorship mechanism were justified. When some publishers applied for banderoles, some “zealous” authorities turned the applications into crises, and the Cabinet had to take measures. As a result, the books were seized in the printing houses, and the same censorship mechanism of the Abdül Hamit era was revived. In 1933, a similar incident saw the seizure and destruction of *İstiklal Harbimiz (Our Independence War)* by Kazım Karabekir also during the printing process. The banderole applications should be ended at once.

THE ANTI TERROR LAW

Another negative development is the conviction to one year and three months’ imprisonment of İrfan Karaca for his book, *Ape Musa’nın Genarelleri (Generals of Ape Musa)*. The book was the story of news vendor children; İrfan Karaca, editor of the book had been one himself. Another lawsuit against a shorter version of the book is ongoing.

Owner of Do Publishing, Hüseyin Gündüz has been convicted to 1,000 days in prison for publishing *Şırnak Yanıyor* (*Şırnak is Burning*), by Sertaç Doğan in accordance with Article 7/2 of Anti Terror Law. Consequently, the court fined Hüseyin Gündüz, to TL 16 billion 660 million. He had been convicted by İstanbul 14th High Criminal Court of making “propaganda for a terrorist organization in print”. On 9 May 2008, copies of *Sayın Başkan* (*Dear Mr. President*), a book by Medeni Farho were sized by police during a raid, and publisher Hüseyin Gündüz was kept in custody for two days. He was fined TL 16 billion 660 million for this book as well. Ex-President Sezer sent this article of the Anti Terror Law which stipulates heavy fines for book publishers in the same way as newspaper publishers to the Constitutional Court for consideration of “inequality.”

A book published by Perî Publishing, *Acının Dili Kadın* (*Woman The Language of Pain*), by Murat Coşkun has been sentenced to 12 months and 15 days’ imprisonment. The writer was imprisoned in Adana. However, he was not released on conclusion of his sentence because he had signed a petition protesting against death sentences in Iran.

THE TURKISH PENAL CODE ARTICLE 301

Two convictions against Mehmet Ali Varış, the editor of Tohum Publishing, for two books he published were sent for appeal to the High Court. In two separate lawsuits against one book *Kemalizm: Oturan Adam* (*Kemalism: A Sitting Man*) by Erdal Yeşil, the writer has been convicted in accordance with Article 301 of the Turkish Penal Code and the Law Concerning Crimes Committed Against Atatürk.

On 21 December 2006, Beyoğlu 2nd Criminal Court of First Instance convicted Mehmet Ali Varış to one year six months’ imprisonment for publishing *Koçgiri: Kuzey Batı Dersim* (*Koçgiri: An Insurrection in Northwest Dersim*), a book by Memo Baran in accordance with the Article 216/1 (former 312/2) of the Turkish Penal Code. In October 2008, Varış had been imprisoned because of his TL 20,000 unpaid fine for an article on İbrahim Kaypakkaya, published in *Uzun Yürüyüş* magazine. He was imprisoned for this fine, and after six months he was released in April. Six cases against him as the editor of *Uzun Yürüyüş* are waiting for the final verdict before the High Court of Appeals. One of them, resulting in a fine, was finalized during Varış’ imprisonment. This fine was paid and he was released.

In April, the İstanbul 14th High Criminal Court ordered the seizure of *Ölümünden Zor Kararlar* (*Decisions Harder than Death*), a novel by N. Mehmet Güler that was published by Belge Publishing which had been awarded by many international and national organizations including the Turkish Publishers Association. The Public Prosecutor took statements of the manager of the publishing house then

will follow with an inquiry against the writer who will give evidence. Elif Şafak was acquitted in a lawsuit against her novel, *Baba ve Piç* (*The Bastard of Istanbul*) because she had written in the novel on an era which was seen as a taboo for many years. At least there was not any book seizure in this case. We must free ourselves from this prohibitive understanding which targets even fictional heroes in novels.

The İstanbul 2nd Criminal Court of First Instance convicted Nazım Baboğlu, a journalist and editor of Aram Publishing, for his book, *Kayıpsın Diyorlar* (*They Say That You Are Lost*). The writer was sentenced to five months’ imprisonment in accordance with Article 301 of Turkish Penal Code for “denigrating the State.”

PRAISING THE CRIME AND THE CRIMINAL

The first cases of book bans resumed last May. The İstanbul 13th Criminal Court ordered the seizure of *Toplu Yazılar* (*Collected Works*) by Mahir Çayan for “praising the crime and the criminal” and for “propagandizing for unlawful terrorist organizations.” The same court also seized the book, *Devrimci Marşlar, Türküler, Ağtlar, Şiirler* (*Revolutionary Songs, Folksongs, Elegiacs and Poems*) for similar reasons. These legal cases are ongoing.

Article 215 of the Turkish Penal Code is a continual threat to freedom of expression in the other fields alongside book publishing. A characteristic case was the imprisonment of Mahmut Alınak, a writer and ex-parliamentarian. He had suggested renaming streets in Kars after people killed and executed: These were Deniz Gezmiş, a youth hero of the 1968 generation, writer Musa Anter who had been killed, and Vedat Aydın, linguistic rights activist who was kidnapped and killed. Mr. Alınak was convicted in accordance with Article 215. He wanted to attract attention to this by staging a civil disobedience action. He did not pay the fine and was thus imprisoned for five months; and this year he was awarded by the Human Rights Association.

The owner of Tevn Publishing, Mehdi Tanrıkulu has been acquitted of “propagandizing the views of the organization” in the book *Diyarbakır Cezaevinde İşkence Çeşitleri* (*Types of Torture in Diyarbakır Prison*) by Zufikar Tak. However, he still stands trial for another book, *Kapitalizmin Emperyalist Sürecinde Kürt Özgürlük Hareketi ve PKK'nin Rolü* (*Kurdish Liberation Movement and the Role of PKK in the Process of Capitalist Imperialism*) by Ergün Sönmez.

The İstanbul 10th High Criminal Court convicted Ali Rıza Vural, director of the Doz Publishing for “propagandizing the views of the terrorist organization” in a novel, *Dönüşü Olmayan Yol* (*A Path With No Return*) by Hasan Bildirici. The grounds for this conviction were some words in the novel such as “Kurds” and “Kurdish Nation.” This book had been banned before. Ali Rıza Vural was put

on trial for a book by Mesut Barzani, *Barzani ve Kürt Ulusal Özgürlük Hareketi* (Barzani and Kurdish National Liberation Movement) in accordance with TCK Article 301. He was acquitted of “insulting and derision of the Republic by press” in this case.

HAT AND ALPHABETICAL CHARACTERS ACT

İstanbul 1st Criminal Court of First Instance convicted Mehdi Tanrıkulu, director of Tevn Publishing of violating the law on Hats and Turkish Alphabetical Characters having written a Kurdish petition to complain about public prosecutor in Diyarbakır and that he spoke in Kurdish during the trials.

Mehdi Tanrıkulu's demand for Kurdish defense in court was rejected by judges in the case of the book, *Astsubayken Er Olmak (Becoming a Private After Being a Non-commissioned Officer)* by Kasım Çakan.

Şükrü Erbaş, an awarded poet, was convicted of “using another language than Turkish” during the 2007 election campaigns. He was convicted to nine months in prison in Manavgat. This was another interesting conviction as, because Mr. Erbaş was not a Kurd, he did not know Kurdish.

DENIGRATING RELIGIOUS VALUES

Writer Nedim Gürsel, whose books have been published in some Western languages, will be put on trial for “insulting religious values” in his last novel, *Allah'ın Kızları (Daughters of God)* which was published by the Doğan Publishing. Mr. Gürsel had been acquitted by the Şişli public prosecutor's decision that there was no case. Nevertheless, Beyoğlu 2nd High Criminal Court had decided to bring a suit against the writer, setting aside the former decision not to proceed. The writer appeared in the court on 25 May 2009.

Unfortunately, acquittals cannot prevent other lawsuits against same books. One of the most interesting cases was the procedure about ban on *The God Delusion* by Richard Dawkins. This book was acquitted of charges under with Article 216 of the Turkish Penal Code. Then another citizen complained about the same book; and the court began a new suit against it.

DEFAMATION

Lawsuits against writers and publishers based on public law often are not sufficient, and sometimes we see accusations of “defamation” under civil law. We worry that these lawsuits could lead the writers and publishers to auto-censor. We list some typical examples:

İstanbul 6th High Court of First Instance fined Muzaffer Erdoğan, the editor of

Pencere Publishing TL 7,500 for publishing Toynbee's *Blue Book* on the Armenian Deportation. Şükrü Elekdağ, Deputy of the People's Republican Party and retired ambassador, had accused Taner Akçam, who wrote the preface of the book of insulting his personality as a member of Turkish Parliament. Thus Pencere Publishing was raided by the court-bailiff to collect that fine.

Furthermore we cite another example of using civil law as a barrier to the freedom to criticize. The Governor of Keşan district brought a suit against Üstün Akmen, former head of PEN International's Turkey Centre and Head of Turkish Branch of the International Theater Critics Association, for “insult” against him. Üstün Akmen had criticized a ban on the play, *Büyükler İçin Masal, Hırsızistan (Tales for Adults, Thievesland)* which would be staged by the Tuncay Özinel Theatre Company. However, the district governor chose to bring a suit against Üstün Akmen instead of accepting his right to criticize and did not remove the ban. This conduct was a typical case of aggression and a prohibitionist mind. To prevent arbitrary and ideological bans on plays, exhibitions and films that we see many examples in the Anatolia, this power should at least be given to the judiciary.

Unfortunately, the art of “caricature” is still a target of the government and we see many convictions in these cases. In this context, *Leman* magazine fined TL 4,000 for insulting the Prime Minister Erdoğan on its cover.

VIOLATION OF THE SECRECY OF THE INVESTIGATION

Journalist Zihni Çakır has been tried for the “violation of the secrecy of an investigation” in his books on the Ergenekon operation. Furthermore, retired Brigadier General Veli Küçük brought an action against the journalist for personal insult in his book, *Ergenekon'un Çöküşü (The Fall of Ergenekon)*. Also, retired Captain Zekeriya Öztürk brought an action for personal insult against the journalist for his book, *Kod Adı Darbe (Watchword: Coup d'état)*.

Another interesting lawsuit was against journalist Nedim Şener for his book, *Dink Cinayeti ve İstihbarat Yalanları (The Dink Murder and Intelligence Lies)*. In this lawsuit against Mr. Şener the top limit of the punishment that the public prosecutor demanded was 17 years in prison in accordance with the Anti Terror Law. The ground for this action was “targeting” former chief of police and intelligence department chief.

Recently writer Zihni Çakır was convicted to one year six months' in prison for his two-volume book, *Ergenekon'un Çöküşü*. This action was based on the Article 285 of the Turkish Penal Code regulating “secrecy of an investigation.”

Unfortunately, many State officials frequently see critics as “insulting” and perceive journalism as “targeting”.

OBSCENITY

A problem which had appeared to be “solved” reappeared. For a while, some views of the Turkish Publishers Association were accepted, and with legal amendments, “artistic and literary works” would not be deemed as obscene. So for a short period, the conviction of works of art and literature could be prevented from being labeled as “pornographic.”

Nevertheless, we saw once more that without a transformation in the mindset of the authorities, partial amendments of legislature will not be sufficient. In May three books published by the Sel Publishing were sued. In their report, three experts from Ticaret University found the books “were not literary works” and the Publishing House was tried for “obscenity.”

Peri'nin Sarkacı (The Fairy's Pendulum) by Ben Mila, *Görgülü ve Bilgili Bir Burjuva Kadının Mektupları* by P.V. and *Memoirs of A Young Don Juan* by Apollinaire, famous French poet, will be sued. However, the suit against the book, *Kokular* by Juan Prada was dropped.

The Sel Publishing was sued for books including *Elma (Apple)* by Enis Batur, *Pazar Sevişgenleri (Sunday Love Makers)* by Metin Üstündağ, *Pusudaki Ten (Skin Laid in Ambush)* by Mehmet Ergüven, and *The Death of a Cotton Princess* by Jeanne Cordelier. But all these books were acquitted after the amendments to the law.

CONCLUSION

As a result, we see that in 2009 general problems in the field of freedom of expression and freedom to publish also continued in the field of book publishing.

As long as we see a mindset transformation among the judiciary and administrative authorities, amendments preventing bans in the fields such as basic rights and liberties, freedom of expression, information and freedom to publish will not be sufficient. So, it seems that we will see the problems continue.

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2010

RECEP SAHİP TATAR

Publisher

Born in 1960 in the province of Ardahan, Tatar completed his primary school education in Ardahan and his secondary schools in Istanbul. He was not able to pursue higher studies for political reasons. He worked at the Cumhuriyet newspaper and different publishing houses.

In 1999, he took part with some friends in the foundation of the Su Publishing, which was founded as a collective. In 2002 the collective broke up, following its co-founder Melih Pekdemir's sentencing to 5 years of imprisonment for his book *Öcalan Devlet mi? (Is Öcalan the State?)* From then on until today, Tatar has continued to run the Su Publishing, working both as writer and publisher. He has published more than a hundred books, with a publishing philosophy that encompasses world developments, asks questions concerning the improvement of the lives of the people in this country and seeks answers to these questions.

Tatar's work *Devrimci Marşlar, Türküler ve Ağıtlar (Revolutionary Songs, Marches, Folksongs and Requiems)*, a compilation of songs composed in celebration of the 40th anniversary of the 1968 youth movement, and Mahir Çayan's book *Toplu Yazılar (Collective Writings)* fell subject to a seizure order on the day they were published and a trial was opened by the 11th and 13th High Criminal Courts.

In its ruling, the 11th High Criminal Court stated that “the Court was not convinced that the suspect would not repeat his offense,” requesting a one year and six month prison for the book *Toplu Yazılar*. The case has been forwarded to the High Court of Appeals. While the case related to the book *Devrimci Marşlar, Türküler ve Ağıtlar* was concluded with an acquittal, it was also sent to the High Court of Appeals upon the insistence of the prosecutor.

NEDİM ŞENER

Writer

Born in 1966 in Germany, Şener began his career as professional journalist at the Dünya newspaper in 1992. He moved to the Milliyet newspaper in 1994. He has published eight books on subjects such as corruption, tax evasion, organized

crime, terror financing, intelligence organizations and religious groups: *Tepeden Tırnağa Yolsuzluk (Corruption from Head to Toe)*, *Naylon Holding (Nylon Holding)*, *Uzanlar: Bir Korku İmparatorluğunun Çöküşü (The Uzans: The Collapse of an Empire of Fear)*, *Kod Adı Atilla (Code Name: Atilla)*, *Fırsatlar Ülkesinde Bir Kemal Abi (A Brother Kemal in a Land of Opportunities)*, *Hayırsever Terorist (The Charitable Terrorist)*, *Dink Cinayeti ve İstihbarat Yalanları (The Dink Murder and Intelligence Lies)*, *Ergenekon Belgelerinde Fetullah Gülen ve Cemaat (Fethullah Gulen and His Congregation in Ergenekon Documents)*. His book *İşte Hayatım (My Life, Ugur Dundar)*, describing the life of journalist Uğur Dündar, was published by the Doğan Publishing Group. Şener also had a column titled “Soruşturuyorum” in the Posta newspaper.

Currently working as a reporter for the Milliyet newspaper, Şener has received the following awards: in 1998, 1999 and 2000 the Turkish Journalists Association Economic Reporters of the Year Award (Türkiye Gazeteciler Cemiyeti Yılın Ekonomi Muhabirleri Ödülü), the 1998 Metin Göktepe Journalism Award (Metin Göktepe Gazetecilik Ödülü), the 2002 Sedat Semavi Journalism Award (Sedat Simavi Gazetecilik Ödülü), the 2007 the Uğur Mumcu Contemporary Journalists Society investigative Journalism Award (Çağdaş Gazeteciler Derneği Uğur Mumcu Araştırmacı Gazetecilik Ödülü), the 2009 Turkish Journalists Association for Freedom of the Press Ödülü (Türkiye Gazeteciler Cemiyeti Basın Özgürlüğü Ödülü) and the 2010 Abdi İpekçi Award.

Şener is on trial following a complaint filed by police intelligence officers in relation to his book *Dink Cinayeti ve İstihbarat Yalanları*, with a 28-year prison sentence being demanded.

SADULLAH GÖKGİYAS

Bookseller

Born in Kayseri in 1951, Gökgiyas completed his primary and secondary education in Kayseri. His interest in books began during his school days and drew him towards this sector. In 1965 he started working in a bookshop as employee. In 1976 he founded the Özömür Bookshop.

Impetus, conviction and rectitude have constituted Gökgiyas’ creed. He has developed his concession system, which he launched in Central Anatolia, until this day.

Uncompromising on his principles, Sadullah Gökgiyas, who is married and the father of three, has stubbornly pursued his trade under difficult economic and political circumstances for 34 years.

FREEDOM TO PUBLISH REPORT 2010

One of the most enduring legacies of the extraordinary past eras in Turkey has been that books had been considered as elements of criminality. Those books were exhibited as “elements of crime” during mass arrests in those times had caused the population with an already limited readership to be further alienated from books. It is unacceptable that in these times Montaigne’s *Essays* and Nihat Behram’s *Darağacında Üç Fidan (Three Saplings on the Scaffolding)* were included in the legal files against university students arrested in Sivas for membership of an illegal organization. We begin our report this year by asking how the prosecutor in this case could consider these books as elements of crime, underlining our assertion that a transformation in mentality remains as needed today as do changes in laws.

CURTAILMENT OF FREEDOM OF CRITICISM AND COMMENT

The notion of the immunity against criticism enjoyed by institutions and their employees continues to be an important hindrance in the way of the freedoms of thought and expression. Critical journalism is easily interpreted as “insult,” and both public and civil law are used as an armoury protecting institutions and their representatives from criticism of any kind. The “immunity” of the armed forces continues under the provisions of the Anti Terror Law, curtailing the freedom of the press as in the case of Nedim Şener. His *Hrant Dink Cinayeti ve İstihbarat Yalanları (Hrant Dink Murder and the Lies of Intelligence)* was accused of “targeting those fighting terrorism” and taken to court. This curtails both freedom of criticism and the freedoms to gather and disseminate news. In this sense, the judiciary also remains “immune.” “Attempt to influence fair trial” or “infringement of secrecy” also form serious barriers in the way of freedom of the press. Through them, any kind of investigative or critical approach is easily frustrated. It is feared that new regulations and draft laws will further limit the freedom of the press. Secret recordings have become commonplace, threatening the whole realm of private life. Following the “worsening” of the provisions of the Anti Terror Law in 2006, many publications face more frequent shut-downs, and arrests turn into punishment as trials linger on, often for years. The Anti Terror Law continues to present ever greater problems in the way of the freedoms of thought, expression and the

press. Journalists and writers from a variety of different backgrounds and opinions are hampered by this law. Moreover, the fact that the “Kurdish opening” had been stalled has led to an exponential increase in the cases brought before courts.

HUNDREDS OF TRIALS FOR “THE INFRINGEMENT OF THE CONFIDENTIALITY OF TRIAL” AND “ATTEMPT TO INFLUENCE THE JUDICIARY”

According to the Ministry of Justice data, up until April 2009 2,407 investigations were opened against newspapers, reporters, columnists and editors with regard to their publications regarding the Ergenekon Trial that had begun in June 2007, based on the charge of “breach of confidentiality” under Article 285 of the Turkish Penal Code and on the charge of “attempting to influence fair trial” as stipulated under Article 288. This number is estimated to have reached 4,000 by the end of 2009 and comprises journalists and publications of all political shades. For example, Ahmet Altan, the editor-in-chief of Taraf and writer, is on trial at the Kadıköy 2nd Criminal Court of First Instance for both these crimes simultaneously. Ahmet Altan, Yasemin Çongar, Nevzat Çiçek, Mehmet Baransu, Bahar Kılıçgedik, Başar Arslan, Sibel Hürtaş, Adnan Keskin and Adnan Demir face over a hundred cases between them, mostly in relation to Ergenekon trials, with charges such as “infringement of the confidentiality” of trials, “attempt to influence fair trial,” and “attempt to influence the judiciary.” Ahmet Altan says “Not only I, but many writers and reporters of Taraf go from court to court with their summons in hand. The main issue in our cases is the criticism of the ‘military judiciary.’ I guess the hundreds of cases against us at the Kadıköy court does not interest the ‘members of the media’ who claim that ‘the media is under pressure.’” Another example of such a journalist on trial is the reporter for the Radikal, İsmail Saymaz. Saymaz will face the judges on June 23, at Bakırköy 2nd Criminal Court of First Instance, regarding his news piece titled “Cihaner’e neler sorulmuş neler” (“All that was asked to Cihaner”). Saymaz had also been charged with “attempt to influence fair trial” and “infringement of confidentiality,” for publishing the testimony that İbrahim Şahin, the ex-Deputy Chief of Special Operations, had given to the prosecutor regarding the Ergenekon investigation. On the other hand, writer-journalist Şamil Tayyar is sentenced to one year and 8 months in prison by the Istanbul 2nd Court of First Instance for “infringing the confidentiality of the investigation” and for “attempting to influence fair trial” with his book *Operation Ergenekon*. Şamil Tayyar was later sentenced to two separate prison terms of 15 months and 20 months. The Ankara 11th Court of First Instance has sentenced Cevheri Guven, the Ankara news director of Star and the ex-Editor-in-Chief of the online news site aktifhaber.com, of “infringing the confidentiality of the trial” with his news

piece on the Malatya Zirve Publishing House massacre published on the news site. Lastly, journalists Ertuğrul Maviöğlü and Ahmet Şık, face investigation for their book titled *Kırk Katır, Kırk Satır: Kontrgerilla ve Ergenekon’u Anlama Kılavuzu (The Guide to Understand the Contra-guerrilla and Ergenekon)*, published in two volumes by the İthaki Publishing.

THE CASE OF VEYSİ SARIÖZEN

An interesting example of how the discussion of an important problem and its solution is stifled is the case of Veysi Sariözen and the two sentences that he received. Sariözen is one of the leading names of the youth movement of ’68. He has been publishing since the mid-1960s. Although he has been on trial several times before, this is the first time he is actually convicted. The reason is that he deploys a different terminology than the state in describing an event. Thus, while he should be considered among the “wise men” who seek a solution to a problem, he finds himself among the list of the “prisoners of conscience.” Furthermore, he faces trial under the Anti Terror Law. All of a sudden, he becomes a “terrorist” with a pen in his hand.

In his article titled “Vesaire, vesaire” (“Etcetera, Etcetera”) published in the 12 November 2007 issue of *Gündem*, Sariözen wrote as follows: “The banning of words does not accord with a state of law. We have the right to have a different diagnosis. Ours is different than yours. Is that not possible?”

Another striking example is that the trial against Hrant Dink, under Article 301 of the Turkish Penal Code, for his characterization of the events of 1915 as “genocide,” has continued against his son Arat Dink and editor Sarkis Seropyan. This led to a conviction, albeit that the case was overturned on appeal. There will be a retrial if the Ministry of Justice so decides. Last year, the Ministry had allowed a case to be opened against writer Temel Demirer for a similar commentary. Although the number of cases has dwindled, Article 301 continues to raise problems as it was only partially modified rather than being repealed altogether.

Lately, writer and poet Roni Margulies began trial at the İstanbul 13th High Criminal Court in a similar case. His article titled “Kim Kimin Düşmanı?” (“Who is Whose Enemy?”) was interpreted by the prosecutor as making “propaganda for a terrorist organization.” Answering the accusation, Roni Margulies described the situation in the region as “the conflict of two armed forces is called a war.” Margulies added that the ex-Chief of Staff of the Armed Forces Doğan Güreş had also called the situation “a low-intensity war,” adding that Chiefs of Staff do talk of ‘war’ and that thirty years of conflict do amount to a de facto war. Saying that the Kurdish problem has been only recently discussed by the Prime Minister Erdoğan

at a breakfast, where issues such as education in mother-language were raised, he asked, “What are you going to call that then?”

A VARIETY OF CHARGES

In brief, the most common charges of the last year were as follows:

“Propaganda for an illegal organization”, “attempt to influence the judiciary”, “threat” and “insult”, “disrupting the peace by playing loud music at a place of work”, “making those fighting terrorism as targets to terrorist organizations”, “accompanying a song and a slogan in Kurdish”, “insulting the memory of a person” “insulting İzmirianess”, “attempt to influence fair trial”, “infringement of the confidentiality of an investigation”, “violation of the law of demonstration”, “making propaganda for ‘Kurdistan’, “to say genocide”, “insulting Prime-Minister Recep Tayyip Erdoğan”, “criticizing Ali Suat Ertosun, the General Director of Prisons and Detention Centers at the time of the Operation Return to Life”, “overstepping the limits of criticism”, “attending funeral”, “propaganda by way of a tombstone”, “alienating the populace from military service”, “praising a crime and a criminal”, “writing in the Agos”, “committing a crime in the name of a terrorist organization without being a member of the organization”, “committing obscenity”, “using the word ‘Sayın’ (a form of formal address)”, “using objectionable colors”, “denigrating religious values” and “inciting enmity or hatred among the people”. As we have previously reported on the most problematic articles from the perspective of the freedom of expression in our reports of 2008 and 2009 at length, and as problems increased rather than improved for the better, we shall not dwell on them here. If interested, please see our previous reports.

Since the expected changes are yet to be made in the laws curtailing the freedoms of thought and expression, and judicial reform is long overdue, a flood of cases await trial before the courts and unfortunately an explosion in the number of prisoners of conscience is expected in the near futures. There is little to hope to be garnered from the briefings of human rights organizations, the Initiative for Freedom of Expression and independent press associations.

The 2010 January to March observation report of the Independent Communication Network Media Observation Desk lists a total of 216 journalists, writers, publishers, cartoonists, politicians and citizens, 69 of them journalists, as being on trial for reasons that could be regarded within the purview of the freedom of thought and expression. Last year in the same period, the number was 110 people, 60 of whom were journalists. “Intra-institutional conflict and official initiatives to curtail free discussion led to more cases being opened against journalists and others who express their thoughts. Prison sentences are stipulated in legal codes.”

Two journalists, Vedat Kurşun and Erdal Güler, are in prison for published articles, and publisher Bedri Adanır for three books. At least 32 journalists were in prison in the first three months of 2010 for links with terrorist organizations, but it was impossible to determine whether the arrests had anything to do with their occupational activities. Ten of these journalists were released in the same period. A total of 48 people, 19 of whom were journalists, were on trial with the prospect of a total prison sentence of 147 years, eight months, under Article 125 of the Turkish Penal Code and other legal provisions to do with the charge of “insult.” Seven of these were sentenced to a total of three years one month and 27 days of imprisonment and TL 2,780 fines.

Furthermore 15 people, 13 of whom are journalists, a cartoonist and three media outlets, NTV, Evrensel and Bianet, were on trial for defamation in print, and faced TL 1,278,000 in indemnities. These trials were concluded with sentences amounting to TL 330,000. In January to March 2009, prospective prison sentences were 61 years, and the fines demanded amounted to TL 1,673,000. Nazlı Ilıcak, Cüneyt Arcayürek, Hüseyin Kocabıyık, Michael Dickinson, Melih Kaşkar, Fatma Sarıbiyık, Yalçın Ergündoğan, Mahmut Alınak, Ali Tarakçı and Emrullah Özbey were convicted. Dickinson, Kaşkar and Alınak were sentenced for allegations related to Prime Minister Erdoğan, while Ilıcak was found guilty of calling the judge Osman Kaçmaz “officious.”

“103 persons, of whom 15 are journalists, were on trial for ‘printing and publishing notices and declarations for terrorist organizations’, ‘making propaganda for terrorist organizations’ or ‘revealing and disseminating the identity of officials who have taken part in counter terrorism or thus making them into targets’. The cost of news reporting regarding the Kurdish Question has been the shut-down of Azadiya Welat for two months, and the trial of Hakan Tahmaz from Birgün, Veysi Sarısözen from Günlük, Rıfat Başaran from Radikal and Namık Durukan from Milliyet, with the prospect of prison sentences. Six persons (Vedat Kurşun, Murat Kolca, İrfan Dündar, Fırat Aydınkaya, Ozan Kılınc and Fehmi Kılıç) were sentenced to a total of 28 years and five months in prison and TL 16,660 in fines under the Anti Terror Law.”

THE CASE OF VEDAT KURŞUN

The prosecutor demanded a total of 525 years in prison for Vedat Kurşun, the editor of the only Kurdish daily published in Turkey. On May 13, Vedat Kurşun was sentenced to 166 years and six months in prison, bringing to mind the prison sentences rendered in the 12 September era that far exceeded the human life-span. In the first three months of 2009, there were 16 defendants being

tried under the Anti Terror Law with prison sentences up to four years and eight months.

PRAISING THE CRIME AND THE CRIMINAL

One article of the new penal code that has been cited with increasing frequency punishes the newly defined crime of “praising a crime and the criminal.” Commentary on unfair convictions delivered during the extraordinary eras are thus allowed to stand indefinitely without criticism. Moreover, this article is used even regarding comments about persons who are no longer alive. For example, this article was recently used to try and convict the members of Halk Evi (People’s House) who commemorated Mahir Çayan and his friends who were killed at an incident in Kızıldereli in 1972*. Mehmet Alınak, writer and ex-member of parliament, was sentenced for refusing to pay a fine for this offense. The justification for the sentence was that he had requested that the names of revolutionary Deniz Gezmiş, writer Musa Anter and human rights defender Vedat Aydın** are given to streets. The administrative court has erased the name of publisher and human rights defender Ayşe Nur Zarakolu from the gate of a park in Diyarbakır with the same justification. Finally, Recep Tatar, the recipient of this year’s Turkish Publishers Association award and the editor of Su Publishing, faced conviction for publishing revolutionary songs of the 1968 generation.

“In 2009, 27 persons, four of whom were journalists were tried under the Article 215 of the Turkish Penal Code, with the charge of ‘praising the crime and the criminal’. Osman Baydemir and Mahmut Aydın were sentenced to a total of TL 3,000 in legal fines, while new cases were opened against Ali Barış Kurt, Mehmet Nuri Kökçüoğlu, Pınar Sağ and Mehmet Özmen. On the other hand, Ahmet Birsin, of Gün TV has been under arrest for a year; the editor-in-chief of Adana Radyo Dünya and Seyithan Akyüz from Azadiye Welat are also under arrest. The editor-in-chief of İstanbul Özgür Radio Füsün Erdoğan and the coordinator of Atılım Magazine İbrahim Çiçek have been under arrest for over three-and-a-half years.”***

Musicians Pınar Sağ and Ferhat Tunç were the latest additions to the list of those on trial for “praising the crime and the criminal” at festivals and concerts.

DIVERSE LIST OF DEFENDANTS

Although not complete, the people whose names are listed below, hold diverse occupational identities, including writer, poet, journalist, musician, poli-

* They were killed during Turkish military attempt to free British agents they had kidnapped.

** See previous footnotes.

***Quote from BIANET report.

tician, publisher, housewife, driver, peasant, member of parliament, academic, drama artist, parent, lawyer, doctor, film director etc., besides having a variety of political identities such as leftist, liberal and Islamist, as well as ethnic and religious identities, proving that the problems placed in the way of full realization of freedom of thought and expression adversely affect a great majority of the population. Freedom of thought and expression remains a need for everyone. Those who do not need it today will need it tomorrow:

Ethem Açıkalin, Haldun Açıksözlü, Taner Akçam , Halil Aksoy, Cengiz Almış, Ahmet Altan, Mahmut Alınak, Hüseyin Arı , Mustafa Arıgümüş, Başar Arslan, Bahadır Atay, Mahmut Aydın, Mustafa Balbay, Mehmet Baransu, Rifat Başaran, Osman Baydemir, Fadil Bedirhanoğlu, Ataol Behramoğlu, Şükrü Binici, Hacı Boğatekin, Hasan Cemal, Berkant Coşkun, BKM Müzik ve Tiyatro Grubu, Hasan Çakalkurt, İbrahim Çeşmecioğlu, Nevzat Çiçek, Yasemin Çongar, Adnan Demir, Abdullah Demirbaş, Temel Demirel, Hatip Dicle, Abdurrahman Dilipak, Arat Dink, Osman Doğan, Muzaffer Erdoğan, Şebnem Korur Fincancı, Tomris Giritlioğlu, Kemal Göktepe, Erdal Güler, N. Mehmet Güler, Ahmet Güner, Mustafa Hacımustafoğulları, Sibel Hürtaş, Nazlı Ilıcak, Mustafa Karahasanoğlu, Abdurrahman Şeref Kazan, Adnan Keskin, Eren Keskin, Ahmet Kılıç, Fehmi Kılıç, Hasan Kılıç, Ozan Kılıç, Bahar Kılıçgedik , Ersen Korkmaz, Şebnem Korur, Vedat Kurşun, Ali Barış Kurt, Nurettin Kurt, Baskın Oran, Rasim Ozan Kütahyalı, Hacı Orman, Ahmet Önal, Nilgün Öneş, Mehmet Özcan, Veysi Sarısözen, Sarkis Seropyan, Selim Sadak, Pınar Sağ, İrfan Sancı, İsmail Saymaz, İlhan Selçuk, Aydın Sincar, Nedim Şener, Rojda Şenses, Vesile Tadik, Hasan Tahmaz, Fatih Taş, Şamil Tayyar, Aysel Tuğluk, Yalçın Turgut, Berrin Tursun, Mehmet Tursun, Şelale Tursun, Ahmet Türk, Yasin Yetişkin, Leman Yurtsever, Leyla Zana, and Ragıp Zarakolu.

RESTRICTIONS AIMED AT INTERNET PUBLICATION

The Organisation for Security and Cooperation in Europe (OSCE) criticizes Turkish law regarding crimes committed on the internet as being “over-restrictive.” The OSCE representative on the freedom of the press Miklos Haraszti, renowned in his home country, Hungary for his own struggle for freedom of thought in the past, has made a public statement regarding the Law No. 5651 on Regulating Broadcasting in the Internet and Fighting Against Crimes Committed through Internet Broadcasting, saying that “In its present state, the law not only curtails the freedom of expression but also severely limits the public’s access to information.”

The findings of the report on access to the internet in Turkey, prepared by Associate Professor Dr. Yaman Akdeniz for the OSCE reveals that Turkey competes

with China and North Korea in terms of its ban of the internet. According to the report, 3,700 sites are currently banned from access, including sites such as YouTube, Geocities and Google. The report indicates that the Law 5651 meanwhile does not suffice as a means to punish dangerous sites such as those disseminating child pornography.

BANS FOR OBSCENITY

The İstanbul 2nd Criminal Court of First Instance is trying the owner of Sel Publishing, İrfan Sancı, with the charge of committing obscenity for Ben Mila's *The Fairy's Pendulum*, Guillaume Apollinaire's *Memoirs of a Young Don Juan* and *Letters of a Learned and Well-Mannered French Bourgeois Lady* edited by French author P.V. The case is lamentable, considering that the European Court of Human Rights has only recently sentenced Turkey to pay a heavy fine to publisher for banning and prosecuting Apollinaire's *The Eleven Thousand Rods*. PEN International, IPA and TPA gave support to İrfan Sancı and sent observers to the trial. He was acquitted on December 7.

A PUBLISHER BEHIND BARS

Publishers have also begun to bear the brunt of prison sentences. Bedri Adanır, an editor for Aram Publishing, the publishing house that faces the most number of cases, is currently in prison. This is the first time since the 1990s that a publisher is in prison, when from 1994 onwards, publishers such as Ayşe Nur Zarakolu, Sırrı Öztürk, Aydın Doğan, and Ünsal Öztürk were sent to prison for their work as publishers. Unless this situation is halted, it may be that many publishers whose cases are currently pending at the High Court of Appeals will also be gaoled.

The Turkish Publishers Association had drawn attention to the possibility that the banderole, the anti piracy label (banderole) system may be implemented with resulting censorship by political authorities. Previously Aram Publishing had published books by PKK leader Abdullah Öcalan, encountering no obstacle in the way of retrieving its revenue stamps. The rest was a matter for courts which may ban, prosecute or allow these books. Öcalan has had books published that were not banned. When we raised the issue in the National Publication Congress in Ankara, it was minimised as "the unnecessary precautions of a busybody official." According to the law, if the banderoles are not given within a reasonable time period, the publisher has the right to distribute the books freely.

A book of Öcalan published by Diyarbakır based publisher Bedri Adanır has been brought to the European Court of Human Rights according to the publish-

ing house. The prosecutor considered it to be an "organizational document" for a terrorist organisation. The document was published in two volumes carrying the title *Kapitalist Uygarlık: Maskesiz Tanrılar ve Çıplak Krallar Çağı* (*The Capitalist Civilization: The Age of Unmasked Gods and Naked Kings*) and the second bears the title *Özgürlük Sosyolojisi: Maskeli Tanrılar ve Örtük Krallar Çağı* (*The Sociology of Freedom and Civilization: The Age of Masked Gods and Implicit Kings*). Whilst the indictment states that "the publisher Bedri Adanır was not proven to be a member of the organization," he is considered as a member of terrorist organisation with the method of 'analogy' and convicted with a total charge of over sixty years in prison. The Turkish Publishers Association and TÜYAP organized the first book fair in Diyarbakır, but unfortunately, the editor was in prison so could not attend.

CONCLUSION

In conclusion, the general problems placed in the way of freedom of thought and freedom to publish have continued to affect book publishing as had been the case in 2009.

Between 2008 and 2010, according to the data that we have received, 27 publishers have come before judges. While 30 books received convictions, eight other books were either acquitted or the case was dismissed. One such acquittal was overturned by the High Court of Appeals, and eight more books were banned and withdrawn from the market. There are pending cases with regard to 24 other books.

Unfortunately, such cases and convictions curtailing the freedom of expression have led to a string of indemnity decisions by European Court of Human Rights. Such indemnities are financed through the taxes paid by citizens. In five cases with 24 appellants, the ECHR sentenced Turkey to pay a material and emotional compensation and court charges of TL 133,000 (ğ 63,423) for violating freedom of expression. In the same period last year, the amount was TL 58,122 (ğ 28,411).

It is understood that regardless of whether the necessary changes are made to the laws regulating basic rights and freedoms so as to remove the obstacles to freedoms of thought, expression, press, publishing and news gathering, we shall continue to face problems in Turkey until there is a transformation in the mentality of politicians, the judiciary and lawmakers, and the freedom of expression is internalised as an unconditional and integral part of a democratic society.

**BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN
2008 - 2010**

PUBLISHER	WRITER	BOOK
Aram	Abdullah Öcalan	Kültür ve Sanat Devrimi (Convicted)
Aram	Abdullah Öcalan	Kapitalist Uygarlık /Maskesiz Tanrılar ve Çıplak Krallar Çağı (Banned)
Aram	Abdullah Öcalan	Özgürlük Soyolojisi ve Uygarlık /Maskeli Tanrılar ve Örtük Krallar Çağı (Banned)
Aram	Selçuk Şahan	Mavidir Avasın'ın Suları (Acquitted)
Aram	Gülçiçek Günel	Dilimiz Varlığımız-Dilimiz Kültürümüzdür (Acquitted)
Aram	Hatip Dicle	Yargılayanlar Yargılanıyor
Aram	Timur Şahan	İtirafçı/ Bir Jitemci Anlattı (Convicted)
Aram	Tayhan Umut	Tufanda 33 Gün (First acquitted, then convicted)
Aram	Ali Aydın	Kayıpsın Diyorlar (Convicted)
Aram	Ayhan Kaya	Mordemin Güncesi
Aram	Qahir Bateyi	Gulen Azadiya (Convicted)
Aram	Mordem Delibaş	Kırbaşı Baskını (Convicted)
Aram	Serdem Çiyayi	İçimizde Bir Parça Ülke
Aram	Serdem Çiyayi	Yarınlara Yol Almak (Convicted)
Aram	Serdem Çiyayi	Patika (Dismissed)
Aram	Sarya Baran	Bu Yürek Dağlar Aşar (Convicted)
Aram	Hüseyin Kaytan	Ammar İşaretleri (Convicted)
Aram	Halil Uysal	Dağlarda Yaşamın Dili (Convicted)
Aram	Menaf Osman	Gira-Şeran-Serhildan (Convicted)
Aram	Sarya Baran	Kürtler Ne İstiyor (Convicted)
Aram	Hikmet Şenol	Ape Musa'nın Küçük Generalleri
Avesta	Sheri Laizer	Şehitler Hainler ve Yurtseverler
Belge	George Jerjian	Gerçek Bizi Özgür Kılacak (Convicted)
Belge	Dora Sakayan	Bir Ermeni Doktorun Yaşadıkları (Acquitted)
Belge	Mehmet Güler	Ölümden Zor Kararlar (Convicted)
Berçem	Berçem	Ape Musa'nın Küçük Generalleri (Convicted)
Boran	Derleme	Tecrit'te Yaşayanlar Anlatıyor
Çetin	Duran Kalkan	Kürdistan'de Demokratik Siyasetin Rolü (Banned)
Çetin	Derleme	Demokratik Konfederalizm (Banned)
Deng	Yılmaz Çamlıbel	Üniter Devlet, Kafayı Yemiş Toplum
Do	Aras Erdoğan	Haberlerin Ağında Öcalan (Convicted)
Do	Sertaç Doğan	Şırnak Yanıyor 1992 (Convicted)

Do	Medeni Ferho	Sayın Başkan (Convicted)
Doğan	Nedim Gürsel	Allahın Kızları
Doz	Mesut Barzani	Barzani ve Özgürlük Hareketi (Acquitted)
Doz	Mustafa Balbal	Ararat'taki Esir General (Convicted)
Doz	Hasan Bildirici	Dönüşü Olmayan Yol
Ekin	Mehmet Pamak	Kemalizm, Lâiklik ve Şehitlik (Convicted)
Evrensel	Ahmet Kahraman	Kürt İsyancıları
Evrensel	Zeynep Özge	İmran, Bir İsyan Andı
Güncel	Belma Akçura	Derin Devlet Oldu Devlet (Convicted)
Güncel	Nedim Şener	Dink Cinayeti ve İstihbarat Yalanları
Güncel	Kemal Göka	Hrant Dink Cinayeti / Medya, Yargı, Devlet
İnkılap	Osman Pamukoğlu	Unutulanlar Dışında Yeni Bir Şey Yok
İthaki	E.Mavioglu/A.Şık	Kırk Katır Kırk Satır/Kontrgerilla ve Ergenekon'u Anlama Kılavuzu
Kuzey	Richard Dawkins	Tanrı Yanılgısı (2 nd trial following acquittal)
Merkez	Perihan Mağden	Hangimiz Ugramadık Haksızlıklara (Acquitted)
Neden Kitap	Zihni Çakır	Ergenekon'un Çöküşü (Convicted)
Neden Kitap	Zihni Çakır	Kod Adı Darbe (Convicted)
Ozan	Sinan Kara	Sinan'ın Kara Kitabı
Pencere	Toynbee	Mavi Kitap (Convicted)
Peri	M. Erol Coşkun	Acının Dili Kadın (Convicted)
Peri	Hejare Şamil	Diaspora Kürtleri (acquittal overturned)
Peri	Mahmut Baksi	Teyre Baz / Hüseyin Baybaşın (Convicted)
Peri	Hejare Şamil	Öcalan'ın Moskova Günleri (Dismissed)
Peri	Munzur Cem	Dersimde Alevilik (Convicted/ ECHR)
Peri	Evin Çiçek	Tutkular ve Tutsaklar (statue of limitations)
Sol	Murat Pabuç	Boyalı Bank Nöbetini Terk Etmek (Dismissed)
Sorun	Osman Tiftikçi	Osmanlı'dan Günümüze Ordunun Evrimi
Sel	Ben Mila	Peri'nin Sarkacı
Sel	P.V.	Görgülü ve Bilgili Bir Burjuva Kadının Mektupları
Sel	Appolinaire	Genç Bir Don Juan'ın Maceraları
Su	Mahir Çayan	Toplu Yazılar ((convicted)/ (banned)
Su	Derleme	Devrimci Türkü ve Marşlar ((convicted)/ (banned)
Timaş	Şamil Tayyar	Operasyon / Gizli Belgelerde Karanlık İlişkiler (Convicted)
Tohum	Aytekin Yılmaz	Çok Kültürlülüğün Tek Kültürlülüğe Anadolu (Convicted)
Tohum	Erdal Yeşil	Kemalizm / Oturan Adam (Convicted)
Tohum	Mamo Bayram	Koçgiri-Kuzey Batı Dersim (Convicted)

Tevn	Zülfikar Tak	Diyarbakır Cezaevinde İşkence
Tevn	Ergün Sönmez	Emperyalizm Sürecinde Kürt Özgürlük Hareketi
Tevn	Kasım Çakan	Astsubayken Er Olmak
Umut	Mehtap Polat	Nergiz

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2011

BEDRİ ADANIR

Publisher

Adanır was born in Diyarbakır, in 1983. In 2005, he enrolled at the Dicle University, Faculty of Sciences, Department of Mathematics. Having worked in newspaper distribution since the age of 12, Adanır worked as a reporter in the various bureaus of the periodical Özgür Halk (Free People).

In 2008, he took over Aram Publishing with a group of friends and began working as the editor-in-chief of the publishing house.

Adanır was taken into custody and arrested on 5 January 2010 as he was entering Turkey from Northern Iraq via the Habur gate at the Silopi district of the province of Şırnak.

He is charged with “praising a criminal” and “propaganda for an illegal organisation” in various writings in the Kurdish Hawar newspaper and in three books from Aram Publishing, including the book *Kültür-Sanat Devrimi Üzerine (On the Culture-Arts Revolution)*, comprising Abdullah Öcalan’s defence at the European Court of Human Rights. The book has not been published as it has not been granted a anti piracy label (banderole) by the Ministry of Culture and Tourism. He faces the prospect of up to 50 years imprisonment.

Adanır’s trials are ongoing at Diyarbakır high criminal courts.

Publisher Adanır is currently being held at Diyarbakır type-D Prison. He has four years and five months of prison sentence already approved in relation to other press cases.

AHMET ŞIK

Writer

Şık was born in Adana in 1970. He graduated from the Istanbul University, Communications Faculty, Department of Journalism. Between 1991 and 2005, he worked as a reporter for Milliyet, Cumhuriyet, Evrensel, Yeni Yüzyıl and Radikal newspapers and for the periodical Nokta, and as a photo-reporter with Reuters.

He has written on human rights, journalism and journalistic ethics in numerous weekly and monthly periodicals and daily newspapers, as well as in civil society organisation publications. He has taught at İstanbul Bilgi University.

Şık has been the recipient of numerous awards in his career, including the Bülent Dikmener News Story Award (1994), Turkish Journalists' Society Photography Award (1995), Metin Göktepe Journalism Award (2001-2002-2007), and the Progressive Journalists Association News story Award (2002-2003-2005).

In April 2010, Şık published a two-volume book titled *Ergenekon'da Kim Kimdir? Kır Katır Kırt Satır: Kontrgerilla ve Ergenekon'u Anlama Kılavuzu (Who's Who in Ergenekon? Kır Katır, Kır Katır: Counter-guerrilla and the Guide to Understanding Ergenekon)*, together with journalist Ertuğrul Mavioğlu, a reporter for the daily Radikal. He was charged with "violating the secrecy of the investigation" with the prospect of 4,5 years' imprisonment for this book, but was later acquitted.

Ahmet Şık's last work, *İmamin Ordusu (The Imam's Army)*, which focused on Gülen congregation's infiltration into the police force, was banned even before it was published, the digital draft version being seized from the İthaki Publishing's computer during a raid on its premises. Copies kept by his lawyer and his friends were also seized and Şık was arrested in relation to the Ergenekon investigation. He is currently held at the Silivri Prison.

BİRGÜL KİTAPÇI **Bookseller**

Kitapçı was born in Izmir in 1938. In 1956 she started to work beside her father Fahrettin Bey at the Yavuz Bookshop, which she has been running with her brother Ali Ragıp Kitapçı since 1966.

The Yavuz Bookshop was founded in 1913 by Fahrettin Bey and his brother Hüsnü Bey (one of the first deputies of the Grand National Assembly), after they had migrated from Salonica in Greece to İzmir. Since the family were busy in the bookshop sector, they were given the name Kitapçı (bookseller) by Atatürk himself, when the law on family names was passed.

Having started her carrier as bookseller at the age of 18, Birgül Kitapçı started studying Hungarian in 1986 at Ankara University, Faculty of Language, History and Geography, in the Hungarian Language department.

Birgül Kitapçı says she takes pleasure in social activities and in helping people out. She has played an active role in many civil society organizations, including Türk Kadınlar Birliği (the Union of Turkish Women), Kanserle Mücadele Derneği (the Association Against Cancer) and Barbaros Çocuk Köyü Vakfı (the Barbaros Children's Village Foundation). She has been a member of an association of professional women (the İzmir-Göztepe Soroptimist Club) for 33 years, while pursuing her bookseller activities for 55 years under difficult economic and political circumstances, without compromising on her principles.

FREEDOM TO PUBLISH REPORT 2011

The Turkish Publishers Association gave its first award in 1995. Its Freedom to Publish Committee issued its first report also in 1995 and the tradition continues to this day. Until 1983, publishers were not held legally accountable for the books they published, thanks to the legal amendment made by the Ecevit government in 1978. It was due to this amendment that during the coup era, the publishers could not be put on trial before the martial law courts for the books they published, provided that the writers were known persons.

The list of authors who were tried in coup d'etat period by the martial law courts for their books, translations and even caricatures included names such as Mete Tunçay, Atilla Tokatlı, A. Kadir, Müjdat Gezen, Savaş Dinçer, Asım Bezirci, Atilla Tokatlı, Yaşar Miraç, Pınar Kür, Adalet Ağaoglu, Demirtaş Ceyhun, and Emil Galip Sandalcı.

On the other hand, the so-called civil courts of the coup era were hardly more lenient, as civil courts of first instance issued numerous preliminary injunctions for the confiscation of hundreds of books in the period after 12 September, albeit with statutes of time limitations.

It was thus not surprising that the new draft Press Law prepared in 1983 was holding even the printing presses responsible for the books they printed. The publishers opposed this draft by a joint protest, declaring that no book will ever get published in Turkey if the printing presses are granted such a mission of censure. The government retreated and that provision was rescinded. The mission of auto-censure then befell on the shoulders of publishers. After 1980, publishers did not dare to publish books on socialism, and neither could they even consider publishing books on the Kurdish issue or the Armenian events. Seven years had to pass after the coup for Nazım Hikmet's oeuvre to be reprinted by Adam Publishing.

Nonetheless, the publishers had again begun to be prosecuted for the books they published under the Press Law passed by the coup government under Bülent Ulusu as it was on its way out.

WHENCE THE PRINTER IS CONVICTED

The İstanbul 14th High Criminal Court signed up for another "first" in 2011 when it considered the printer of a book "as its author" and convicted the owner

of Berdan Printing, Sadık Daşdöğen to six months imprisonment in absentia.

Publisher Abdürrezzak Güngör was put on trial for the two-volume *Anılarla Abdullah Öcalan: Güneşin Sofrasında* (*Abdullah Öcalan in Memories: At the table of the Sun*) by Gülseren Aksu published by Çetin Publishing. The prosecutor had indicated to the printer, who had no legal liability, that the prosecutor's case would be dropped if he paid TL 489 and that no case would be opened against him, so the printer paid the said amount. Nonetheless, inexplicably, the printer was sentenced to prison, but as he was not informed about his conviction, he could not appeal to the High Court of Appeals. His request for the postponement of the decision for six months was accepted. Now, all hope lies with the Ministry of Justice to decide for a retrial. In 1994, Ministry of Justice did not "find suitable" the request for a retrial of a conviction even though the publisher had no liability under the Anti Terror Law.

THE PRIME MINISTRY COUNCIL FOR THE PROTECTION OF MINORS AGAINST HARMFUL PUBLICATIONS IS DETERMINED TO CENSURE

As if the existing restrictions were not sufficient, the Özal Government established a Council for the Protection of Minors against Harmful Publications, which then began to work against works of literature. In 1985, Henry Miller's *Tropic of Capricorn* published by Can Publishing was confiscated with the charge of pornography and a case was opened. (There was a precedent from 1939 when Pierre Louys' famous novel *Aphrodite* was translated to Turkish from French by Avni Insel and charged for being a pornographic publication, but the case was later dismissed. In 1985, publishers displayed joint solidarity for the first time and republished Miller's book and faced trial together.

26 years after this trial, it is saddening to see that the problem still persists. İrfan Sancı, the editor of Sel Publishing, the recipient of our 2009 award and the 2010 International Publishers Association award, found himself in front of the court again in 2011 for a literary work he published, before the ink from signature on his acquittal from three other similar cases had dried.

In January, Sûha Sertabiboğlu, translator of *The Soft Machine* by William Burroughs, one of the most important authors of modern American literature, published by Sel Publishing and İrfan Sancı, the Editor-in-Chief of the Sel Publishing, were charged with "offending the sensitivities of the people" and for violating article 226 of the Turkish Penal Code. In his reply to the prosecutor, İrfan Sancı pointed to the absurdity of the situation:

"The İstanbul Chief Public Prosecutor's Office had sent William S. Burroughs' *The Soft Machine* to the Prime Ministerial Council for the Protection of Minors against Harmful Publications for inspection and the board prepared a report. It is

well-nigh impossible to understand the insistence in sending books prepared and published for adults to "children's" boards, since from such a perspective, tens of reports can be written about media outlets such as TVs, news reports or about thousands of books."

In his defence, Sancı underlined important points:

"Does any institution of the state have such a duty of prescribing the boundaries of the general morality of the society, or saying what is moral and not moral, and furthermore, to decide that society's notions of shame and impropriety have been violated without it ever knowing about it? What kind of an "engineership" is undertaken by attributing social responsibility to such a logic? The Prime Ministry Council for the Protection of Minors against Harmful Publications not only displays its ignorance, but it becomes outright ridiculous when it makes the following observations regarding a literary text: 'Societies have to protect their existence. To that end, social organs have to themselves follow social norms, and furthermore, they are obliged with the duty and responsibility to direct, warn and remind people about this matter. This duty and responsibility is of a social nature. It is impossible for the writings published in this book to comply with this social duty and responsibility. It is observed that the book's main interest is toward sexuality, that it does not comply with the moral structure of this society and that it offends the people's sense of shame and impropriety.'"

The Turkish Publishers Association worked closely with the government to rectify this absurdity, and succeeded in getting important amendments to the law passed. However, the The Prime Ministry Council for the Protection of Minors against Harmful Publications insists on its obsessive behaviour. As had been stated at the 5th National Publication Congress, there seems to be no other solution other than the abrogation of this board.

HOW DOES A PUBLISHER GET CONVICTED?

In 1990, the Özal Government had taken an important step and repealed the Article 142 of the Turkish Penal Code, an important impediment in the way of freedom of thought that had put tens of renowned names of Turkish literature and hundreds of translators in front of courts and even in prison. The great poet Can Yücel had faced courts numerous times for his poems and articles but he was sent to prison for one of his translations. At the same time, another law prohibiting the Kurdish language was also repealed. But the habit of restricting thought and freedom of information remained. In lieu of these restrictions, the infamous articles 6, 7 and 8, curtailing thought and its expression as well as the freedom of the press were inserted into the Anti Terror Law. Subsequently, the state security courts turned into press courts and were overwhelmed with cases.

The Anti Terror Law did not accord any responsibility to book publishers. Thus Ünsal Öztürk, the editor of Yurt Publishing, was acquitted of the few cases brought before the State Security Court. However, the 9th circuit of the High Court of Appeals created an unlawful precedent when it regarded book publishers as akin to the editors-in-chief of periodicals and compelled the courts to give convictions. This was an outright judicial law-making.

The same circuit also repeatedly overturned acquittals regarding writers and publishers and demanded convictions.

In 1995, a number of organisations such as the Turkish Journalists Association, Turkish Journalists Syndicate and PEN Turkey came together under the leadership of Press Council and proposed the amendment of Article 8. Although some improvements were achieved, the amendment also brought about the legal liability of publishers in the text of the Anti Terror Law. The High Court of Appeals should have at least overturned the old conviction decisions regarding publishers but even this was not done.

The latest improvements state that the publisher has no “legal” accountability, but contradictory decisions continue to be given nonetheless.

It is understood that some prosecutors and courts do not adhere to the Press Law that prohibits cases to be opened regarding published books. Author N. Mehmet Güler was sentenced to one and a half years in prison for his novel *Ölümden Zor Kararlar (Decisions Harder Than Death)* in 2010. Publisher Ragıp Zarakolu, who was also being tried in the same case, was acquitted since “the publishers were not accountable”. The previous prosecutor had asked for acquittal for the author, while the next one asked for a conviction. In 2011, the Court convicted both the author and the publisher for the author’s *KCK Dosyası (The KCK File)*, when the prosecutor had asked for acquittals for both.

The latest amendment to the Anti Terror Law, which had been amended numerous times since its promulgation in 1991, by the Law 4928, in compliance with the European Court of Human Rights (ECtHR) decisions as part of the 6th Harmonisation Package on 19 July 2003, removed its Article 8, restricting the freedom of expression. However, the new Anti Terror Law of 2006 proved even more draconian than the one before.

The journalists, writers and publishers associations had called for a reconsideration of articles detrimental to freedom of thought and freedom of the press and warned of the possible consequences, but their warnings fell on deaf ears.

GANGRENE

And at the point where we are presently, all the issues have turned into a

tiresome gangrene. Once again, it is possible to talk of sentences of over a hundred years long regarding the press as had been the case in the 1980s. People’s thoughts, identities, the books or the magazines that they read, can be considered as elements that give the “impression” of their “guilt.”

In conclusion, “when the new penal provisions made in 2004 as part of the EU harmonisation process are analysed in their entirety, it is possible to see that a hybrid system was created that retains the oppressive state policies of the old, together with the pro-freedom notions of the new. This hybrid system evolved in a way where the oppressive state policies regained the upper hand with the 2005 amendments to the Turkish Penal Code and Code of Criminal Procedure (CMUK), and the 2006 changes in the Anti Terror Law. The 2010 constitutional referendum also did not bring about any changes in this respect, and it has become clear that without a comprehensive change in mentality, expressions of thoughts will not cease to be regarded criminal.

The Turkish Publishers Association Freedom to Publish Committee has expressed repeatedly in its annual reports since 1995 that the judiciary has a great responsibility for the protection of freedom of thought and expression. It presents its reports to the judges during trials. However, the judiciary prefers to prioritize its reflex to defend the state and faith, over internalizing international conventions or case-law, and thus displays an extremely conservative and even regressive legal stance. The “rights” of the state always supersede those of its citizens. While a singular mentality is imposed, thinking “differently” is considered an inclination toward criminality. The latest constitutional changes did not overcome these shortcomings of the judiciary, but rather, made their display even easier. The wide leeway granted should have led to a more positive and liberal approach, but instead led to the approval of even more regressive, inexplicable decisions. For that reason, for example in Article 301, the government re-established the Ministry of Justice permission to proceed with prosecution.

THE FIRST BOOK CONFISCATION FROM A COMPUTER

The year 2011 witnessed the most blatant violations of the freedoms of expression, writing, reading, access to information and publishing, justified on the basis of “countering terrorism.” The draft versions of Ahmet Şık’s *İmamın Ordusu (Imam’s Army)* were confiscated not only during a raid on İthaki Publishing, but even via sequestering of the copies in the hands of his lawyer and his friends. Such an incident when a book was confiscated even before actually becoming a book had a precedent in 1933, when all the copies of Kazım Karabekir’s *İstiklal Savaşımız (Our Independence War)* were confiscated. Its 1960 edition was also

banned, and the readers had to wait till 1967 to freely access the book. The most recent publication of that book is dated 2008. A second example is that of the confiscation of *Devrimci Yol Savunması: 12 Eylül Öncesi ve Sonrası (The Revolutionary Way Defence: Before and after 12 September)* by Simga Publishing which was confiscated before binding at the printing house in 1989. At the present stage, the books are being confiscated in electronic copies held on computers. This incident led to a great wave of protest in public opinion, reminiscent of the nightmare societies in science fiction books such as *1984* or *Fahrenheit 424*.

RESTRICTIONS OF INTERNET PUBLICATIONS

The “draft principles and procedures regarding Safe Use of the Internet” were declared as approved by the Information & Communication Technologies Authority (BTK) in February 2011 and these measures are due to take effect on 22 August 2011. They provoked a flurry of new worries and criticism, and protests from all sections of society increase day by day.

The Organisation for Security and Cooperation in Europe (OSCE) was already critical of the Turkish law regarding crimes committed on the internet media for “being too restrictive,” but following the latest developments, Dunja Mijatovic, the OSCE Representative for Freedom of the Media said, “We are seriously concerned about media freedoms and access to information” following the new Press Law and the recent developments regarding the internet.

Natasha Butler, the European Commission Spokesperson on Enlargement, said that the EU has noted the protests against internet filters in Turkey and follows the matter closely. Responding to a question asked at the press conference, Butler said, “We understand that BTK and High Council for Telecommunications (TİB) are enacting new regulations. However, filters, restrictions and bans have to be target-oriented, proportional and as an outcome of legal processes. Otherwise, this regulation would limit the right of individuals to access information they want. Shutting down internet sites based on general banned word lists could violate freedom of expression as well as people’s right to get information. We repeat our uneasiness with the Commission about blocking access to internet sites frequently and disproportionately in Turkey. Particularly, the law 5651 is restrictive of citizens’ access to information via the internet.”

WHEN INSULTS ARE REGARDED AS CRITICISM AND CRITICISM AS INSULT

Another disturbing aspect of judicial decision-making is its double-standards, whereby insults are regarded as criticism and criticism is regarded as insult de-

pending on who the parties in question are. When Taner Akçam criticised the retired ambassador Şükrü Elekdağ by writing that a certain act of the honourable ambassador “would disparage Turkey and hence would not be considered wise,” Elekdağ filed a libel suit. The court concurred, and Taner Akçam, the periodical *Birikim* that published his article, the editors of the Turkish translation of *Blue Book*, who published the article as an appendix to the book against which Elekdağ has waging a crusade, as well as its publisher, Muzaffer Erdoğan, the owner of *Pencere Publishing*, were all convicted of insulting Elekdağ.

Meanwhile, the ex-Mayor of İzmir Burhan Özfatura’s case where he is charged with insulting Yaşar Kemal by calling him “a broken-bottomed (!) novel writer” was postponed for five years.

The General Board of the High Court of Appeals overturned the conviction of the gang charged with threatening Baskın Oran and İbrahim Kaboğlu with heavy insults, profanity and open violence in favour of those who did the insults and threats, in a 23 for, 20 against vote. According to the Board the following words fell within the bounds of “freedom of expression” and did not constitute insults: “You poodle who waves his tail when his cup is filled with meaty bone, you smart-ass, stupid, approved traitor, who stabs behind the back the Turkish state and the oneness of our nation.”

The prime minister opens personal libel cases on the one hand and on the other hand, refers to a work of art as a “monstrosity,” prompting the judiciary to order the dismantling of the sculpture. In our reports, we had previously indicated how “insult” cases are used in a manner that is double-faced, selective, and restrictive of freedom of expression. While certain deep circles and nodes of power have “immunity,” there is a “freedom” to insult and belittle artists and writers.

One latest such example is Belma Akçura, a journalist of 25 years who currently works as an assistant ombudsman at *Milliyet* newspaper. She has four published books on the deep state relations in Turkey: *Derin Devlet Oldu Devlet (Deep State Became The State)*, *Devletin Kürt Filmi (The Kurdish Film by the State)*, *Ağca’nın Derin İlişkileri (Ağca’s Deep Relations)* and *Teşkilatın Adamları (The Men of the Organization)*. Akçura had both civil and penal suits opened against her for quoting from the book *Ali Yurtaslan’ın İtirafı (The Confessions of Ali Yurtaslan)*, which is freely available, upon the complaint filed by Nevzat Bor whose name is mentioned in passing in *Derin Devlet Oldu Devlet*. She was convicted and currently faces both pecuniary fines and imprisonment.

Journalist Yalçın Ergüdoğan, the editor of the internet site *Sesonline*, also faces heavy pecuniary punishment for criticising those that are “immune.” The total fine in three trials amounts to TL 30,000. Ergüdoğan was sentenced multiple times

for his news piece titled “Müritleri Haydar Baş’a baş kaldırdı” (“His followers revolted against Haydar Baş”). Due to a complaint filed by Haydar Baş, the leader of the Independent Turkey Party (BTP), when that news piece was published in the daily *Birgün* on 26 April 2005, Ergüdoğan was tried with the prospect of three years imprisonment by Beyoğlu 2nd Criminal Court of First Instance and eventually was sentenced to 105 days imprisonment. The sentence was later converted to TL 2,100 fine and then suspended for 5 years. Journalist-writer Yalçın Ergüdoğan was also sentenced to a TL 10,000 fine for his ongoing third case merely days ago.

İsmail Saymaz, recipient of numerous prizes, was taken to court many times for his news pieces and books. Saymaz was charged with “exposing those who struggle against terror” by the Erzurum Specially Charged 2nd High Criminal Court for his book *Postmodern Cihad (Postmodern Jihad)*. Furthermore, Saymaz was taken to court with a claim of TL 7,000 for non-pecuniary damages by the Prosecutor Osman Şanal, who said that “he was made to look like a sympathizer of postmodernism.”

Those who are on trial for their books on the intra-judicial struggle in Erzincan include Ali Dağlar, the writer of the book *Ağa 01*, from the *Hürriyet* newspaper and İlhan Taşçı, the writer of the book *Cüppeli Adalet (Justice in a Cloak)*, from *Cumhuriyet* newspaper.

For his book *Hrant Dink Cinayeti ve İstihbarat Yalanları (Hrant Dink Murder and the Intelligence Lies)*, journalist Nedim Şener faced numerous open-ended charges such as “attempt to influence the fairness of a trial,” “violating the secrecy of interpersonal communication,” “exposing as targets those who have taken part in the struggle against terrorism,” and “insult”. There are numerous journalists on trial with similar charges in thousands of cases. Şener was tried earlier for his books *Hayırsız Terörist ve Bir Korku İmparatorluğu: Uzanlar (Benevolent Terrorist and An Empire of Fear: The Uzans)* on charges of insult.

A most negative development has been the inclusion of Article 301 as the grounds for personal indemnity. Following the insistence of High Court of Appeals, a local court has paved the way for anyone who considers him/herself as a Turk to open a case against Orhan Pamuk, the sole Nobel laureate Turkish writer for his comment “We killed thirty thousand Kurds and one million Armenians,” as well as putting anyone who uses a similar discourse under the threat of a similar predicament.

NEVERENDING TRIALS

Although the Kadıköy 2nd Criminal Court of First Instance has acquitted journalist Ahmet Şık and journalist Ertuğrul Mavioğlu of the charge of “violating the

secrecy of the investigation” with their jointly written book *Kırk Katır, Kırk Satır: Ergenekon’u Anlama Kılavuzu (The Guide to Understand Ergenekon)*, it is imperative that such articles curtailing free journalism to be urgently repealed.

Dr. İsmail Beşikçi, who has spent twenty years in prison for his books and articles, and who has become a symbol of academic freedom, has been sentenced to one year and three months in prison on charges of “propaganda for the terror organization,” despite the prosecutor’s demand for acquittal. The court ruled that in his article titled “National right to self-determination and Kurds,” published in the periodical *Çağımızda Hukuk ve Toplum*, Beşikçi’s use of the letter Q while spelling the word Kandil constituted a crime and sentenced the editor-in-chief, lawyer Zeycan Balcı, to a fine.

Another incident where the court insisted on conviction whilst the prosecutor asked for acquittal is the Tahmaz/Çeşmecioğlu Hasan case. Tahmaz, the speaker of the Peace Parliament, was sentenced to 10 months in prison for his interview with the PKK leader Murat Karayılan published in *Birgün* newspaper by İstanbul 10th Special High Criminal Court on 24 March. The Editor-in-Chief of the newspaper İbrahim Çeşmecioğlu also received a TL 16,660 fine.

Following these convictions, Ahmet Önal, the editor of *Peri* Publishing, was sentenced to one year, three months imprisonment for his book *Kurtelekolinek Di Derheqa Diroka Kurd û Kurdistanê*. Ahmet Önal, a recipient of Turkish Publishers Association Prize Freedom of Thought and Expression Award, has been tried in 29 book related cases, paid TL 16,000 in fines, and spent four months in prison.

We should note as a positive development the release of İbrahim Çiçek, the Editor-in-Chief of *Atılım* Newspaper and its writer Ziya Ulusoy, who had been held in detention for almost five years since September 2006, at the hearing on 17 May 2011 by the İstanbul 10th High Criminal Court. According to the numbers provided by press associations, the number of journalists under arrest has fallen to 57 from 59 with these releases.

CONCLUSION

As had been expressed by Öztürk Özdoğan, the Head of the Human Rights Association, “unfortunately, the truly neutral and independent judiciary that would enact the modern principles of Penal Code based on rule of law has still not come into existence in Turkey”. In fact, the judiciary has never been an independent third force resting on law and the fundamental human rights in Turkey. It has always been under the guardianship of the executive. This guardianship also had an ideological dimension, which is now complemented with the “faith” dimension. In fact, all the post-1980 governments are responsible for the current chaotic environment. The 2004 Penal Code regulations passed as a part of the EU harmoni-

sation process have created a hybrid regime where the oppressive state policies of the old and the pro-freedom notions of the new were retained side by side. This hybrid system has evolved in a way where the oppressive state policies gained the upper hand due to the 2005 changes in the Penal Code and the Code of Criminal Procedure, and the 2006 revisions to the Anti Terror Law.

In order for freedom of the press and expression to be secured, the repeal of the Anti Terror Law is of critical importance. Penal Code articles 220/6-7-8, 314/3 and 301 should also be repealed. However, rather than any such thing happening, the draft law for changes in the Turkish Penal Code will bring private life to the point of total non-protection, if approved.

However, despite these negative developments, 2011 has already been a year when the doors have opened to hope, as people of various backgrounds have come together and expressed solidarity for the freedom of expression, the press and freedom to publish.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION IN 2008 - 2011

PUBLISHER	WRITER	BOOK
Angora	Hanefi Avcı	Haliçte Yaşayan Simonlar
Aram	Abdullah Öcalan	Kültür ve Sanat Devrimi (Convicted)
Aram	Abdullah Öcalan	Kapitalist Uygarlık /Maskesiz Tanrılar ve Çıplak Krallar Çağı (Banned)
Aram	Abdullah Öcalan	Özgürlük Soyolojisi ve Uygarlık /Maskeli Tanrılar ve Örtük Krallar Çağı (Banned)
Aram	Selçuk Şahan	Mavidir Avasın'ın Suları" (Acquitted)
Aram	Gülçiçek Günel	Dilimiz Varlığımız-Dilimiz Kültürümüzdür (Acquitted)
Aram	Hatip Dicle	Yargılayanlar Yargılanıyor
Aram	Timur Şahan	İtirafçı/ Bir Jitemci Anlattı (Convicted)
Aram	Tayhan Umur	Tufanda 33 Gün (Acquitted, then convicted)
Aram	Ali Aydın	Kayıpsın Diyorlar (Convicted)
Aram	Ayhan Kaya	Mordemin Güncesi
Aram	Qahir Bateyi	Gulen Azadiya (Convicted)
Aram	Mordem Delibaş	Kırbaşı Baskını (Convicted)
Aram	Serdem Çiyayi	İçimizde Bir Parça Ülke
Aram	Serdem Çiyayi	Yarınlara Yol Almak (Convicted)
Aram	Serdem Çiyayi	Patika (Dava düştü)
Aram	Sarya Baran	Bu Yürek Dağlar Aşar (Convicted)
Aram	Hüseyin Kaytan	Ammar İşaretleri (Convicted)

Aram	Halil Uysal	Dağlarda Yaşamın Dili (Convicted)
Aram	Menaf Osman	Gira-Şeran-Serhildan (Convicted)
Aram	Hüseyin Kaytan	Dağın Mecnunu (Case dismissed)
Aram	Sarya Baran	Kürtler Ne İstiyor (Banned)
Avesta	Sheri Laizer	Şehitler Hainler ve Yurtseverler
Belge	George Jerjian	Gerçek Bizi Özgür Kılacak (Convicted)
Belge	Dora Sakayan	Bir Ermeni Doktorun Yaşadıkları (Acquitted)
Belge	Mehmet Güler	Ölümünden Zor Kararlar (Banned)
Belge	Mehmet Güler	KCK Dosyası (Convicted)
Berçem	İrfan Karaca	Ape Musa'nın Küçük Generalleri (Convicted)
Boran	Derleme	Tecrit'te Yaşayanlar Anlatıyor
Cumhuriyet	İlhan Taşçı	Cüppeli Adalet
Çetin	Duran Kalkan	Kürdistan'de Demokratik Siyasetin Rolü (Banned)
Çetin	Derleme	Demokratik Konfederalizm (Banned)
Çetin	Gülseren Aksu	Anılarla A.Öcalan (printing house owner Sadık Daşdoğan was convicted)
Çivi Yazıları	Aysu Tüksel	Tarkan, Yıldız Olgusu (ECtHR convicted Turkey)
Deng	Yılmaz Çamlıbel	Üniter Devlet, Kafayı Yemiş Toplum
Deng	Yılmaz Çamlıbel	Ağrı Sahipsiz Değildir (Convicted)
Destek	Ali Dağlar	Operasyonun Adı: Ağa 01
Do	Aras Erdoğan	Haberlerin Ağında Öcalan (Convicted)
Do	Sertaç Doğan	Şırnak Yanıyor 1992 (Convicted)
Do	Medeni Ferho	Sayın Başkan (Convicted)
Doğan	Nedim Gürsel	Allahın Kızları (Acquitted)
Doz	Mesut Barzani	Barzani ve Özgürlük Hareketi (Acquitted)
Doz	Mustafa Balbal	Ararat'taki Esir General (Convicted)
Doz	Hasan Bildirici	Dönüşü Olmayan Yol
Ekin	Mehmet Pamak	Kemalizm, Lâiklik ve Şehitlik (Convicted)
Evrensel	Ahmet Kahrama	Kürt İsyanları
Evrensel	Zeynep Özge	İmran, Bir İsyan Andı
Güncel	Belma Akçura	Derin Devlet Oldu Devlet (Convicted)
Güncel	Nedim Şener	Dink Cinayeti ve İstihbarat Yalanları
Güncel	Kemal Göktaş	Hrant Dink Cinayeti / Medya, Yargı, Devlet
Hukuk ve Toplum	İsmail Beşikçi	Kendi Kaderini Tayin Hakkı ve Kürtler (Convicted)
İnkılap	Osman Pamukoğlu	Unutulanlar Dışında Yeni Bir Şey Yok
İthaki	E.Mavioğlu/A.Şık	Kırk Katır Kırk Satır (Acquitted)
İthaki	Ahmet Şık	İmamın Ordusu (The copy at the publishing house was confiscated)

Kalkedon	İsmail Saymaz	Postmodern Cihad
Kuzey	Richard Dawkins	Tanrı Yanılgısı (2nd case after acquitted)
Merkez	Perihan Mağden	Hangimiz Uğramadık Haksızlıklara (Acquitted)
Neden Kitap	Zihni Çakır	Ergenekon'un Çöküşü (Convicted)
Neden Kitap	Zihni Çakır	Kod Adı Darbe (Convicted)
Ozan	Sinan Kara	Sinan'ın Kara Kitabı
Pencere	Toynbee	Mavi Kitap (Convicted)
Peri	M. Erol Coşkun	Acının Dili Kadın (Convicted)
Peri	Hejare Şamil	Diaspora Kürtleri (Acquitted/ Overtured)
Peri	Mahmut Baksi	Teyre Baz / Hüseyin Baybaşın (Convicted)
Peri	Hejare Şamil	Öcalan'ın Moskova Günleri (nol. pros)
Peri	Munzur Cem	Dersimde Alevilik (Convicted – ECHR)
Peri	Evin Çiçek	Tutkular ve Tutsaklar (Time- barred)
Peri	Ahmet Önal	Derheqa Diroka Kurd û Kurdistanê De (Convicted)
So	Murat Pabuç	Boyalı Bank Nöbetini Terk Etmek (Dismissed)
Sorun	Osman Tiftikçi	Osmanlı'dan Günümüze Ordunun Evrimi
Sel	Ben Mila	Peri'nin Sarkacı (Acquitted)
Sel	P.V.	Görgülü ve Bilgili Bir Burjuva Kadının Mektupları (Acquitted)
Sel	Appolinaire	Genç Bir Don Juan'ın Maceraları (Acquitted)
Sel	William S. Burroughs	Yumuşak Makine
Su	Mahir Çayan	Toplu Yazılar (Convicted)
Su	Derleme	Devrimci Türkü ve Marşlar (Acquitted)
Timaş	Şamil Tayyar	Operasyon (Convicted)
Tohum	Aytekin Yılmaz	Çok Kültürlülükten Tek Kültürlülüğe Anadolu (Convicted)
Tohum	Erdal Yeşil	Kemalizm / Oturan Adam (Convicted)
Tohum	Mamo Bayram	Koçgiri-Kuzey Batı Dersim (Convicted)
Tevn	Zülfikar Tak	Diyarbakır Cezaevinde İşkence
Tevn	Ergün Sönmez	Emperyalizm Sürecinde Kürt Özgürlük Hareketi
Tevn	Kasım Çakan	Astsubayken Er Olmak
Tevn	Cemal Şerik	Değişim ve Yenileme Üzerine
Tevn	Eyüp Demir	Yasal Kürtler
Tevn	Osman Özçelik	Kulilken Geşayé (Buz Çiçekleri)
Umut	Mehtap Polat	Nergiz
Yediveren	Nevin Berkaş	Hücreler (Convicted)

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2012

SEMİH SÖKMEN

Publisher

Born in İzmir in 1959, he graduated from the Bornova Anatolian High School and from the Mechanical Engineering Department of Bosphorus University. He is one of the founders of the Metis Publishing, which began publishing in 1982. He worked as an engineer between 1982-84, later dedicating himself wholly to Metis publishing activities. He is currently the company's Editor-in-Chief. He has contributed to the publication of many books. He edits non-literary texts and is in charge of the visual and technical design of books at Metis.

From its foundation, Metis Publishing has adopted a perspective aimed at strengthening the cultural and social status of books. Metis has focused on campaigns aimed at overcoming the cultural damage caused by the 12 September military coup on society as a whole, engaging with great care and attention in collective publishers initiatives towards the widening of freedoms of thought and expression. Among these campaigns are: "Yaşasın Kitap" (Long Live Books) campaign against presenting books as evidence of crime (1986-1987), "Kitabı Geri Getirelim" (Lets Bring Books Back) campaign against cultural erosion (1986), a campaign against a trial involving 39 publishing houses who jointly published Henry Miller's *Tropic of Capricorn* (1986-87) and the "Düşünce ve İfade Özgürlüğü, Hemen Şimdi Herkes İçin" (Freedom of Thought and Expression Now and for All) campaign (1995).

Semih Sökmen was taken to court as Metis's accountable publishing manager regarding the following books: Nadire Mater's *Mehmed'in Kitabı* (*Mehmet's Book*) (1999-2001), Filiz Bingölçe's *Kadın Argosu Sözlüğü* (*Women Slang Dictionary*) (2002-2004), and Elif Şafak's novel *Baba ve Piç* (*Bastard of Istanbul*) (2006). He was acquitted from all charges. He is currently on trial together with other Metis editors for the 2010 version of the agenda published every year by Metis, on the theme of the "right not to believe" and entitled İllallah. The publishers are accused of "disparaging the values embraced by a part of the people."

İSMAİL SAYMAZ

Writer

İsmail Saymaz was born on 11 July 1980 in Rize. He graduated from the University of Marmara. He is pursuing his higher studies on journalism there. He started his journalism career in Rize, and continued in Konya and İstanbul as a local journalist. He has been working as correspondent at the Radikal newspaper since May 2002. He specializes in news related to human rights violations, freedom of thought and expression. In 2009 Saymaz received the İstanbul Medical Chamber's Basında Sağlık Ödülleri (Health in Press Awards) for his news article entitled "Devletin İşkence Günlüğü" ("The State's Diary of Torture") a report on political detainee Engin Çeber's death following torture. In 2010 he was selected for the Metin Göktepe Jury's special award for his report entitled "Gel de Çık İşin İçinden" ("Pull It Off If You Can"), concerning a clash between prosecutors in Erzincan and Erzerum. Following his first book, *Postmodern Cihad (Postmodern Jihad)*, published in April 2010 by Kalkedon Publishing, a series of trials were launched against Saymaz for this book as well as his articles. The same year he was selected by the Turkish Journalists Association (TGC) for its Freedom of the Press Award. After his second book, *Hanefi Yolcu (Comrade Hanefi)*, about the Devrimci Karargâh (Revolutionary Headquarters) trial, was published in March 2011, he was awarded the Freedom of Thought Award by the İstanbul section of the Human Rights Association, an award given in memory of publisher Ayşe Nur Zarakolu.

His third book, *Nefret /Malatya: Bir Milli Mutabakat Cinayeti (Hate/Malatya: A Murder of National Congruence)*, about the massacre which took place at the Zirve Publishing house in Malatya, and violence directed against missionaries, was published in October 2011. His interview with the ex Kahramanmaraş Martial Law Deputy Commander Major General Yusuf Haznedaroğlu, titled "Ben Vazifemi Yaptım" ("I Did My Duty") won him the TGC's Interview of the Year Award among the association's 2012 Success Awards. His last book, *Oğlum Öldürdünüz Arz Ederim (I Report That You Have Killed My Son)*, on human rights crimes committed following the 12 September 1980 military coup, was published in April 2012.

Saymaz has had more than 10 trials launched against him with some 100 years of prison sentence requests regarding his books and press reports. He is accused by the İstanbul 2nd Criminal Court of First Instance of "insult", "violating the secrecy of trial" and "influencing fair trial" in relation to his book *Postmodern Cihad (Postmodern Jihad)* (publisher Kalkedon Publishing). He has two more trials against him at the Bakırköy 2nd Criminal Court of First Instance. The first was initiated by a complaint made by Semih Tufan Gülaltay, a suspect in the

Ergenekon trial, in relation to Saymaz's news report "Ergenekon'un Tetiği: TİT" ("Ergenekon's Trigger: TİT), the second was launched on the request of prosecutor Uğur Gökkoçun, in relation to his report entitled "Sultanbeyli'de bir Aile Mahkemesi" ("A Family Court in Sultanbeyli"), concerning the arrest and mistreatment against youths. He also has three ongoing actions for compensation against him.

ONNİK (ORHAN) ŞENORKYAN

Bookseller

Şenorkyan was born in Kumkapı, a fishermen's neighborhood of İstanbul. He was educated at his local primary and secondary schools. His living conditions led him to drop out from school and start to work. In the summer of 1950, he got a job as an apprentice at the İnkılap Bookshop, in Babiali Street.

Şenorkyan explains that the street was well known as a book shopping area. This is how he describes his most striking memories: "On one side you had the Çığır, Semih Lütfü, Suhulet, Kanaat, Gayret, Ahmet Halit Yaşaroğlu, İnel, Cumhuriyet, Milli Eğitim, Zaman, Remzi, Arif and Bolat bookshops; on the other side, the university and below, after you passed the Meserret patisserie, Rakım Çalapala's Atlas bookshop. At the crossroads, there was traffic policeman, Bekir Bey, who controlled traffic there for years. Farther up the hill you had the Hilmi Kitabevi, Şark Maarif and Tahsin Dermiray's Türkiye publishing houses. Midway up the hill, you had the Saatli Maarif, Ankara and Kültür bookshops..."

During his apprenticeship, he worked with the famous book clerks of the time. One of them was Ahmet Hürrem, who held everyone's esteem. Another was Mehmet Ertezanlı, who was to found the Yurttaş bookshop, in the "sahaf" (second hand bookshops) quarter.

During his bookseller career he met with many writers: Reşat Nuri Güntekin, Necip Fazıl Kısakürek, Abdülbaki Gölpinarlı, Yaşar Kemal, Mustafa Nihat Özön, Cevdet Kudret, Faruk Nafiz Çamlıbel, Necati Cumalı, Mahir Ünlü, Ömer Özcan, Oktay Aslanapa...

One of his most unforgettable stories is one that his boss Garbis Fikri had told him about how Nazım Hikmet would turn up at the shop and leave behind one or two of his poems; and how in those days poets could get money for their poems, even though they could not have them printed.

Later, Onnik Şenorkyan, who has two children and a grandchild, became editor at a publishing house, a position he gained because of his high standing in the sector. For 62 years, he has worked at the Çağaloğlu İnkılap Bookshop, where he is still active. He summarizes his life with the words of Faruk Nafiz Çamlıbel: "A lifetime was thus fully, fully spent."

FREEDOM TO PUBLISH REPORT

June 2011-June 2012

The Turkish Publishers Association has been presenting a Freedom of Thought and Expression Award to people who do not fear expressing their thoughts, with the hope that Turkey will attain the universal standards of freedom of thought and expression as soon as possible. The Freedom to Publish Committee continues to prepare and present its Freedom to Publish Report, revealing the limits of freedom to publish in Turkey for all to see.

The year 2011 witnessed many writers, translators and cartoonists facing prosecution for their work, as well as publishers facing preventive decisions and implementations against their right to publish. Publishers were sentenced for books they published and printing-press owners received prison sentences for books they printed. Readers were questioned and tried, with books in their houses listed as evidence for terrorist activity. The year 2011 was thus a very worrying one, both for the right to publish, as books with no court decision about them, book drafts that are yet to be published, and lists comprising book titles were all accepted as evidence for heavy crimes; and also for the right to access and express thought, as serious infringements were seen in this regard as well.

In recent years, the number of people who were imprisoned for having dissenting opinions and expressing them verbally or in writing has increased rapidly. It was the members of the press who received the heaviest blow from the restrictions imposed on freedom to publish in 2011. According to the Bianet Observation Report, as of end of March, the number of journalists under arrest is 100, and that of distributors is 35. According to the updated list of the Platform for Solidarity with Imprisoned Journalists, the number of journalists under arrest is 92, as of 5 May. These numbers do not include the writers who have been awaiting trial for months under arrest without yet receiving an indictment.

According to the Bianet report, the trials and investigations against journalists and distributors/media workers under arrest generally stem from charges having to do with “news research,” “book writing,” “news reporting critical of the government” and “working for the Kurdish media.” These journalists are in prison due to a definition of “crime” that considers their journalistic activity as the “media

activity of an illegal organization.” In their trials, the press organization that they worked for, the subjects of the news pieces they wrote, the news sources that they contacted, the demonstrations that they reported, and the news reports and books that were products of their journalistic work have been cited as evidence. In the cases opened based on the Anti Terror Law and with the prospect of heavy prison sentences, many journalists and writers are awaiting trial under arrest for months and years without knowing the specific charges against them, due to the long duration of the investigation and trial processes. During this lengthy waiting period, they cannot use their right to defence, because of the “secrecy of the investigation” that prevents them from learning the charges and the evidence against them.

Alongside the arrests, newspapers and periodicals were confiscated, their publication halted and their owners were forced to close them down due to heavy monetary fines. Many members of the press and columnists had to withdraw from their profession as a consequence of their unwelcome news reports and writings. As the legal pressure intensified, the official accusatory declarations stating that “the people under arrest are not journalists but terrorists” not only made it even more difficult for the journalists under arrest to defend themselves, but also constituted an environment of psychological pressure, ripe for auto-censorship, for the members of press who are simply trying to do their duty.

BOOK CONFISCATIONS

In March 2011, journalist Ahmet Şık’s unpublished *İmanın Ordusu* (*Imam’s Army*), on which he was working at the time of his arrest under the Oda TV investigation, was confiscated with the charge that it was “not a book but a terrorist organizational document.” Journalist Ertuğrul Mavioglu and Şık’s lawyer’s work computers, as well as the computers at the publishing houses that were expecting to publish the book were searched for the copies. As a reaction to the decision and the searches, the book draft was rapidly distributed via social media and hundreds of thousands of people downloaded the book from the internet regardless of the decision. The banned book was published in November with the accompanying signatures of 125 journalists, activists and academics, with the title *000Kitap: Dokunan Yanar* (*000Book: Burn If You Touch*) by Postacı Publishing. It was on the stands of many publishing houses in the Istanbul Book Fair and many intellectuals signed the book. The book made it to the best-sellers list.

In June, İnsan Bookshop in İstanbul, Serhat Books and Stationary in Iğdır, and Jiyan Bookshop in Elazığ were raided by the police, Cengiz Kapmaz’s *Öcalan’ın İmralı Günleri* (*Öcalan’s İmralı Days*), published by İthaki Publishing, was confiscated. The confiscation was based on the Kahramanmaraş Criminal Court of

Peace's order to "confiscate and ban the sale" of six books by Mezopotamya Publishing and one book by İthaki Publishing. Öcalan'ın İmralı Günleri continued to be confiscated around the country with the sales ban imposed on the distributors and the bookshops. Thus, a book has been completely removed from the market without a case being opened against either its writer or publisher.

In December, journalist Harun Gürek's *Belediye İhale Dalavereleri (Corruption at Municipal Tenders)* (Togan Publishing) was confiscated in accordance with a decision of the Kocaeli Civil Court of First Instance, upon a complaint made by the Kocaeli Metropolitan Mayor İbrahim Karaosmanoğlu. The book, examining the tenders by the AKP-held municipalities such as in Ankara, İstanbul, Bursa, Kocaeli, Konya and Samsun, featured the photographs of these mayors on its cover. The court decided that Karaosmanoğlu's picture should not feature on future editions, and that it be removed from the printed and distributed copies. The fact that the book was confiscated without any complaints about its contents, apart from the cover, and that no article of the law was cited in the decision, received criticism.

BOOK INVESTIGATIONS

In January 2012, there were many cases of books being investigated.

The books by Musa Anter, Kurdish poet and writer who had been killed in an armed attack in 1992, that were published by Aram Publishing were "banned." The İstanbul Public Prosecutor opened an investigation about the publisher with the charge of "making propaganda on behalf of the organization. Musa Anter's son Dicle Anter reported being asked questions "Why are you printing the books of a dead man?" by the prosecutor.

Demir Çelik, BDP MP from Muş, held a press conference at the Parliament to declare that his novel *Özgürlüğünde Kaldı Gözlerim (My Eyes in your Freedom)* by Aram Publishing was being investigated by the Diyarbakır Public Prosecutor for "making propaganda on behalf of a terrorist organization." Çelik said that the 940 page-novel, based on a true story, was being investigated despite being unread, and that Aram Publishing was raided upon the orders of the same prosecutor and five different books were being investigated with the same charge. Aram Publishing was fined TL 20, 000 for the novel.

Writer İrfan Babaoğlu, who was arrested in the aftermath of the 1980 Coup and held in Diyarbakır Military Prison, only to be released 20 years later due to changes in the law, had three of his Kurdish books investigated and then confiscated. Babaoğlu's works in the genres of memoir, short story and poetry, based on the events he witnessed in prison were confiscated and his memoirs *Auschwitz'den Diyarbakır'a 5 Nolu Cezaevi (From Auschwitz to Diyarbakır Prison No: 5)* (Şevda

Publishing) was cited in a case in which the prosecutor asked for five years imprisonment. In the indictment for this trial, where Babaoğlu is being tried alongside the Responsible Editor of Şevda Publishing in Diyarbakır, Mehmet Emin Teymur, excerpts from PKK cadres' statements in the courtroom or in prison conveyed in the book were considered as "propaganda." It has been learned that only the Kurdish editions of Babaoğlu's books were subjected to trial while its Turkish editions were not. The Kurdish Writers Association organized a press conference along with Kurdish writers to voice its claim that Kurdish authors' books in Turkish and Kurdish were being confiscated and the writers were being charged.

CENSORSHIP OF BOOK ADVERTISEMENTS

Publicity advertisements for *Harem*, the cartoon version of Zülfü Livaneli's *Engereğin Gözündeki Kamaşma (Glare at the Viper's Eye)*, published by Destek Publishing, could only be displayed in a censored version in the İstanbul Metro as the cover was deemed "obscene." The first version of the advert, with the book cover showing an illustration that can be construed as the body of a semi-naked woman, was rejected by the Transportation Inc. But when the publishing house put a band over the illustration in their second attempt, the advert was approved.

CASES AGAINST AUTHORS AND PUBLISHERS

Insult

Journalist Deniz Yıldırım, ex-Editor-in-Chief of the journal *Aydınlık*, was taken to court by the Minister for Customs and Trade, Hayati Yazıcı, with the accusation of "insulting" the minister in the book *Tayyip'in Voleleri (Tayyip's Volleys)* (Kaynak Publishing) that he wrote whilst in prison. Yıldırım was acquitted in December by the İstanbul 2nd Criminal Court of First Instance, but remains in prison where he has been held for over two years as the sole imprisoned defendant among the 29 persons on trial in the "Wet Signature" case, which is now conjoined with the "Internet Memorandum" case under the Ergenekon investigations.

Violation of Individual Rights

Prosecutor Osman Şanal, in charge of the Ergenekon investigations, filed three different complaints with different charges about three books. The first book is titled *Cüppeli Adalet (Justice in a Cloak)*, narrating the unfolding of events after the ex-Erzincan Head Prosecutor, İlhan Cihaner, opened an investigation against the İsmailağa Islamic sect. The book was published by Cumhuriyet Publishing and written by İlhan Taşçı, a reporter for daily *Cumhuriyet*. The second and third books were, *Ağa 1*, written by Ali Dağlar, a reporter for *Daily Hürriyet* and pub-

lished by Kaynak Publishing, and *Postmodern Cihad* (*Postmodern Jihad*) written by İsmail Saymaz, of the daily Radikal, and published by Kalkedon Publishing. Şanal's first complaint was that these three journalists had "made him a target for a terrorist organization." This case, based on Article 6/1 of the Anti Terror Law, with a possible prison sentence, was dismissed as the requisite time period stipulated in the statute of limitations in the Press Law had already passed. The second case was opened with the charge of "violation of individual rights" based on Article 125 of the Penal Code, demanding damages. In the indictment of this case, *Postmodern Cihad* was accused of using Şanal's picture on its cover, and for claiming that "the investigation was born out of a struggle between the congregation and the tarikat," and that Şanal "had been acting out of a will for Jihad." The book *Cübbeli Adalet* was also accused of claiming that Şanal "had been acting out of a will of Jihad," and *Ağa 1* was accused of claiming that "Şanal acted in a biased way, indicating that he is a member of the tarikat." The case ended with an acquittal. The third case, opened with the charge that the journalists were "attempting to influence fair trial" currently continues before the İstanbul 2nd Criminal Court of First Instance.

Denigrating Religious Values

The case opened in 2010 against Metis Publishing for "denigrating the religious values embraced by a section of the populace" with its 2010 annual calendar İllallah Agenda, with the theme of "the right to not believe," continues, under Article 216/3 of the Turkish Penal Code. Publishing House Editor-in-Chief Semih Sökmen, editors Müge Sökmen, Özge Çelik, Tuncay Birkan, Özge Duygu Gürkan, graphic designer Emine Bora and redactor Eylem Can, continue to be tried at the İstanbul 16th Criminal Court of First Instance. The agenda opens with a foreword where it is stated that the right to believe is being protected by religions, state budgets, police and armed forces. "We, the organizers of this agenda, respect people's right to believe. Yet we must say that we have a deeper respect for the right to not believe." The agenda contained excerpts from such figures as George Bernard Shaw, Umberto Eco, Fyodor Mihailoviç Dostoyevski, James Joyce, Albert Einstein, Bertrand Russell and Galileo Galilei.

Case against a Cartoon and Arson

Bahadır Baruter, working for the weekly Penguen, was taken to court for a caricature he had drawn, where the prosecutor asked for a sentence of a year in prison. In the caricature published in *Penguen*, a pillar in a mosque had "There is no God, religion is a lie" written on it. Baruter's indictment, against whom com-

plaints were filed by the Union of the Workers of Religious Administration and Foundations and some citizens, rests on Article 216/2 of the Turkish Penal Code, regulating the crime of "publicly denigrating the religious values upheld by a certain section of the population." On 3 May, a fire broke out in the building where Penguen is located, at an hour when the caricaturists would be at work. The report of the fire department indicates that the fire was a result not of an accident, but of arson. The event continues to be investigated by the Prosecutor's Office.

Slander and Insult

Hanefi Avcı, an ex-Chief-of-Police currently under arrest, faces charges of "slandering" and "insulting" Osman Hilmi Özdil, whose name was mentioned in Avcı's *Haliç'te Yaşayan Simonlar: Dün Devlet, Bugün Cemaat* (*Simons Living at the Golden Horn: Yesterday the State, Today the Congregation*), at the Ankara 2nd Criminal Court of First Instance. At the hearing held in March, Avcı was sentenced to one year for "slander," and three months and 15 days for "insult". The court converted the sentence to TL 2,100 of pecuniary damages.

Propaganda on behalf of an Illegal Organization

The case against Hüseyin Gündüz, the owner of Do Publishing, regarding the book *Haberlerin Ağında Öcalan* (*Öcalan in the News Network*), written by Aras Erdoğan, was concluded. İstanbul 14th High Criminal Court sentenced Gündüz to a prison sentence of one year and six months for "making propaganda on behalf of an illegal organization."

Publisher Hüseyin Gündüz was sentenced to another prison term for "making propaganda on behalf of a terrorist organization" in the book *Şırnak Yanıyor 1992* (*Şırnak is Burning, 1992*) written by Sertaç Doğan and published by Do Publishing. The sentence, based on Anti Terror Law Article 7/2, was converted to a pecuniary fine. The book narrates the story of the Newroz celebrations in Şırnak in March 1992 which had ended with the death of tens of people.

Punishment of a Printing Press Owner

İstanbul 14th High Criminal Court with Special Authority could not identify the author of the book *Anılarla Abdullah Öcalan* (*Ahmet Öcalan in Memories*). As they could not punish the publisher either due to the constitutional changes, the culprit was identified as the owner of the printing press that printed the book. The investigation regarding the book, which had been published in 2005 by Çetin Publishing, revealed that the author, Gülseren Aksu, was a pseudonym. In accordance with the decision made by the Constitutional Court in 2009 that exonerates

publishers and responsible editors from punishment, the publisher was acquitted. The court thus sentenced Sadık Daşdöğen, the owner of Berdan Printing House where the book was printed, to one year in prison and TL 782 pecuniary fine, for “making propaganda on behalf of an illegal organization,” with the assumption that the “printing house has usurped the place of the author.” Arrested on the 16 December, Daşdöğen will remain in prison for nine months.

Obscene Content

İrfan Sancı, the publisher and Süha Sertabiboğlu, the translator of William S. Burroughs’s *Soft Machine*, were charged under Article 226 of the Turkish Penal Code, on the basis of a report by the The Prime Ministry Council for the Protection of Minors against Harmful Publications deeming that the book contains “obscene content.” The case currently awaits the report of a panel comprising two academicians of comparative Literature and a criminal lawyer.

The owner of the Ayrıntı Publishing Hasan Basri Çıplak and translator Funda Uncu, are currently on trial at the İstanbul 2nd Criminal Court of First Sentence for publishing *Snuff* by Chuck Palahniuk, with the charge of “mediating the publishing of obscene content.” The indictment states that the work contains “immoral” and “unliterary” narrations and demands a sentence of up to three years. In their defence, Çıplak said that the work actually criticizes the objectification of a woman’s body and Uncu said that it was her role to translate the work in a manner that was loyal to the original. The case was postponed as the expected report could not be prepared as experts with the required expertise could not be found.

BOOKS FOUND INAPPROPRIATE IN SCHOOLS AND UNIVERSITIES

Ankara Yenimahalle Provincial Directorate of National Education opened an investigation into a teacher who recommended Mina Urgan’s *Bir Dinozorun Anıları* (*Memoirs of a Dinosaur*), to high-school students as an example of texts of self-narrative. The justification is that the book includes “expletives, raises doubts in belief of God and encourages drinking.” In 9th, 10th, 11th and 12th grades, it is mandatory to study self-narratives such as memoirs, travelogues and diaries in Turkish literature classes. *Bir Dinozorun Anıları*, a best seller in 1998 when it was published, includes details about the life of not only Mina Urgan, but also the lives of many other famous literary figures, such as Halide Edip Adivar, Abidin Dino, Necip Fazıl, Sait Faik Abasıyanık, Yahya Kemal, Ahmet Haşim and Orhan Veli, which therefore makes it an ideal book for that topic.

Aslı Tohumcu’s *Abis* (*Abyss*) was recommended to high-schools by the “Writers at Schools” project initiated by the İstanbul Directorate of National Education, but

a complaint was made, on the grounds of “pornographic” and “obscene” content, demanding a recall of the book from schools, which gave rise to a series of discussions. Published initially in 2003, the book comprises 19 stories dealing with violence in daily life. İbrahim Çakmak, chair of the 2nd branch of the Turkish Education Syndicate, was the person responsible for the recall, saying that complaints were made by parents and that the book contained “expressions bordering on pornography” and he also suggested that they would take the matter to court. Ahmet Duran, a Nationalist Movement Party (MHP) MP from Balıkesir, registered a formal question in the parliament on this issue.

Seven students who opened a stand for book exchange at Samsun 19th of May University, faced an investigation. The stand had stood for three days in December, at the end of the term. When the students came back from the semester break, they learned that an investigation was opened against them. The students stated that they opened the stand because they oppose the sale of information, that they would rather share their books and as similar stands had been opened at other faculties in previous terms, they could not understand why the matter would be subject to an investigation this time.

BOOKS AS EVIDENCE OF CRIME

In the indictment charging the protestors, who protested the Hopa incidents in front of the Justice and Development Part (AKP) Ankara Provincial Headquarters, with “membership of a terrorist organization”, numerous legal and currently on sale books and magazines were listed as evidence for “terrorist activity”. Collected from the homes of the youth from Hopa and listed as evidence for “membership of a terrorist organization,” were Halit Çelenk’s *İdam Gecesi Anıları* (*Reminisces from the Night of Execution*), Georges Politzer’s *Founding Principles of Philosophy*, *Bitmeyen Yolculuk*-a one-on-one talk with Oğuzhan Müftüoğlu, Lenin’s *State and Revolution* and *Imperialism: The Highest Stage of Capitalism*.

In the indictment against the employees of the journal *Yürüyüş*, who have been under arrest for 13 months, books on journalism and a book by Nazım Hikmet were listed as evidence. The İstanbul office of the journal was raided in 2010. Various publications were sequestered as “organizational documents”, and six employees were arrested on charges of “making propaganda on behalf of a terrorist organization” and “membership of a terrorist organization.” The evidence listed for the case held at Ankara 11st High Criminal Court, includes articles of the journal itself and various freely sold books. The books listed as evidence in the police operation report are: *Gazetecilerin Hakları ve Mesleki Sorunları* (*The Rights of Journalists and Issues of the Profession*), written by lawyer Sibel Gökçe, from Adalet

Publishing; *Tekelci Medyada Örgütsüz Gazeteci (Nonorganized Journalist in Monopolistic Media)*, prepared by Atilla Özsever and published by İmge Publishing; Nâzım Hikmet's poetry book *Gurbet Ölümünden Beter (Homesickness is Worse than Death)* by Bilgi Publishing; *Ekmek Kavgası (Fight for Bread)* co-authored by Sennur Sezer and Adnan Özyalçın, by Evrensel Publishing and Stalin's *The Principles of Leninism*, translated by the late Muzaffer Erdost, of Sol Publishing. The indictment listed as criminal evidence that the fingerprints of the employees of the Ozan Publishing, Cihan Gün and Halit Güldenoğlu, were found on the books found in the office!

Five young members of the Samsun, Hatay and İstanbul offices of Youth Association for Freedom were arrested on the grounds of "being members of a terrorist organization." The indictment listed books as evidence of membership of a terrorist organization. Among the evidence listed as proof of their connection with the TKP/K organization were books by Hikmet Kıvılcımlı, which could be bought at any bookstore, Tolstoy's *War and Peace*, bookmarks with the picture of Deniz Gezmiş' picture on them and a list of books-to-read found in the house.

BOOK LIST AS CRIME EVIDENCE

For the first time, a "book list" was accepted as evidence. The "book list" found in the house of Ali Haydar Yıldız, a university student who was arrested on 21 January 2011, for "being a member of four different organizations" and "planning a protest," was presented as evidence both in the police investigation report and in the indictment. The police report referred to court decisions banning the books on the list, dating back to the 1970s. Murat Yılmaz, lawyer for Yıldız, stated that these decisions belong to the pre-12 September period and that these books are easily available today. At the prosecutor's office, Yıldız was asked questions about why he has such a list of organizational books that were banned, and whether he had the names in order to cite them as sources during organizational training.

Distributing a Draft Constitution is Crime

In 2007, while discussion about a new constitution was ongoing in the country, ten young people prepared and published a "Draft People's Constitution" in the name of the Haklar ve Özgürlükler Cephesi (Rights and Liberties Front). The case opened against them at the Ankara 11st High Criminal Court with Special Authority concluded with convictions in 2011. The prosecutor argued that the emphasis on "the right of every person to self-determination" constituted propaganda on behalf of the PKK, and that the phrase "all the instruments of torture at MIT centers, police political crime departments, and secret contra-guerrilla bases will be destroyed in front of the eyes of the people" constituted "an open insult

to the military and security organizations of the state." At the final hearing of the case on 19 June 2011, all the defendants were sentenced to two years and six months in prison for "making propaganda on behalf of a terrorist organization." Furthermore, permission was requested from the Ministry of Justice, to charge the defendants under Article 301 of the Penal Code, for "insulting Turkishness, the Republic and the institutions and organs of the state." The Ministry responded through a statement saying that there was no need for a case to be opened under Article 301 and that the text in question fell under freedoms secured by the European Convention on Human Rights.

Draft Translation as Crime Evidence

Journalist Zeynep Kuray, a reporter for the daily Birgün and Fırat News Agency, who was arrested along with 43 journalists as part of the Kurdish Communities Union (KCK) investigation, had a draft translation on a flash disk found in her home, which later made it to the indictment as evidence. The flash disk contained the draft translation of *Le Turban et la Stambouline*, by the French author Jean François Solnon, and actually belonged to Kuray's mother's husband, translator Ali Berktaş, who had it scheduled for print in 2013. Berktaş had loaned the flash disk to Kuray a short time before with the translation copied on it. Prosecutor Çimen regarded the expression "Turks were worse than dogs in everything they do," anonymously said in 1526, and Erasmus and Luther's anti-Turkish statements that figured in the translation of the book that covers the Ottoman-Western cultural relations over five centuries as evidence for the crime of "insulting Turks and Turkishness" under Article 301 in the indictment. According to information gathered from Ali Berktaş, who has so far translated over 50 books in French and Turkish, the section of the book that is subject to the indictment is the third chapter that covers the 1500s when the conflict between the Ottomans and the French was at its zenith. Although the book also includes insults made by Turks that had not been an issue when it was published in France.

BOOKS BANNED IN PRISONS

The Sincan Prison Report, prepared by the Contemporary Lawyers Association's Ankara branch's Prisons Monitoring Commission, has shown that books sent to the prison are not given to the inmates on the grounds of book banning orders dating back to the 1970s or simply because they are deemed "inappropriate." The report states that numerous publications, periodicals and books were arbitrarily sequestered by prison officials when there was no legal decision against them, including even daily newspapers at times. According to the report, the

following books were not given to the inmates: Dimitrov's *United Front Against Fascism*, Marx's *The Communist Manifesto*, Mao's *Selected Works*, Server Tanilli's *Uygarlık Tarihi (History of Civilization)*, Ece Temelkuran's *Ne Anlatayım Ben Sana (What Can I Tell You?)* and the *Hayata Dönüş Operasyonu: Koğuştan Hücrelere (Return to Life Operation: From Dormitories to Cells)* printed by ÇHD.

It has also been revealed that in April, İlya Ehrenburg's *The Wave from the Deep*, Mao's *Fundamental Tactics in People's War*, Lenin's *On Youth*, and Stalin's *Strategy and Tactics* were not given to Aysun Akdağ and Elif Sultan Kalsen, currently held at İstanbul Bakırköy Woman's Prison, on the grounds that they are banned by the prison administration.

Destruction of a Book Draft in Prison

The draft of the second volume of *Metris'ten Munzur'a Bir Firarinin Öyküsü (The Story of a Renegade from Metris to Munzur)*, written by the political convict Halil Gündoğan in prison, was deemed to be "an objectionable letter" and destroyed. Gündoğan, who is imprisoned at Sincan No 1 F Type Prison, had published his experiences in the aftermath of 12 September, under the title *Metris'ten Munzur'a Bir Firarinin Öyküsü (From Metris to Munzur: Story of A Fugitive)* in 2005. Having written the second volume, Gündoğan gave the dossier containing a 200-page-manuscript to the prison officials for them to pass on to his family. The prison administration decided to destroy the dossier on the grounds that it contained "criminal elements." Denying the appeal of Gündoğan's lawyer, the prison administration declared that it will destroy the manuscript, of which the author does not have a second copy.

22,601 BANNED BOOKS

Veli Ağbaba, People's Republican Party (CHP) MP from Malatya, filed a parliamentary question for the Minister of Justice Sadullah Ergin, asking for the number of books, CDs and albums that currently have a ban or a confiscation order against them. Minister Ergin replied, saying that the Third Judicial Reform Package will contain articles that will bring an end to existing book bans. According to Ergin, his ministry had no information to enable it to answer the question and referred it to the Ministry of Interior. Minister of Interior İdris Naim Şahin said that the total number of publications banned, confiscated or stopped from publication amounted to 22,601 since 1952 and that 529 of them had the decision to ban overturned.

TRIALS AGAINST THE PRESS

Oda TV Trial

Commonly known as the Oda TV trial, this case is exemplary as all the defendants are journalists charged with crimes that fall under the Anti Terror Law for their journalistic activities.

The trial began on 22 November at İstanbul 16th High Criminal Court, with 14 defendants, 12 of whom are under arrest, including Nedim Şener, Ahmet Şık, Yalçın Küçük, Soner Yalçın and Oda TV employees. The journalists thus had their day in court 265 days after their arrest. At the hearing held on 12 March, Şık, Şener, Sait Çakır and Coşkun Musluk were released after 375 days under arrest. By the time of the next hearing in June, the other defendants will have been under arrest for one and a half years.

Furthermore, another investigation was opened against Şık, for having said "Justice will come to Turkey when those who set this conspiracy up for us, including the police, the prosecutor's office and the judiciary, too enter this prison" as he was released from prison, on the grounds that he was "threatening the judge and prosecutors and making them a target to a terrorist organization."

KCK Trial

The İstanbul Republican Deputy Head Prosecutor's Office with Special Authority is conducting the KCK investigation and the indictments regarding the 44 arrested defendants, 36 of whom are journalists, was accepted by İstanbul 15th High Criminal Court. The defendants include reporters and employees of Özgür Gündem, Birgün, Vatan dailies and the Dicle and Etkin news agencies.

According to the indictment, the defendants are accused of being "organizational leaders" or "members of an organization" and taking part in "KCK's press committee." News drafts, draft stories, and draft book translations were listed as evidence along with demonstrations attended for the purpose of reporting and phone calls made with news sources. The journalists, who were arrested on 24 January, will have been detained for nine months by the first hearing on 10 September 2012.

The Arrest of Ragıp Zarakolu, Human Rights Defendant and Publisher, and Professor Büşra Ersanlı

Publisher Ragıp Zarakolu, a member of the Turkish Publishers Association and the Chair of its Freedom to Publish Committee, was arrested on 1 November 2011, under the KCK operations. At the prosecutor's office, Zarakolu was asked why he had attended the opening of the "Politics Academy" of the Peace and

Democracy Party (BDP) and whether he taught at the academy or not. Zarakolu is said to have stated that the documents and works confiscated from his home had to do with publishing and that “these documents contain various book drafts. My activities that are being subjected to the accusations are purely intellectual in nature.” Released from prison in April due to an interim judgment of the court before the hearings had begun, Zarakolu is accused of “aiding and abetting an organization” with a possible sentence of up to 15 years. While Zarakolu was under arrest, he was awarded the 2012 Freedom Award by the Belgium based Info-Turk Foundation and the Mahsus Mahal Friendship Award, given in solidarity with the writers, artists and publishers in prison every year by the Mahsus Mahal Association. In the same period, Zarakolu was nominated for the Nobel Peace Prize by Swedish parliamentarians. Lastly, Zarakolu was awarded the International Freedom to Publish Award by PEN America in the name of Jeri Laber, the founder of Human Rights Watch, the biggest human rights organization in America.

Constitutional law professor and a member of the BDP Constitution Commission, writer Büşra Ersanlı was also arrested in the same operation. Ersanlı is under arrest on charges of “being a director of a terrorist organization,” on the basis of a few lessons she had given at the politics academy and her notes on the questions asked to her, bringing a possible sentence of 22 and a half years in prison. The case, which is due to have its first hearing in July, received heavy criticism for the so-called evidence, the insufficiency of the grounds for arrest and its long durations of pre-trial detention.

Confiscation and Halting of the Publication of Periodicals

In June, Azadiye Welat newspaper had its publication halted for the ninth time, based on Article 6 of the Anti Terror Law. In September, the Halkın Günlüğü newspaper was shut down for a month for “making propaganda on behalf of a terrorist organization,” and it was confiscated the day its 18th issue came out. In December, the İstanbul 14th High Criminal Court stopped the publication of the periodical Yürüyüş for a month, on the grounds of “making propaganda on behalf of a terrorist organization.” The 299th issue of the periodical was also confiscated because of some of the articles in it.

The Özgür Gündem newspaper received one month’s suspension for “making propaganda on behalf of a terrorist organization” due to some items of news, commentary and pictures published on some of its pages. The printing house was raided and the issue dated 24 March was confiscated. The decision of the 14th High Criminal Court did not list specific news items or articles, only the page numbers. The appeal led to the removal of the ban on 30 March.

Adana 7th High Criminal Court has decided to sequester the 24 March issue of Atılım newspaper, which had the header “Newroz, isyan, özgürlük”(“Newroz, revolt, freedom”), on the grounds that it made “propaganda on behalf of an illegal organization,” through its news reports and photographs. The 2nd and 3rd issues of the newspaper were confiscated as well for “making propaganda on behalf of a terrorist organization,” and “encouraging armed protests and methods.” The publication of Özgür Gelecek newspaper was suspended for a month, for “an interview with the TKP/ML TIKKO Regional Political Commissar and Regional Commandant” and the news piece titled “Kavga okulu” (“Fight School”).

On 16 July 2011 the İstanbul 14th High Criminal Court suspended the publication of the monthly Yeni Demokratik Gençlik magazine for a month for “praising the crime and the criminal,” and “making propaganda for an illegal organization.”

Pecuniary Fines for Periodicals

The Prime Ministry Council for Protecting Minors against Harmful Publications, fined the monthly comic magazine Harakiri for a 40 percent of its distribution fee, on the grounds of “promoting laziness among Turkish people,” and “encouraging unmarried relations”. Cartoonist Kutlukhan Perker, the Editor-in-Chief of the magazine, closed the periodical down, saying that an independent publisher cannot afford the TL 150,000 fine. The magazine employed cartoonists and writers such as Can Barslan, Behiç Pek, Serhat Gürpınar and Atilla Atalay.

News Reporters and Columnists Losing Their Jobs

Lately, many members of the press had to leave their jobs and even their profession because of news reports or columns they wrote. Nuray Mert, Banu Güven, Mehmet Altan, Cüneyt Ülsever, Ece Temelkuran, Özdemir İnce, Can Dündar and Ruşen Çakır are only a few of the journalists who had to resign from their jobs, had their TV programs stopped or lost their columns in 2011 after their work received negative reaction from the government. The increase in the numbers of the journalists facing this predicament is extremely worrisome.

LIMITS ON INTERNET PUBLICATION

The impediments on the way of freedom to publish in Turkey also revealed themselves in political and legal interventions on the internet. The “Procedures and Principles Related to Safe Internet Use” draft prepared by the Information and Communications Technologies Authority (BTK) in accordance with the provisions of the Directive for Customers Rights in Electronic Communications Sector, raised a great deal of public uproar. The reasons listed in the report for curtailing

the freedom of access to information over the internet were deemed to contravene the freedom of thought, expression and information. Following some slight changes, the draft went into effect on 22 August 2011. In the document, the choice of packages filtering various content for internet users was left to customers, while the BTK's authority to prohibit access to internet sites was kept in place.

Decisions to Close Down Internet Sites and Prohibit Access

In accordance with the Law on Regulating Broadcasting in the Internet and Fighting Against Crimes Committed through Internet Broadcasting (Law 5651) access to internet sites could be prohibited via "precautionary measures" ordered by a court, even when no case has been opened. Courts have been taking decisions to block access to whole sites because of a complaint against a comment or an article. With such measures, some very valuable content appealing to a wide audience has become inaccessible to users. In a press release dated 27 March, the BTK revealed that the board received 500,000 complaints regarding content on the internet, and that 110,000 sites are currently banned. It was indicated that 60 percent of content removal had to do with obscenity, 20 percent about crimes against Atatürk and 20 percent were classified as other.

An exemplary case against the banning of sites was opened by Prof. Yaman Akdeniz, a member of the Faculty of Law at İstanbul Bilgi University and Prof. Kerem Altıparmak, from Ankara University Political Science Faculty. These professors opened a case against the decision to block access to the Playboy internet site, and when their case was rejected, they took it to the High Court of Appeals. Akdeniz stated that decisions to close down sites were made mostly on the grounds of "obscenity," but that the Playboy site did not have pornographic content, and that the question of which internet site an individual retrieves information from at his home is a matter of private life.

The The Telecommunications and Communication Directorate (TİB) censored a critical review of *A Serbian Film* (2010), which was not released in Turkey, published on the internet site otekisinema.com. In the warning letter sent to the site, the site directors were asked to remove the content. TIB also blocked access to the internet page about the film on the site turkcealtyazi.org (Turkish subtitles.org). The film, which had been a subject of controversy around the world for its violent scenes, was not bought by distributors in Turkey.

It has been learned that access to Kaos GL and Lambdaİstanbul web sites too was restricted, even though these sites did not figure in the lists of blocked sites issued by the Turkish National Assembly (TBMM) or TİB. The MPs who tried to access these sites from the parliament building had to contend with pages saying

"restricted access", "homosexuality", and "fill out a form if it is necessary for your work." Information was requested about the identity of those who want to access these sites as well as their reasons for wanting access.

Cases against News and Political Commentary Sites

Internet news sites also had their share of the restrictions imposed on printed news sources. Besides the published news pieces, comments made by readers to the news reports can also be subject to prosecution against the site owners and employees. Because of an interview published in the Gercekgundem.com news site, the interviewee, Şebnem Korur Fincancı, chair of TİHV, and Barış Yarkadaş, the Editor-in-Chief of the site, were accused of "Defamation of a public officer in print" on the basis of a complaint filed by Prof. Nur Birgen, the Chair of the 3rd Expert Board of the Institution of Forensic Medicine, who had been mentioned in the interview. The case ended with an acquittal.

Certain links of Fırat News Agency's (ANF) internet site was prohibited access on the basis of Ankara 11st High Criminal Court's decisions on the grounds of "precautionary measures" and "pornographic content."

The indictment against Recep Okuyucu, the Editor-in-Chief of the Batman Doğu newspaper, who is on trial for using news reports from an internet site without permission, cited him accessing a forbidden site as evidence. The research in the computers of the newspaper revealed that Okuyucu had entered the ANF site, to which there is prohibited access from Turkey, and for that reason, he was charged with "making propaganda on behalf of the terrorist organization," with a possible prison sentence of five years.

The Ankara Chief Public Prosecutor's Office charged six people in responsible positions of the internet sites Haber Vaktim, Beyaz Gazete, Aktif Haber and Aktif Kulis with "defamation of a public official" by publishing a fake video, with a possible sentence of two years and four months.

Halil Savda, the director of the site www.savaskarsitlari.org was charged under Articles 125/2 and 53 of the Turkish Penal Code, for putting up on his site the news piece "Ağar: İddialar ve Ötesi" ("Ağar: Allegations and Beyond"), which had been published previously on another site. In his defence, Savda said that the piece did not include his own claims and opinions, but passages from the ex-head of the National Intelligence Organisation (MİT) counter-terror department Mehmet Eymür's statements in court as well as from the MİT report, and that they included this information on their site due to public's right to information.

Cases Against Sharing on Social Media

Social media users can face prosecution for the remarks they make on chats or comments online. Comments on one of the most popular sites in Turkey, Ekşisözlük, with over 35,000 contributors, have been the subject of prosecution numerous times. In November, an Ekşisözlük writer, Ahmet A.S. was charged for “denigrating religious values” for a comment he wrote under the entry “nonsense that is religion.” The prosecution asks for a prison sentence ranging from nine months to one and a half years. Mikail Boz, a student at the Marmara University Communication Faculty, was suspended for a term from his school because of a critical comment he wrote about the school dean Yusuf Devran. Boz said that he wrote his comment not with the intention of insult but with the idea of the institution as a democratic university.

A 17-year-old Facebook user B.K. was charged with “defamation of a public official,” with the possible sentence of up to two years in prison, for allegedly insulting the Prime Minister, the Chair of the Turkish Parliament, the Deputy Ministers, Ministers and MPs. In defence, B.K. said that he had no ulterior motive, but had merely quoted from a columnist’s article and that if this indeed was a crime, millions of people would have to be prosecuted.

Adem K. was sentenced to two years in prison by the Erzurum 2nd High Criminal Court for making propaganda for the PKK with updates he made on his Facebook page in 2010. The court cited Adem K.’s previous criminal record with similar charges, the way in which the crime is committed and the subject and gravity of the crime as justification for its decision.

Reports About Prohibition of Access on the Internet

The Human Rights Watch’s 2012 World Report, in its section on Turkey, made the following observation: “The government revised a plan to impose obligatory filtering packages on all internet users and delayed implementation of optional filtering packages, following forceful public opposition in Turkey and by international bodies, including the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe. However, the practice of blocking an estimated 15,000 websites in Turkey—most of which have pornographic content but some of which are restricted for pro-Kurdish or other political content by order of the Telecommunications Ministry and court decisions—raises concerns about restrictions on the right to freedom of expression and access to information.”

In the Human Rights Joint Platform’s Freedom of Expression in Turkey: Observations on Legislation and the Judiciary Report, the following comments and recommendations were made regarding the present Internet Law and Law 5651

which came into effect in 2011. According to the report, “these procedures introduce the State filtering of internet content. A stereotype concept of child/family is exalted and imposed. The authorization of the State in filtering and deciding on which sites should be accessible cannot be accepted in the context of freedom of expression. Turkey is the only OSCE country that resorts to central filtering.

In enforcing the Law No. 5651, decisions to block access can be given only in respect of catalogue offences listed in Article 8 and in the Law No. 5846 on Intellectual and Artistic Works. Intervention to freedom of expression without a legal basis means infringement of the European Convention of Human Rights (ECHR) Article 10/2. Various laws that allow prohibition of access on the internet and need to be amended are as follows:

Law on Intellectual and Artistic Works, Law on the Organization and Duties of Tobacco and Alcohol Market Regulatory Authority; Commercial Law, Anti Terror Law, Turkish Civil Code, Annulled Law on Civil Procedures, Law on Betting in Football and Other Sports Contests Law on the Establishment of the Head Office for Religious Affairs, Law Decree on the Protection of Trademarks.

Law no. 5651 is applied in a manner that blocks access to many sites and there are many decisions denying access, in strict confidence, without justification other than merely referring to articles from the law. The site owners are kept in the dark about the process and given no chance to defend the legality of their sites. Law no. 5651 is enforced in practice so as to block access not only to specific content but to the whole system. Such decisions are contrary to human rights, the Constitution and ECHR criteria.

While the purpose of Law No. 5651 is stated as protecting children from harmful internet sites, the practice has assumed dimensions entailing direct censorship for all. This law should be abolished and a new policy is needed in this field. Particular attention needs to be given to the following four fundamental principles:

a- Regulations related to internet access and use should respect the principles of international human rights law, particularly freedom of expression and privacy of communication.

b- Restrictions must be as prescribed by law, proportional and in accordance with the norms of democracy.

c- Any content, saving, reading or visualizing of which is not considered as an offence, must not be covered by regulations related to internet content.

d- As stated by the European Commission “problems of principle (caused by unlawful and harmful content) radically differ from each other and they require different legal and technological responses. It will be dangerous to mix up the issue of children’s access to pornographic content for adults with other issues. The new initiative must certainly take this important difference into consideration.”

OFFICIAL DECLARATIONS

In response to the mounting criticism within Turkey and abroad about the KCK operations, which led to 7,748 detentions and 3,895 arrests since 2009, Prime Minister Tayyip Erdoğan said that such criticism amounted to “support and service to terrorism.” In his speech, the Prime Minister said that “the statements you make, either in the media or elsewhere, without knowing how far the KCK reaches and who plays what kind of roles in this matter, is simply support for terror, service for terror.”

Minister of Interior İdris Naim Şahin, presented a new definition of terror in a statement he made on 26 December 2011. Saying that terror is not merely about the mountains (where many guerrilla groups operate) and arms, he said that “There is psychological terror, there is scientific terror. There is a back garden feeding terror. In other words, there is propaganda, terrorist propaganda.” The minister’s following statement, accusing artists, writers, universities and civil rights organizations with “supporting terrorism” caused a great deal of controversy: “How does he give his support? Maybe he does so by painting a picture, maybe by writing a poem; perhaps by writing a daily column. If he cannot stop there, he goes on to demoralise the military, the policeman, who carries out the duty of countering terrorism, by making him the subject of his work, his art. Those who struggle against terror are somehow struggled against, messed with. The back garden where terror operates from behind is in İstanbul, in Bursa, in Vienna, in Germany, in London wherever, it is a university chair, an association, a non-governmental organization.” In response to this statement that called artistic production terrorist activity, many artists signed a joint letter addressed to the Minister, calling for him to “either call all art terrorist or to resign.”

The Chief of Turkish Military General Staff made a public statement on 3 May World Press Freedom Day, and claimed that the armed forces were being denigrated via news reports, claims and comments. According to his statement, freedom of the press and expression was being manipulated to incense the Turkish Armed Forces.

In May, speaking at the closing ceremony of the Turkey-Africa Media Forum, Bülent Arınç, the Deputy Prime Minister said the following regarding journalists under arrest in Turkey: “You can speak of maybe one or two journalists serving a sentence for what they wrote or drew in Turkey, but if you say there are hundreds, thousands of people, you are out of your mind.” Egemen Bağış, the Minister of the European Union Affairs replied to a parliamentary inquiry that the number of journalists under arrest is 92. Bağış corrected his earlier statement that “there are some on trial for rape,” by saying that he meant “ordinary crimes.”

Oktaç Ekşi, CHP MP from İstanbul, presented a draft law to the Parliament that would abolish the Articles 6 and 7 of the Anti Terror Law. In the reasoning of the draft, it was said that the laws passed to counter terrorism did not attain their goal and that Anti Terror Law Articles 6 and 7 had become a source of torment for members of the media. Particularly, it was said that Article 6 had made “reporting on targets terrorist organization plan to attack” and “printing and publishing statements of a terrorist organization” a crime, making it an offense, punishable from one to three years, to “publicise the identities of public officials who took part in the fight against terror,” and “to thereby make them targets.” It was argued that the Article 7 of the Law which makes it a punishable offence to “make propaganda on behalf of a terrorist organization” is superfluous considering the existence of other articles in the Turkish Penal Code to the same affect. The clause giving a judicial fine from 1,000 to 10,000 days for employees of the media “that did not take part in the crime”, was deemed to be contrary to the principle of the “personal nature of crime.” The Turkish Journalists Association and Turkish Publishers Association appealed to the parliamentary parties and the President of the Parliament to act on this draft law immediately and to fully repeal the Anti Terror law.

EUROPEAN COURT OF HUMAN RIGHTS DECISIONS

European Court of Human Rights (ECtHR), in its decision regarding Prof. Taner Akçam, who had been tried under Article 301 of the Turkish Penal Code because of his article about Hrant Dink and Article 301 itself, concluded that the latest changes in the article were not sufficient and that the risk of trials being opened continued. The decision criticized the change that now means that cases against freedom of expression can be only opened with the permission of the Ministry of Justice, saying that the interpretation of the law may change with a change in government or policy, that the Ministry did not have clear criteria in assessing the cases and that this state of affairs did not comply with the European Convention on Human Rights.

The ECtHR also sentenced Turkey to pay compensation for infringing “the freedom of expression” in the case of journalist Erbil Tuşalp. Tuşalp had been sentenced to TL 10,000 monetary fine for his two articles published in daily *Birgün*, titled “İstikrar” (“Stability”) and “Geçmiş Olsun” (“Wish You Get Well Soon”) which criticized Prime Minister Erdoğan. The ECtHR decided, upon the case opened by Tuşalp’s complaint, that Turkey had violated Article 10 of the European Convention on Human Rights, saying that “scathing remarks too fall within political criticism,” and sentenced Turkey to pay a fine Euro 5,000 to Tuşalp.

INTERNATIONAL REPORTS AND DECLARATIONS

Dunja Mijatovic, the Media Freedoms Representative of OSCE, declared that many innocent journalists remain in prison in Turkey and that the OSCE was to publish a database on journalists under arrest. Emphasizing the importance of the free flow of information and the freedoms of access to information and communication, Mijatovic said that “We are defending the freedom of the press and we are in Turkey for concrete proposals for a solution. Even if it is not possible to completely abolish a law and replace it with another, we do ask for some specific amendments.”

Following the visit to Turkey of a delegation from the Council of Europe Human Rights led by Commissioner Thomas Hammarberg from 10-14 October 2011, in January 2012, Hammarberg’s report was published. The report said:

“Long-standing, systemic shortcomings in the administration of justice in Turkey adversely affect the enjoyment of human rights.” According to the report “One of the major factors hampering progress lies in the established attitudes and practices followed by judges and prosecutors at different levels giving precedence to the protection of the state over the protection of human rights, borne out of the spirit of the 1982 Constitution.” Evaluating the legal problems, the report said that “The Turkish authorities should strengthen their efforts to accelerate proceedings and use non-custodial alternatives more frequently. They should also reduce the excessively long time limits for detention on remand, which can currently go on for up to ten years.”

In addition, the Commissioner expressed his concern about the way certain offences relating to terrorism and membership of a criminal organisation are defined in Turkish legislation, leaving room for a very wide interpretation by courts. “Terrorism poses enormous challenges and difficulties, but it should be fought while fully respecting human rights. Prosecutors and judges need to be further sensitised to the case-law of the ECtHR concerning in particular the distinction between terrorist acts and acts falling under the scope of the rights to freedom of thought, expression, association and assembly”. The Commissioner encouraged the authorities to review the need for high criminal courts with special authority, owing to the severe restrictions to the rights of defence before these courts, by derogation from normal procedural guarantees. Finally, he called for further measures to affirm the independence of judges from the executive and to develop internal democracy within the judiciary.

While publicising his report in Turkey in January 2012, Thomas Hammarberg was asked about the infringements of freedom of thought and expression. He said that the KCK case indicated a misuse of the terms “terrorism” and “membership

of an illegal organization” and that any criticism is being construed as “terrorism” and “supporting terrorism.” Hammarberg added as follows: “The number of journalists under arrest is higher in Turkey than any other country in Europe. Journalists’ links with terror is not properly justified. When the evidence is put under scrutiny, it appears that the journalists are in prison for the things they wrote.”

Amnesty International made a press declaration in Taksim Square in April and asked for the removal of all the impediments in the way of freedom of expression in Turkey. The declaration reminded that many individuals, including teachers, academics and journalists, are taken into custody or arrested because of various articles of the Turkish Penal Code. They said: “We want the unfair trials conducted under anti terrorism regulations to come to an end. We call for a redefinition of the crime of terror on the basis of international standards and norms, and most notably on the principles of legality and legal clarity”.

Amnesty International also published a report on freedom of expression on 3 May, which is World Press Freedom Day. The report said that journalists were arbitrarily arrested in Turkey in order to suppress dissident opinions, that Article 216 of the Turkish Penal Code has definitions curtailing freedom of expression and that the definition of terrorism under the Anti Terror Law is unduly broad, vague and devoid of the legal clarity necessary for international human rights law.

Amnesty International’s 2012 annual report also said, “Constitutional amendments and revisions to the Anti Terror Law fell short of the fundamental changes required. To the contrary, freedom of expression continued to be threatened and demonstrators faced increased police violence. Thousands of investigations conducted under the deficient Anti Terror Law failed to meet the standards of fair trial. Many cases were opened threatening the freedom of expression of individuals. Specifically, critical journalists, Kurdish political activists and others expect to face charges when they speak about the situation of Kurds in Turkey or when they criticize the armed forces. In addition to the cases opened in accordance with the various articles of the Penal Code, many cases threatening freedom of expression were opened under anti terror laws. In November, new regulations went into force leading to increased worries about arbitrary restrictions to internet sites.”

Human Rights Watch published its 2011 World Report in January 2012. In the Turkey section of the report, it was stated that “Turkey’s overbroad definition of terrorism still allows for arbitrary imposition of the harshest terrorism charges against individuals about whom there is little evidence of logistical or material support for terrorism or of involvement in plotting violent activities. Prosecutors frequently prosecute individuals for non-violent speeches and writings. Politicians sue their critics for criminal defamation. Courts convict with insufficient consideration for the obligation to protect freedom of expression.”

The report said that the sole evidence against Ahmet Şık and Nedim Şener, charged with aiding and abetting the Ergenekon organization, a criminal gang charged with a coup plot against the AKP government, was their non-violent writing, in Şık's case consisting of an unpublished manuscript, and that the two had spent months in pre-trial detention. The report also said that "Academician Büşra Ersanlı and journalist Ragıp Zarakolu will face trial in 2012 for alleged links with KCK, a body associated with the PKK leadership. They were arrested during a clamp-down on the pro-Kurdish Peace and Democracy Party's (BDP) legal political activity, which began in April 2009 and intensified in 2011. Hundreds remain in pre-trial detention and thousands are on trial on terrorism charges after waves of arrests of officials and activist members of the BDP (which won 36 independent seats in the June 2011 general election) for alleged KCK links."

According to the 2011 report of Journalists Without Borders (RSF), publicized on 3 May World Press Freedom Day, Turkey is listed as among the top five countries with "the highest number of journalists in prison." The other countries on the list are Iran, Eritrea, China and Syria. According to RSF's "World Press Freedom Index" the countries with the freest press are Finland, Norway and Estonia. In this list, Turkey is above Afghanistan, Pakistan and Iraq, at number 148. The report also said that many journalists were under arrest because of the Ergenekon, Devrimci Karargah and KCK trials.

The PEN Turkey Centre, Turkish Writers Union, Literary Translators Society Turkey and Turkish Publishers Association, jointly organized a symposium on 15 March 2012, titled "Freedom of Thought and Expression, 12 to 12" and called attention to the situation of journalists, writers and publishers in prison and the journalists who were left unemployed. Writer and publisher William Nygaard, representing International Publishers Association and Norwegian writer, Eugene Schougin, representing PEN International, both took part in the symposium as speakers. At the conclusion of the symposium, writers, translators, critics, and publishers associations and trade unions (BESAM, Association of Copyright Holders of Scientific and Literary Works; ÇEV-BİR, Literary Translators Society Turkey; EDİSAM, Association of Copyright Holders of Literary and Scientific Works; KYD, Kurdish Writers' Association; OYÇED, Playwrights and Translators' Association, PEN-Turkey; TEB, International Theatre Critics Union, Turkish Office; TED, Literarians Association of Turkey; TYB, Turkish Publishers Association; TYS, Writers Union of Turkey; Translators' Association; Initiative against Crimes of Thought) approved a resolution, calling for "an end to the detentions that have turned into a means of deterrence, the immediate release of writers and journalists under arrest, the repeal of all the anti-democratic laws and practices, including Article 301

of the Penal Code and Anti Terror Law, and the reform of the Turkish Penal Code and the Press Law in line with the European Convention on Human Rights, so that journalists and academicians can have a fair trial, free of arrest."

The Human Rights Joint Platform made a series of comments and recommendations in their "Freedom of Expression in Turkey: Observations on Legislation and Judiciary" report, dated 15 May based on an examination of indictments and the court decisions. The report stated that numerous articles of the Anti Terror Law and Turkish Penal Code are problematic in terms of clarity, exactness and predictability. Banning propaganda even when there is no implication of violence, increasing of sentences when offenses are committed through the press and the articles regulating insult, do not conform to the norms and standards of the ECHR and the decisions of the ECtHR. The existing legislation poses a threat to the function of the media to inform the public about issues that need to be debated, and also to the rights of receiving and having access to information and the rights of the media and media professionals to transmit news or information. Offenses related to insult and libel must be deleted from criminal laws since issues emerging as a result of opinions expressed must be dealt with not by criminal but civil law. The coverage of expressed opinions by criminal laws and particularly the possibility of being criminally punished as a result of expressions relating to public officials or state institutions increases the risk of auto-censoring and threatens free debate of public issues. Obscenity is not defined in law and there is no clarity as to why it is an offense or should be deemed so.

The report began its recommendations by first suggesting "the option of totally annulling the Anti Terror Law...and lifting courts with special authority," and continued with a series of suggested amendments to its problematic articles. The report suggested specific amendments to the Law No. 6112 on the Radio-Television Higher Authority (RTÜK), Law No. 5816 on Offenses against Atatürk and Press Law No. 5187, as well recommending the Law No. 1117 on Protecting Minors against Harmful Publications to be abolished. In terms of the Turkish Penal Code, Articles 301 and 318 would need to be abolished, and amendments had to be made to articles 125, 132, 134, 215, 216, 217, 218, 220, 257, 273, 283, 285, 299, 305, 314, 327, 329, 334, and 336, in order for legislation to be brought in line with international human rights law and the right to freedom of expression. Also according to the report, "the provisions envisaging monetary fines against the press instead of imprisonment and increase in sentences when offenses are committed through the press must be abolished."

On 22-24 November 2011, an international group visited Turkey upon an invitation by the European Journalists Federation, to observe the worsening con-

ditions of press freedom in Turkey, and their observations culminated in the 2011 report of the European Journalists' Federation. The report, sent to the European Commission, European Parliament, European Council and OSCE, stated that the officials declined to give the delegation specific number of journalists under arrest and the cases opened against journalists and that the numbers provided by journalists' unions were reduced in official declarations, making it necessary for the European Commission to appoint an independent delegation of its own to assess the real situation.

This international group concluded its report by saying that "The freedom of the press is under a greater threat today than it had been previously. According to the assessments of journalists and freedom of expression organizations, Turkey has the highest number of journalists under arrest in Europe. Amendments should be made to the Anti Terror Law and Turkish Penal Code to have the cases opened against journalists to be dropped; and the imprisoned journalists should be released immediately."

CONCLUSION

The impediments against freedom of thought and expression, followed and reported every year by the Turkish Publishers Association, continue to stay in place, along with a series of legal and political restrictions. The Anti Terror Law and certain articles of the Turkish Penal Code prevent the expression of critical opinion not approved by the society or the state, either in spoken or published form, by way of heavy accusations, punishments, long and tedious investigation and trial processes. In order for freedom of expression to be secured in Turkey, these articles of legislation have to be abolished, or they need to be amended so that the vague wording that makes them a basis for unfair accusations is removed. On the other hand, it is worth remembering, as had been expressed in the concluding declaration of the 5th Turkish Publishing General Assembly, freedom of thought and expression, and freedom to publish, which complements them, can only fully take root in Turkey when both the society and the state denounce autocratic inclinations and the democratic framework gets enshrined in the mentality of all the individuals and institutions in the country. We conclude with our everlasting wish for a time when thoughts are expressed and shared freely, without any restrictions.

BOOKS KNOWN TO HAVE BEEN SUBJECT TO LEGAL PROSECUTION (June 2011 – June 2012)

PUBLISHER	WRITER	BOOK
Aram	Demir Çelik	Özgürlüğünde Kaldı Gözlerim (fined 20 thousand TL)
Aram	Abdullah Öcalan	Kapitalist Uygarlık / Maskesiz Tanrılar ve Çıplak Krallar Çağı (Banned)
Aram	Abdullah Öcalan	Özgürlük Soyolojisi ve Uygarlık / Maskeli Tanrılar ve Örtük Krallar Çağı (Banned)
Aram	Hatip Dicle	Yargılayanlar Yargılanıyor
Aram	Ayhan Kaya	Mordemin Güncesi
Aram	Serdem Çiyayi	İçimizde Bir Parça Ülke
Ayrıntı	Chuck Plahniuk	Ölüm Pornosu (Case continues)
Belge	George Jerjian	Gerçek Bizi Özgür Kılacak (Sentenced- at appeal)
Belge	Mehmet Güler	Ölümden Zor Kararlar (Sentenced-at appeal)
Belge	Mehmet Güler	KCK Dosyası (Sentenced-at appeal)
Cumhuriyet	İlhan Taşçı	Cüppeli Adalet (Case continues)
Çetin	Duran Kalkan	Kürdistan'da Demokratik Siyasetin Rolü (Banned)
Çetin	Derleme	Demokratik Konfederalizm (Banned)
Çetin	Gülseren Aksu	Anılarla Abdullah Öcalan (Printing-press owner sentenced)
Destek	Ali Dağlar	Operasyonun Adı: Ağa 01(Case continues)
Do	Aras Erdoğan	Haberlerin ağında Öcalan (Sentenced)
Do	Sertaç Doğan	Şırnak Yanıyor 1992 (Sentenced)
Evrensel	Ahmet Kahraman	Kürt İsyanları (Acquitted)
Evrensel	Zeynep Özge İmran	Bir İsyan Andı (Acquitted)
İthaki	E.Mavioğlu/A.Şık	Kırk Katır Kırk Satır (Case continues)
İthaki	Cengiz Kapmaz	Öcalan'ın İmralı Günleri(Confiscated, recalled)
Kalkedon	İsmail Saymaz	Postmodern Cihad (Case continues)
Kaynak	Deniz Yıldırım	Tayyip'in Voleleri (Acquitted)
Metis	Ajanda	İllallah (Case continues)
Mezopotamya	Muzaffer Ayata	Yaşam Geçidinde Yirmi Yıl (Confiscated, recalled)
Mezopotamya	Şiyar Dersim	Dersim'in Çığlığı (Confiscated, recalled)
Mezopotamya	Murat Karayılan	Bir savaşın anatomisi (Confiscated, recalled)
Mezopotamya	Abdullah Öcalan	Demokratik Toplum Manifestosu (Confiscated, recalled)
Mezopotamya	Abdullah Öcalan	Yol Haritası (Confiscated, recalled)
Mezopotamya	Abdullah Öcalan	Demokratik Konfederalizm (Confiscated, recalled)
Ozan	Sinan Kara	Sinan'ın Kara Kitabı

Peri	M. Erol Coşkun	Acının Dili Kadın (Sentenced-at appeal)
Peri	Hejare Şamil	Diaspora Kürtleri (acquitted, appealed, case continues)
Peri	Ahmet Önal	Derheqa Diroka Kurd û Kurdistanê De (2 cases continue)
Sorun	Osman Tiftikçi	Osmanlı'dan Günümüze Ordunun Evrimi (case continues)
Sel	William S. Burroughs	Yumuşak Makine (Case continues)
Su	Mahir Çayan	Toplu Yazılar (Sentenced-at appeal)
Su	Derleme	Devrimci Türkü ve Marşlar (acquitted, at appeal)
Şevda	İrfan Babaoğlu	Auschwitz'den Diyarbakır'a 5 Nolu Cezaevi (case continues)
Timaş	Şamil Tayyar	Operasyon (sentenced-sentence deferred)
Tevn	Zülfikar Tak	Diyarbakır Cezaevinde İşkence
Tevn	Ergün Sönmez	Emperyalizm Sürecinde Kürt Özgürlük Hareketi
Tevn	Kasım Çakan	Astsubayken Er Olmak (Acquitted)
Tevn	Cemal Şerik	Değişim ve Yenileme Üzerine
Tevn	Eyüp Demir	Yasal Kürtler
Tevn	Osman Özçelik	Kulilken Geşayê (Buz Çiçekleri)
Togan	Harun Gürek	Belediye İhale Dalavereleri

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2013

AHMET ALTAN Writer

Born in Ankara in 1950, Ahmet Altan went to several different schools and high schools. Having studied at the Middle East Technical University for a while, he finally graduated from the Faculty of Economics of the İstanbul University.

He wrote his first literary work, *Paltolu Donkişot (Don Quixote with a Coat)*, a two character play, at the age of 27. His first novel, *Dört Mevsim Sonbahar (Autumn Four Season)*, won him the Grand Prize for Novels of the Akademi Bookshop. His second novel *Sudaki İz (Trace on Water)*, was seized nine months after it was published, on the grounds that it was “obscene”. It was decided following a year-long trial based on the Law on the Protection of Minors Against Harmful Publications that the book should be destroyed. The book was published again in a censored edition that incorporated the text of the court verdict.

Ahmet Altan has also worked as a journalist, climbing through the professional ranks, from night correspondent to publishing manager. After working as a columnist at Nokta magazine, Altan went on to write daily articles in *Hürriyet* and *Güneş*. In 1995 he moved to *Milliyet*. He was sacked from his job after expressing his own ideas for a solution to the Kurdish issue. During the same period, the *Kırmızı koltuk* TV program he presented with journalist Neşe Düzel was canceled for political reasons and Altan received a year and a half prison sentence because of the unease his discourse created within the government. After continuing writing his columns in the *Yeni Yüzyıl* newspaper, he published his collected articles as a book titled *Gece Yarısı Şarkıları (Midnight Songs)*.

The writer's third novel *Yalnızlığın Özel Tarihi (Special History of Loneliness)* was published in 1996, and his fourth, *Tehlikeli Masallar (Dangerous Fairy Tales)*, in 1996. In 1997, his second book of essays, *Karanlıkta Sabah Kuşları* was published. In 1998, the novel *Kılıç Yarası Gibi (Like a Sword Wound)*, and in 2001 *İsyân Günlerinde Aşk (Love at Rebellion Times)*, another novel, were published. Altan later published the following works: *Kristal Denizaltı (Crystal Submarine)* (2001), *Kırar Göğsüne Bastırırken (Breaks When Embraces)* (2003), *Aldatmak (Cheating)* (2002) and *En Uzun Gece (The Longest Night)* (2005). His latest novel is *Son Oyun (The Last Game)* (2013).

Altan was among the founders of the Taraf daily newspaper, where he acted as General Publishing Manager, also writing the daily's editorial articles. In September 2008, he was accused of insulting Turkishness in his article "Ermeni Kırımı'nın Kurbanlarına" (To the Victims of Armenian Massacre") dedicated to Armenian massacre victims. In 2009, he received the Freedom and the Future of the Media Prize on behalf of the Taraf. This is one of the world's most prestigious awards for media given by the Leipzig Bank Media Foundation. In 2011, he was awarded the Hrant Dink Peace Prize by the International Hrant Dink Foundation, a prize which is given to people who work for a peaceful and fair world and who are a source of inspiration and hope.

He was prosecuted many times for his columns and news pieces published in Taraf when he was at its helm. The trials launched against him by Prime Minister Tayyip Erdoğan for insults and the fines he consequently had to pay in reparation have drawn the public's attention. On 14 December 2012, he left Taraf together with columnist Yasemin Çongar.

GÖKHAN BULUT

Publisher

Gökhan Bulut was born on 25 January 1979 in the Elbistan district of Kahramanmaraş. He attended his village primary school until the fourth grade, where he learned to read and write Turkish. As a Kurdish Alevi, he grew up having to hide his identity in a context where both Alevi-Sunni and Turkish-Kurdish tensions ran high. Having grown up under such circumstances, his identity quest and his interest in politics started at an early age. As he reached the fifth grade at primary school, his family moved to the center of the district. He thus completed his remaining primary school and middle school studies in Elbistan, and, after his family moved again, completed his high school studies in Adana.

In 1996 Bulut was accepted at the Hacettepe University, at the department of Geological Engineering. His interest for books grew after he started university. He took part in civil society organizations and student movements. He went abroad before finishing his university studies. He worked in different periodicals published in Arabic and Kurdish while he was in Iraq, Syria and Lebanon. On his return to Turkey in 2005 he was arrested and spent almost five years in jail.

During his time in prison, Bulut focused on literature and began writing essays. After his release, he worked as a TV program producer. He has worked as publishing coordinator for the Aram Publishing for a year. He is currently on trial at the Diyarbakır Criminal Court for four books he published for Aram, accused of "propaganda for a terrorist organization" (under Article 7/2 of the Anti Terror Law and Articles 75, 53 and 58/9 of the Turkish Penal Code).

F. NURAN SİVRİ

Bookseller

Nuran Sivri studied Fine Art at the Tatbiki Güzel Art School. In 1972, following her graduation, she had the idea of opening a "small shop" where she could display the samples of folk art she had lovingly collected. She opened it in Bebek, where she has lived since 1964, and named it "Türkü" (Song) in tune with her passion for folk art. After spending 15 years in her first 25 square meter shop, she moved across the street to settle in a new 40 square meter shop, where she remains today.

Having opened her new shop, Sivri thought it should also contain books on Turkish art and history, and so she decided to dedicate a wall to books. Her love of books soon led her to acquire literary works from publishers she admired, such as Bilgi Publishing, E Publishing and other important publishing houses of the time, in addition to the art books she had collected for the Sivri book department of her shop. She selected her books from those would want to recommend to her clients. Her first important sale was Kemal Tahir's novel *Devlet Ana (Mother State)*, reedited by Bilgi Publishing. As for her first best-seller, it was Mario Puzo's *The Godfather*, published by E Publishing.

Readers who used to live in Bebek continue to order their books from the Türkü bookshop even after they have left the area, preferring to follow Nuran Sivri's recommendations rather than to go to a larger, mainstream bookshop. While the Türkü bookshop also provides more trendy books catering to fashionable tastes, it will not compromise its own principles. Consequently, you will not find any of the vampire novels that are popular with young readers in this bookshop. On the other hand, it has comic book versions of works by Kafka and Marx. The books that sell most however are illustrated books such as Ara Güler's photography books and Murat Belge's book on the "yalı" seaside villas of the Bosphorus. The two authors who are most recommended by Sivri are İhsan Oktay Anar and Amin Maalouf.

The Türkü Bookshop still keeps some of the objects of Anatolian folk art it had acquired as a "shop", selling a few from time to time, but it has definitely been considered as a bookshop for a long time now. This is a place that lives on books, and will never lack books. Ms. Sivri's wish for everyone: "Never without books nor without art"!

FİKRET İLKİZ

Lawyer

Born in 1950, married and father of two children, Fikret İlkiz graduated from the Faculty of Law of the University of Istanbul and is an active lawyer, registered

at the Istanbul Bar. He worked as lawyer and legal advisor to the Cumhuriyet newspaper between 1982 and 2004. Between 1997 and 2002, he worked at Cumhuriyet as Editor-in-Chief. He is also a founding and board member of the Istanbul Bar Training Center (İstanbul Barosu Staj Eğitim Merkezi /SEM), President of the SEM ECHR (European Court of Human Rights) Individual Appeal Department (1996-2002), administrative board member of the Center of Human Rights Applied Studies Center of the Turkish Bar Association (Türkiye Barolar Birliği İnsan Hakları Araştırma Uygulama Merkezi, 2002-2003), and legal advisor and Joint General Secretary to the Press Council (1992-1996). He currently teaches at the Communications Faculties of the Istanbul University and Istanbul Bilgi University and is acting General Publishing Coordinator of the monthly review Güncel Hukuk. He is a founding member of the Press Council, the Solidarity Foundation and the Human Rights Foundation, as well as board member of the Umut Foundation. An honorary member of the Turkish Journalists Association, he was awarded the Freedom of the Press Prize in 1998. Acting General Secretary of the Turkish Penal Law Association between 2009-2011, he has been its President since 2012.

Well known for his defense in trials related to the Press, İlkiz has defended Ahmet Şık in the Odatv trial, and academician Büşra Ersanlı in the Istanbul KCK (Kurdistan Communities Union) Trial.

His published works include: the book *Parçalanmış Adalet: Türkiye’de Özel Ceza Yargısı (Fragmented Justice: Implementation of Private Law in Turkey)* (İletişim Publishing, 2011), the study “Terörle Mücadele Kanunu ve Bazı Maddelerinin Değiştirilmesi Hakkında Kanun Üzerine” (“About the Law on Amendment of Anti Terror Law and Other Laws), the book *İfade Özgürlüğü İlkeleri ve Türkiye (Freedom of Expression Principles and Turkey)* (İletişim Publishing, 2007), the article “İfade Özgürlüğü ve Yeni Basın Yasası” (“Freedom of Expression and the new Press Law”), the book *İfade Özgürlüğünün On Yılı 2001-2011 (Ten Years of Freedom of Expression)* (IPS Communication Foundation Publications, 2012) and the article “Geçmişten Günümüze İfade Özgürlüğü ve Basın” (“Freedom of Expression and the Press, From Past to Present”).

FREEDOM TO PUBLISH REPORT

June 2012 – June 2013

LAWSUITS AND INVESTIGATIONS AGAINST BOOKS, SEIZED BOOKS

There was a case opened against Mehmet Baransu claiming that in his book *Karargah* (Headquarters), he has “made certain information public that should have been kept secret” and “attempted to influence the judiciary”, in violation of Turkish Penal Code (TCK) Articles 336 and 288. Baransu was proven innocent on 7 May 2012 after a lawsuit where his sentence could have ranged from a year and a half to six years.

Kemal Dal and Hıdır Altun, Democratic Society Party (DTP) and Peace and Democracy Party (BDP) administrators, were sentenced to prison on allegations that they were carrying out propaganda for an illegal organization through books by Abdullah Öcalan, violating Anti Terror Law (TMK) Article 7/2. Dal and Altun were arrested in front of a shipping company’s office in Bornova, İzmir, when they were picking up packages of books, under the allegation that these packages comprised of illegal print media; they were then released. The İzmir Prosecutor’s Office decided to confiscate 30 packages of books that arrived at the shipping company because there was a precedent case from the Siirt Criminal Court of Peace, where it was decided that 2,970 books would be confiscated which included Abdullah Öcalan’s plea to European Court of Human Rights (ECtHR) and books that included his other pleas published by Aram Publishing including *Uygarlık, Maskeli Tanrılar ve Örtük Krallar Çağı (Era of Civilization, Masked Gods and Covered Kings)*, *Kapitalist Uygarlık, Maskesiz Tanrılar ve Çıplak Krallar Çağı (Era of Capitalist Civilization, Unmasked Gods, Naked Kings)* and *Özgürlük Sosyolojisi (Sociology of Freedom)*. Dal and Altun were accused of “acting to encourage the public to embrace the cause of a terrorist organization”. The last hearing of the case was held on 21 May 2012; convicted for possession and sale of the books, Dal was sentenced to three years, one month and 15 days whereas, Altun was sentenced to three years, nine months in prison for the same crime. They have both stated that they would appeal against this decision.

Suspension instead of Acquittal

Charges pressed against “obscenity” (TCK Article 226) in Chuck Palahniuk’s *Snuff* and William Burroughs’ *Soft Machine* by the Council for Protecting Minors

against Harmful Publications were heard at the court back to back at their final hearings on 5 July 2012. At the court, the owner of Ayrıntı Publishing Hasan Basri Çıplak and translator Funda Uncu for *Snuff*; owner of Sel Publishing, İrfan Sancı and translator Süha Sertabiboğlu for *Soft Machine* were tried, with the participation of experts who had decided that these books had literary value. The accused were expecting to be acquitted but Law 6352, known as the Third Judicial Reform Package, which went into effect on the day of the hearing, and under Article 1/1-b of the law “the prosecution was suspended for three years, with the condition that the case will be reopened, if in the mean time, the accused commit other printing, publishing or thought and conviction related crimes”. The Judge’s statement that had the expert reports had reached the court before the judiciary package was introduced, the accused would have been acquitted was eye catching.

A lawsuit was filed against writer İrfan Babaoğlu and Aram Publishing director Mehmet Emin Teymür who were accused of “propagandas for a terrorist organization” (TMK 7/2) in Babaoğlu’s *Auschwitz’ten Diyarbakır’a 5 No’lu Cezaevi (From Auschwitz to Diyarbakır, Prison No: 5)*, a book based on his prison memoirs. The third and final hearing was held on 29 May 2012. Babaoğlu was sentenced to a year and three months in prison, whereas the publisher was fined TL 16,000 for compensation. The appeal case was suspended under the Third Judicial Reform Package.

Court decisions to pass convictions which were appealed before the High Court of Appeals regarding George Jerjian’s *Gerçek Bizi Özgür Kılacak (The Truth Will Set Us Free)*, N. Mehmet Güler’s *Ölümden Zor Kararlar (Decisions Harder Than To Die)* and *KCK Dosyası: Küresel Devlet ve Devletsiz Kürtler (KCK Case: Global State and Stateless Kurds)*, published by Belge Publishing, were all suspended under the Third Judicial Reform Package. In lawsuits that were filed against Jerjian’s book, publisher Ragıp Zarakolu was accused of “insulting the state and the republic” (TCK 301); for Güler’s books both Güler and publisher Zarakolu were accused of “propaganda for a terrorist organization”, “including the organization’s statements in the text” (TMK 6/2 and 7/2). Even though the case was suspended, it was decided that Güler’s books should be banned.

İdea Politika Publishing, which started business on 1 October 2012, became the subject of an investigation after publishing their first book. An investigation was opened against the Editor-in-Chief Erol Özkoray, the author of *5. Cumhuriyet (5th Republic)* by the press prosecutor but it was dropped in October 2012 for lack of grounds for legal action.

The case had been opened in 2010 against Metis Publishing for “publicly denigrating the religious values upheld by a certain section of the population” (TCK 216/3) with its 2010 agenda İllallah, with the theme of the “right to not believe,”

against its director Semih Sökmen, editors Müge Sökmen, Özge Çelik, Tuncay Birkan, Özge Duygu Gürkan, graphic designer Emine Bora and redactor Eylem Can. It was suspended after its second hearing on 11 October 2012 at the 2nd Criminal Court of First Instance under the Third Judicial Reform Package. Those working at the publishing house in their pleas mentioned right to defence and fair legal procedures protected under Article 6 of the European Convention on Human Rights (ECHR) and Article 36 of the Constitution, thus demanded to be acquitted through suspension of the postponement of the hearing, continuation of the case and preparing their pleas in writing. With this application, they also stated that one of the contents of temporary Article 1 of the Reform Package, “not committing a crime in the following three years”, which was the basis for suspension, went against Article 10 of the European Convention on Human Rights (ECHR) guaranteeing freedom of expression and Article 3 of the Press Law guaranteeing freedom of the press. The court did not accept this demand and postponed the case.

The trials concerning Hanefi Avcı and his book *Haliç’te Yaşayan Simonlar: Dün Devlet, Bugün Cemaat (Simons Living in Golden Horn: Before the State, Now the Congregation)*, which was accused of “propaganda for an illegal organization”, “insult”, “violation of secrecy of the investigation” and “attempting to influence fair trial”, were finalized. The case of “propagandas for an illegal organization”, opened in August 2012, was suspended from prosecution under the Third Judicial Reform Package. Court cases opened under allegations of “insult” to public prosecutor Mehmet Berk, “insult” to company representative Muharrem Polat, “violation of secrecy of the investigation” and “attempting to influence fair trial procedures” were held in two hearings held back to back at the Ankara 2nd Criminal Court of First Instance in October 2012 and both were suspended under the Third Judicial Reform Package.

A court case opened in October 2012, regarding Ergün Poyraz’s *Kalpazan (Counterfeiter)*, which allegedly “insults” Prime Minister Tayyip Erdoğan, was suspended from prosecution under the Third Judicial Reform Package. Cumhuriyet newspaper reporter İlhan Taşçı’s *Cüppeli Adalet (Justice in Gown)*, Hürriyet newspaper reporter Ali Dağlar’s *Operasyonun Adı: Ağa 01 (Operation Name: Master 01)* and Radikal newspaper reporter İsmail Saymaz’s *Postmodern Cihad (Postmodern Jihad)* were taken to court by the Erzurum prosecutor, Osman Şanal, who has been authorized to deal with counter terrorism and the Ergenekon investigation. The reporters were taken to the Istanbul 2nd Criminal Court of First Instance with the following allegations: “attempting to influence fair trial procedure” (TCK 288) and “insult” (TCK 125). At the hearing held in December 2012, it was decided that the case would be suspended under the Third Judicial Reform Package.

Ban After Bans Were Lifted

Istanbul Magistrates Court No: 3 Appointed under Article 10 of TMK started investigations, after having received applications for the chief public prosecutor dating 2, 3 and 4 January about four newly published books by Umut Publishing. *Belgelerle TKP/ML-1 (TKP/ML with Documents-1)*, *Belgelerle TKP/ML-2/Fırtınalar İçinde Bıçak Sirtında (TKP/ML with Documents-2/Within Storms Walking On a Tight-rope)*, *İşkencehanelerde Kızıl Direnme Ruhunu Yaşatmaya Hazır Ol (Be Prepared to Keep Alive the Red Resistance Spirit in Torturehouses)* and *Rüzgar Bizden Yana Esiyor (The Wind is on Our Side)* were alleged to be “propaganda on behalf of an illegal organization”; it was decided that they would be seized and banned. The publishing house’s lawyer drew attention to the lifting of bans on publications under the Third Judicial Reform Package on 5 January, which predates the decision of the court, 16-17 January 2013 and demanded cancellation of the decision. Five edited volumes by Umut Publishing are on the banned list: *İşkencehanelerde Kızıl Direnme Ruhunu Yaşatmaya Hazır Ol (Be Prepared to Keep Alive the Red Resistance Spirit in Torturehouses)*, *Alplerden Munzur’a Enternasyonalizm (Internationalism from Alps to Munzur)*, *Şehitler Albümü (Album of Martyrs)*, *Komsomol Yazılar -1 (Writings of Komsomol-1)*, *Komsomol Yazılar-2 (Writings of Komsomol-2)*, *Nergiz-THKP-C/HDÖ Ankara Davası Savunması (Nergiz-THKP-C/HDÖ Ankara Defense)*. The only publication with a ban lifted under the Third Judicial Reform Package is İbrahim Kaypakkaya’s *Seçme Yazılar (Selected Writings)* published in 2004. The case against the Editor-in-Chief of Umut Publishing for the publication of *Düşleri Gerçeğe Dönüştürmek İçin (To Make Dreams Come True)* continues.

Muammer Karabulut’s *Protestan Kuran (Protestant Qur’an)* was taken to court by Fethullah Gülen, on the grounds that it violated TCK 216 and TCK 125, “provoking people to enmity or hatred” and “insult”. The first hearing was held on 8 October 2012, in which the first allegations were rejected and it was decided that the court should proceed with the second allegation about insult. At the last hearing held on 20 February 2013, Karabulut was sentenced to a year in prison for insult to Fethullah Gülen (TCK 125), which was converted to a TL 14,600 fine and postponed.

In January 2013, Aram Publishing Editorial Coordinator Gökhan Bulut was taken to Diyarbakır High Criminal Court on the grounds that he had made “propaganda for a terrorist organization” (TMK 7/2, TCK 75, 53, 58/9) through four books published by Aram Publishing. Only the publisher is tried as there are no contracts between the writers and the publishing house for the following books: Hayrettin Ekinci’s *Li Ciyane Qerejdax Şopa Gerila (Footprints of Guerrillas in Mountain Qerejdax)*, Rodi Zinar’s *Tecrit (Isolation)* and Hesên Hüseyin Deniz’s *Serpehati-*

yen Penabertiye (Memories of Exile). The fourth book mentioned in the accusation, *Europe’s Autonomous Regions* is claimed to be written by Nejat Ayaz even though the book was translated from its original written by Thomas Benedikter. It is interesting that this book became a subject of a lawsuit even though it does not contain words such as PKK, Kurd, KCK, Kurdistan or Turkey. Bulut stated that the three Kurdish books they published have already been published in Turkish and that the lawsuit only mentions the Kurdish editions. The prosecutor told him that if he were to pay TL 20,000 for each book and TL 7 for court expenses, they would not go forward with the court process. The first hearing will be held on 3 June 2012 at the Diyarbakır 9th High Criminal Court.

After the Third Judicial Reform Package, the İstanbul 3rd Magistrates Court decided on 18 February 2013 and 6 March 2013 that Aram Publishing’s five books that were previously seized should be recollected and re-banned under Article 25/2 of the Press Law. The re-banned books are: *Gözlerinde Berivanın Gözleri Işıldıyordu (Berivan’s Eyes Were Reflecting in Their Eyes)*, *Yarınlara Yol Almak: Gerilla Anıları III (Moving to Tomorrow: Guerrilla Memoirs III)*, *Qahir Fırat’s Gülen Azadiye (Roses of Freedom)*, *Gerilla Şiirleri I (Guerrilla Poems I)*, *Gerilla Şiirleri II (Guerrilla Poems II)*. M. Sait Yıldırım’s *Uygarlığın Doğuşunda Kültür ve Kürtler (Culture and Kurds At the Dawn of Civilization)*, Salih Şahin’s *Zerdüşt Ne Buyurdu (What the Zarathustra Commanded)* and Murat Türk’s *Böğürtlen Zamanı (Time of Blackberries)* are under investigation under the TMK. In the accusation, it was stated that the writers and the publishing house should be sentenced.

“Without Banderole” Case for Books Coming from Netherlands

Mehmet Eren, owner of Deng Publishing, had applied to the ECtHR in 2006 due to a confiscation of books about Kurdish history and culture that were sent to Eren from Netherlands to be archived. The books were never returned. The publishing house was sentenced to a fine as well. Just as Eren was waiting to hear from the ECtHR, it turned out that a lawsuit had been filed against him at the Criminal Court of First Instance in 2013 on the grounds that 90 of the books, which were not returned to Eren, were without banderole. Eren stated that these books were sent for archival purposes, not for sale. The reason he had applied to the ECtHR was so that these books would be returned to him. It is known that the judge has not been able to obtain these books either.

A lawsuit was filed against Hüseyin Gündüz for the following books: Medeni Ferho’s *Öcalan’a Mektuplar: Sayın Başkan (Letters to Öcalan: Honorary President)* and Sertaç Doğan’s *Şırnak Yanıyor 1992... (Şırnak is Burning 1992...)*, both published by Do Publishing owned by Gündüz. These cases were not suspended despite the Third Judicial Reform Package; the High Court of Appeals had sent the case to the

İstanbul 11th High Criminal Court. Gündüz was accused of "praising the crime and criminal" in the last hearing held on 24 May 2013. Finally, under the Third Judicial Reform Package, it was decided that the case would be suspended.

The State Security Court had issued an order to re-collect six books published by Eksen Publishing that were banned 13 years ago. The re-banned books are the following: *TKİP Kuruluş Kongresi Belgeleri-Tüzük Üzerine Tartışmalar (TKİP Founding Documents- A Conversation on Bylaws)*, *TKİP Kuruluş Kongresi Belgeleri, Açılış ve Kapanış Konuşmaları (TKİP Founding Congress Documents, Opening and Closing Speeches)*, *Türkiye Komünist İşçi Partisi Program Tüzük (Turkish Communist Worker Party Program Bylaws)*, *Parti Değerlendirmeleri-4 (Party Evaluations- 4)*, and *TKİP Kuruluş Kongresi Belgeleri-Örgütsel Güvenlik Sorunları (TKİP Founding Congress Documents- Organizational Security Problems)*.

Pulling Off the Shelf Before Publication

The book that included Abdullah Öcalan's fifth plea to the ECtHR from prison titled *Kürt Sorunu ve Demokratik Ulus Çözümü (Kurdish Problem and Democratic Nation Solution)*, edited by Ararat Publishing was confiscated by police as thousands of copies from the Gün Printing House while they were being printed in August 2012. The decision to seize these books was made by the 2nd Istanbul Magistrate's Court on the application of Chief Public Prosecutor of İstanbul. Appeals were made to the 2nd and 3rd Magistrates Courts on 27 September 2012 and were rejected on the grounds that "there were no changes as to the crime's qualifications and importance, existence of elements that lead to a high suspicion of crime, current evidences and laws that this decision abides by". Lawyers made an individual application on behalf of Öcalan, claiming that disrupting printing and publishing conflicts with and violates Article 25 of the Constitution: "freedom of thought and conviction". In May, it was decided that the Constitutional Court would seek the Ministry of Justice's opinion. If the Ministry deems it necessary, there will be feedback in a month or two. After the opinion is received, the court will evaluate the application for compliance with procedure and principle.

İrfan Taştemur and Hanife Taştemur have filed complaints against Gün Zileli for her book *Sığınmacılar (Asylum Seekers)* and İletişim Publishing, its publisher, on the grounds of "infringement of personal rights". The libel suit has been going on since 2011 at the 17th Civil Court of First Instance; the next hearing date is 4 September 2013.

OTHER COURT CASES AGAINST WRITERS

Müge Tuzcuoğlu

Tuzcuoğlu is the author of *Ben Bir Taşım (I am a Stone)* and an academician who was arrested on 8 March 2012 as a part of the KCK operation and released on 25 September 2012. Tuzcuoğlu added to her plea that "I don't want anybody else to have to go to court because they produced a thought, said something or joined a discussion. Even the most contradictory ideas, when expressed with words, keeps the violence away." Tuzcuoğlu's case is ongoing.

Perihan Mağden

Prime Minister Erdoğan has filed a suit against Mağden because of her article titled "Yok Artık Sayın Başbakan" (It Can't Be True, Honourable Prime Minister) published in Taraf newspaper. Erdoğan made a case for "violation of personal rights" against him and the Justice and Development Party (AKP) and demanded TL 500 compensation. The libel case was closed in October 2012. Mağden and Taraf newspaper were fined TL 2,000.

Ahmet Altan

Author and journalist Ahmet Altan has proven innocent of 12 lawsuits filed against him due to the content of his columns in Taraf. 13 lawsuits filed before 31 December 2011 were suspended under the Third Judicial Reform Package. Prime Minister Tayyip Erdoğan has filed four "insult" cases (TCK 125) regarding Altan's pieces titled "Dava" (Trial), "Devlet Yardaklığı ve Ahlak" (State Complicity and Ethics) and "Alaturkalık" (Alaturcaism) and he was proven innocent in one of these. He was sentenced to pay a total of TL 30,000 as compensation after two courts decided in favour of Erdoğan in 2012, which were then appealed to by Altan. The other lawsuit will be heard in June. Eight lawsuits filed against Altan due to the content of his columns in Taraf are asking for a total of TL 231,000 as compensation. From these lawsuits three were objected to, one was suspended, and two others are before the High Court of Appeals. Two more compensation decisions were appealed against.

Pınar Selek

Writer Pınar Selek was sentenced to life imprisonment after the decision of the İstanbul 12th High Criminal Court regarding the bombing of the Spice Bazaar. Due to "lack of evidence regarding the cause of the explosion" Selek has been acquitted twice, and for the second time the suit was re-sent to the High Court of Appeals demanding "life imprisonment" for Selek. On 24 January 2013, the court decided

not to insist on its previous decision of acquittal and changed it to aggravated life imprisonment. The chief judge of the court went against the decision and stated that the indecision with regards to whether the explosion was the result of a bomb or not is important.

Ayşegül Devecioğlu

A suite against 21 members of the BDP, including writer Ayşegül Devecioğlu was a press release they prepared for Newroz celebrations at Yalova. They were accused of “chanting illegal slogans” (TMK 7/2 and 5/1, Meeting and Protest Marches Law 28/1, TCK 58, 53/1-2) and the case was sent to the 22nd High Criminal Court with Special Authority, where the first hearing was held and pleas for not guilty were heard on 15 March 2013. The lawsuit is ongoing.

Temel Demirer

Writer Temel Demirer made a speech in Ankara during the protests following the murder of Hrant Dink in 2007. He was accused of “provoking people to enmity and hatred” and “insulting Turkishness” (TCK 216 and TCK 301); the case is ongoing since 2008. With a decision taken on 19 February 2013, prosecution was suspended under the Third Judicial Reform Package. Demirer has applied to court with regards to the suspension, demanding a decision and repeated his speech that was subject to the lawsuit. Because of this application, the Ankara Chief Public Prosecutor asked for permission from the Ministry of Justice to reopen the case for violation of Article 301.

Sevan Nişanyan

Large number of people have applied for a lawsuit to be opened against Sevan Nişanyan's tweets from his Twitter account and his remarks on his personal website, claiming Nişanyan has “defamed” the prophet Mohammad and “provoked people to enmity and hatred” (TCK 125 and 216). The İstanbul Chief Public Prosecutor has taken the initiative to start an investigation after 15 complaints were made regarding defamation of Mohammad in Nişanyan's blog entry titled “Nefret Suçlarıyla Mücadele Etmeli” (We Should Confront Hate Crimes) which was finalized in March. It was demanded that Nişanyan be served with one and a half years in prison for having “denigrated the religious values upheld by a certain section of the population” (TCK 216), thus, a case was opened before the 14th Criminal Court of Peace. The last hearing was held on 22 May 2013 and Nişanyan was sentenced to nine months in prison. As the crime was committed through the media, the sentence was aggravated to 13 and a half months. The judge decided that the sentence should not be postponed. Nişanyan has a criminal record, thus,

the sentence cannot be converted to a cash fine. At this point, he is left with only one option- that is to appeal to the decision.

Fazıl Say

Pianist and a writer, Fazıl Say is sentenced to 10 months in prison for his tweets including excerpts from the Rubaiyat of Omar Khayyam, which were deemed to be “insulting to religious values” (TCK 216/1, 216/3) following the complaint of Ali Emre Bukağlı. With the Third Judicial Reform Package, the decision suspended for three years. Say's lawyer appealed to 29th Criminal Court of First Instance with regards to the suspension, which led to the decision being lifted and the case returned to 19th Criminal Court of Peace. Say will be retried for the same lawsuit.

PEN Turkey's criticism of the lawsuit against Say was followed by another complaint by Ali Emre Bukağlı to Prime Ministry's Communication Center with the allegation that PEN was “insulting the state and influencing judicial authorities” (TCK 301/4). PEN Turkey, on 3 June 2012, condemned Say's trial from their website. PEN Turkey's Board of Directors made a plea at the prosecution office, stating that words chosen for the statement were an expression of opinion adding that they were a critique and they had no intention to insult, thus, called for nullpros of the indictment. PEN International condemned the investigation against PEN Turkey. PEN International President John Ralston Saul stated that, “the allegation set forth, within consideration of international freedom of expression standards, is a consequence of a law that, first of all, should not exist; secondly, of misinterpretation of the same law”. PEN encouraged the Turkish government to stop investigations and judiciary procedures regarding PEN Turkey immediately and to repeal Article 301 completely.

Ali Emre Bukağlı, who has complained about both Say and PEN Turkey, is known to be closely related to Adnan Oktar, who has ideas against evolution and has filed official complaints against Kuzey, Sel and Ayrıntı publishing houses who have published books by Richard Dawkins, Burroughs and Palahniuk respectively; Metis Publishing for their agenda themed *İllallah (Enough)*; Ekşisözlük (a collaboration based on-line dictionary) contributors; writer Nedim Gürsel; cartoon artist, contributor to Penguen magazine Bahadır Baruter and hundreds of people he follows on social media.

Among 118 suspects of the second Ergenekon case, there is one among the non- arrested suspects who is an economics professor and a writer with over 30 books published, Prof. Erol Manisalı. On 18 March 2013 it was demanded that he should be sentenced to prison for life. He was arrested in 2009 and after two months under custody, he was released after having an operation to treat his cancer.

Detained writers, poets, translators and publishers

All over Turkey many writers, poets, translators and publishers are detained under terrorism allegations including the following: A. Dursun Yıldız, Ayşe Berktaş, Aziz Tunç, Bahar Kurt, Cengiz Kapmaz, Cihan Deniz Zarakolu, Davut Akgül, Doğu Perinçek, Edip Yalçınkaya, Poyraz, Erol Zavar, Hamit Dilbahar, Hanefi Avcı, Hatip Dicle, Mehmet Güler, Mehmet Perinçek, Muharrem Erbey, Mustafa Balbay, Şükrü Sak, Tacettin Karagöz, Tuncay Özkan, Veli Ozan, Yalçın Erol, Yalçın Haftçı, Yalçın Küçük, Yüksel Genç and Zeki Bayhan.

LAWSUITS AGAINST COMICS

Prime Minister Tayyip Erdoğan filed an “insult” lawsuit against Yalçın Küçük and Editor-in-Chief of Aydınlik, Mehmet Bozkurt, for a cartoon published as a part of Küçük’s

Diktatörya (Dictatoriat). The İstanbul 2nd Criminal Court of First Instance sentenced Bozkurt to 11 months and 20 days in prison whereas Yalçın Küçük was acquitted. Bozkurt’s sentence was turned into a TL 7,000 fine. The appeal of the case was suspended before the High Court of Appeals had made a ruling, under the Third Judicial Reform Package in July 2012.

Cartoonist Ayhan Kiraz in Zonguldak, Çaycuma, was taken to court under an allegation of “insulting religion” because a cartoon of his criticizing campaigns led by religious institutions in schools. He was acquitted in September 2012.

Bahadır Baruter’s “Allah yok, din yalan” (There is no god and religion is a lie) captioned cartoon in Penguen magazine dated 10 February 2011 was taken to the 2nd Criminal Court of First Instance under the allegation that he was “denigrating the religious values upheld by a certain section of the population” (TCK 216/3). The case was suspended under the Third Judicial Reform Package in December 2012.

CENSORSHIP, BANS AND INVESTIGATIONS REGARDING PUBLICATIONS

The theatre translation and research periodical Mimesis, issue No. 19, had an article about a Classical Greek comedy whose descriptions were deemed to be “vulgar” by the Public Library of Elazığ, which, as an institution, organized a signature petition and returned the magazine. The General Directorate of Libraries and Publications contacted the publisher of the periodical, Boğaziçi University Publishing, and stated that they saw no value in the library’s protest and that they did not support such practices.

Kadıköy police were said to have visited bookstores in Kadıköy referring to a banned books list in October 2012, confiscating certain newspapers and books

and warned bookshop keepers not to sell these publications.

Ankara University Africa Studies Research and Application Center Director Prof. Doğan Aydal censored submissions to the 3rd volume of the academic journal Afrika, which included the following words: “Kurdistan”, “colony” and “racist”. Researchers have withdrawn their submissions.

It is claimed that Scientific and Technological Research Council of Turkey (TÜBİTAK) has removed all books concerned with evolution theory from their Popular Science series. Three years ago, TÜBİTAK had also dismissed the Editor-in-Chief of the *Bilim Teknik (Science and Technics)* magazine, Dr. Çiğdem Atakuman, who had devoted 15 pages to Charles Darwin as homage to Darwin’s 200th birthday. TÜBİTAK has refuted the allegations and stated that the reason for not publishing these books was related to copyright laws.

In February 2013, Labour Party (EMEP) *Tarihsel Bir Gerçeklik, Kürtler ve Kürt Sorunu (Historical Reality, Kurds and Kurdish Question)* booklet was confiscated in front of the parliament because of the party logo on its cover.

Buket Uzuner had prepared a piece for Skylife magazine, titled “Anadolu Yakasında Bir İstanbul Klasığı: Moda” (A Classic of the Anatolian Side: Moda), parts of which regarding İstanbul Metropolitan Municipality’s ban on alcohol in their facilities at Moda Pier was censored. She went to court against Turkish Airlines Inc. and won the case on 22 February 2013. The court ordered that the June 2009 issue be confiscated, the censored version of the article to be removed from the internet site, and the publication of the original article to appear in Skylife magazine within three months with TL 2 to be paid to the writer for damages.

Bans on Publications in Prison

In Kocaeli No:2 F Type Prison, İletişim Publishing’s seven volume *Sosyalizm ve Toplumsal Mücadeleler Ansiklopedisi (Socialism and Social Struggles Encyclopedia)*, Metis Publishing’s *Bildiğin Gibi Değil (Not as You Know It)* and *Diyarbakır Gecesi (Night of Diyarbakır)* were deemed suspicious and were not handed to prisoners. CHP Vice Chairman Sezgin Tanrıku prepared a parliamentary question which the Ministry of Justice answered in August 2012. Sadullah Ergin, the Minister of Justice, replied that the books concerned were photocopied and therefore do not carry the necessary qualifications to be considered as printed publications. He added that the reason behind the decision to restrict access to these books was the remarks in them that “denigrate the Republic of Turkey, its state and its law enforcement agencies”. When the minister was replying to Veli Ağbaba, another CHP representative, who put forth another parliamentary question about procedures regarding acceptance of books into prisons and access to resources

necessary to write books, he mentioned that there could be restrictions on books if deemed to encourage illegal organizational actions, to directly target officials, to increase solidarity, to contain false information and to threaten security. It was discovered that the Ministry did not have statistical data on books and publications banned in prisons.

It was learned in August 2012 that Selma Irmak, a detained BDP representative, was not given Hasan Cemal's *Kürtler (Kurds)* and Bejan Matur's *Dağın Ardına Bakmak (Looking Behind the Mountain)* on the grounds that they were deemed suspicious.

In Sincan No:2 F Type Prison, prisoners announced in September 2012 that they did not have access to Özgür Gündem and Azadiya Welat newspapers, which they had subscribed to, for 15 days. It was expressed that the prison directorate did not follow any court ruling in deciding to restrict access; they deemed the language and photographs used in these publications illegitimate.

In Adana F Type Prison, a large world atlas sent to one of the prisoners was deemed an "organizational document" while Atlas magazine's promotional map of Turkey was deemed "suitable for use out of purpose". Both publications were confiscated.

In Tekirdağ No: 1 and No:2 F Type Prisons, there was a limit put on the number of books allowed in a cell, claiming that "it took a long time to check all books" and the "probability of prisoners setting themselves on fire with books". This decision was communicated on 15 January 2013. The directorate objected to appeals against this decision and forcibly took "extra books" from prisoners on 15 March 2013. Those who did not want to let go of their books were sentenced to solitary confinement for one day. Prisoners went on hunger strikes and other prisoners in Bakırköy Prison supported them. Prisoners also sent a petition to the Ministry of Justice. The decision was removed with a written notice sent to the prison directorate as a result of the protests and statements that amounted to public pressure on the Ministry of Justice.

Book Censorship and Investigations Regarding Educational Institutions

After a literature teacher's complaint to the Ministry of National Education, Feridun Fazıl Tülbentçi's *Barbaros Hayreddin Geliyor (Hayreddin Barbarossa is Coming)* was removed from the Ministry's list of 100 Recommended Works in June 2012, with the claim that it included "vulgar expressions". A letter was sent to provincial directors of national education discouraging them against recommending this book to students.

It was discovered in December 2012 that one of the hymns written by Yunus Emre was censored in Turkish literature textbooks. The following quadrant was

removed from the hymn: "Cennet cennet dedikleri / Birkaç köşkle, birkaç huri / İsteyene ver onları / Bana seni gerek seni" (What they call heaven / Is a couple of mansions, couple of houris / Give them to those who want them / All I need is you.)

It was disclosed in December 2012 that Kaygusuz Abdal's *Nefes (Breath)* was censored for 10th grade Turkish literature books. It was also observed that quadrants containing words related to Alevism such as "month of mourning", "Zül-fikâr", "Ali" and "Hû" were cut from the poems.

In January 2013, the İstanbul Provincial Directorate for National Education started an investigation against a teacher in Bahçelievler, İstanbul for assigning Vasconcelos' *My Sweet Orange Tree*, a book featured in the Ministry's list of 100 Recommended Works, to the class. The investigation started when a parent's letter to the Prime Ministry Communication Center, which complained about "slang words" and content "inappropriate to Turkish customs and tradition" in the book, was accepted as a charge.

In January 2013, it was revealed that the Book Inspection and Evaluation Commission of İzmir Provincial Directorate for National Education had applied to the Ministry of National Education on its concerns about objectionable content in John Steinbeck's *Of Mice and Men*. The Turkish Publishers Association, the book's publisher Sel Publishing, the Literary Translators Association, and the Translation Society issued a press release, which condemned the censorship.

Ertuğrul Günay, the previous Minister of Culture and Tourism, criticized both the Ministry of National Education's investigation into *My Sweet Orange Tree*, due to its "explicit" content and the Book Inspection and Evaluation Commission of İzmir Provincial Directorate for National Education's note on *Of Mice and Men*'s "objectionable" content by saying, "I hope the Minister of National Education gives a revealing clarification."

Ömer Dinçer, the previous Minister of National Education explained that both *My Sweet Orange Tree* and *Of Mice and Men* were investigated due to complaints from citizens, yet the investigations were dropped as both of the books were on the Ministry's list of recommendations. After declaring that they have transformed the textbook inspection and evaluation process according to world standards, Dinçer said, "Similar complaints might come for writers such as Yunus Emre, Orhan Kemal, Pir Sultan Abdal in the future. We have not inspected and evaluated their books under the new system, but the old. This might give us one of the reasons why we have to change the old system. Let our kids read whatever they desire."

In January 2013, it was also revealed that a Turkish teacher was advised to change a reading list, which included Muzaffer İzgü's *Zıkkımın Kökü (The Poison's*

Root), after Bursa Osmangazi District Directorate for National Education decided that the work “is not convenient for teenagers” in response to a parent’s complaint.

It was revealed in January 2013 that Konak District Directorate for National Education had started an investigation after an unsigned letter of complaint was received about Turkish teachers at İzmir Güzelyalı Primary School, who assigned Muallim Naci’s *Ömer’in Çocukluğu* (*Ömer’s Childhood*) and *Çılgın Babam* (*My Crazy Father*), and Bilgin Adalı’s *Çatalhöyük Öyküleri-1: Dünyamızın İlk Şafağı* (*Çatalhöyük Stories-1: World’s First Dawn*) in order to, allegedly, transmit knowledge incompatible with “Turkish customs and tradition” to their students.

Another instance was revealed in January 2013 after a history teacher at Necip Fazıl Kısasürek High School in Bahçelievler, İstanbul recommended Amin Maalouf’s *Samarkand* to his students. The District Directorate for National Education started an investigation about the teacher when a parent of a student, who did not go that high school, sent the Directorate a letter with copies of pages which showing the work’s “vulgar” content, which “demeaned Islam”.

In February 2013 it was revealed that the following words in Edip Cansever’s poem, “Masa da Masaymış Ha” (Table), “Bir bira içmek istiyordu kaç gündür / Masaya biranın dökülüşünü koydu” (So many days he had wanted to drink a beer! / He put on the table the pouring of that beer.) was replaced by “...” in a textbook, approved by the Ministry and published by Ekoyay Publishing.

Nabi Avcı, the Minister of National Education, said the following in reply to questions about book censorship in education: “Let me talk about Yunus Emre. The others are books that had been selected and offered to the Ministry of National Education by a commission that included myself. That list of 100 books is the product of a work to which I was invited to contribute as an academician. Nobody can censor Yunus Emre.” In reply to accusations of censorship of certain works, Avcı said that functional quotations with reservations about the length of the original passage are understandable. Regarding censorship in textbooks, he said, “You take a poem and a line or a word of that poem annoys you. Then you change it or take it out completely. This is unacceptable. Either don’t use that poem or respect its integrity.” About omission of a stanza in Edip Cansever’s poem, Avcı said, “If certain textbook authors think that ‘This government is conservative. If we do this we would present ourselves to Instruction and Education Council Presidency with a desirable identity’, then this is shameful. Edip Cansever has lots of other poems, which are suitable for educational purposes. It is an issue of mentality if one chooses this poem and changes a stanza. Turkey will overcome this; it is indeed overcoming it. These are not decisions made by the Instruction and Education Council.”

It was observed in February 2013 that the first stanza of Melih Cevdet Anday’s “Rahatı Kaçan Ağaç” (The Unquiet Tree) was changed. The fourth line of the poem, Tanrı’nın işine bakın (Look at the God’s work) was replaced by “Allah’ın işine bakın” (Look at Allah’s work) in a 9th grade Turkish textbook.

Certain lines of Cahit Külebi’s poem, “Hikâye” (Song) were deemed unsuitable and censored in a 9th grade Turkish textbook. The lines, “Benim doğduğum köylerde / kuzey rüzgârları eserdi / ve bu yüzden dudaklarım çatlaktır / öp biraz” (In the village where I was born / The north winds blew. / That’s why my lips are cracked / Kiss them a while.) were replaced by “...”.

The censorship of Cemal Süreya’s poem “Üvercinka” in a literature textbook published by Limit Publishing was made public in April 2013. In the line, “Sevişmek bir kere daha yürürlüğe giriyor” (Making love is once again going into effect), “sevişmek” (to make love) was replaced by “sevmek” (to love).

An investigation was started against Seydi Çelik, Kocaeli University Law Faculty Dean’s Assistant, in March 2013 for assigning homework about *Communist Manifesto*. After receiving Çelik’s written defence, the Council of Higher Education decided that an investigation was unnecessary.

BOOKS AS CRIME EVIDENCE

Books were considered as evidence of crime in the case that led to operations against the Confederation of Public Workers’ Unions (KESK) on 29 June 2012. Deniz Bozbey, who was jailed pending trial, was asked about “banned books” found in her home. Bozbey answered that she bought one of the books at the İstanbul Book Fair and the other in Taksim on May Day. Erdal Yılmaz, Education Workers Union (Eğitim-Sen) Adıyaman Branch Organization Secretary, said that a number of his 1,500 books, which were collected and sent to Ankara during a house search on 25 June were used as evidence for a non-existent crime.

The majority of the evidence put forth in the indictment of the KCK Press Case, in which journalists and media workers were put to trial, consisted of books and periodicals. The 800 page indictment had 352 occurrences of the word “book”. Writing, editing, publishing, distributing, selling, distributing through the internet, and translating books by and about Abdullah Öcalan, his life and his thoughts were considered as “propaganda on behalf of an illegal organization”. Many books and periodicals, which were found during the KCK Investigation related house raids, were given place in the indictment as “organizational books-periodicals” and “completely organizational book” due to expired decisions to take books from circulation or its publication language, in this case, Kurdish. Editors, translators, publishers, distributors, and sellers of many of these books,

whose bans were long-expired, were treated as organization members and the actions of people who were quoted or interviewed in these books were regarded as organization propaganda.

With the Third Judicial Reform Package, books seized as evidence of a crime were not returned even though seizure and ban rulings over these publications were lifted, and despite requests made for their return. Students released from the Hopa case requested return of their confiscated books through their lawyers but the court objected. Among these books, there are those whose bans had been lifted.

CHP Tunceli MP Hüseyin Aygün's *Dersim 1938: Resmîyet ve Hakikat (Dersim 1938: Formality and Truth)* published by Dipnot Publishing was considered to be evidence of crime in January 2013 in relation to an operation against DHKP-C members, which also resulted in arrests of Progressive Lawyers Association (ÇHD) lawyers. The book was seized even though there were no legal restrictions or seizure ruling made against the book. It was registered as a crime tool in the İstanbul Police's record of Incidents of Arrest Warrant and Confiscation.

PRESSURES ON PRESS

According to data given by Bianet and Tutuklu Gazetecilerle Dayanışma Platformu (Platform for Solidarity with Imprisoned Journalists) in 2012, 104 journalists and 35 distributors are in prison. By the end of April 2013, 67 journalists and 30 distributors are in prison under the scope of the TMK and TPC for links to illegal organizations. 42 out of 67 journalists and 29 out of 30 journalists that have been taken to court were from Kurdish media, 42 were linked to the KCK, PKK and DYG, 12 were linked to the DHKP-C, four to the MLKP, one to Oda TV, one to Direniş Hareketi, and one to the IBDA-C cases. Indictments regarding these journalists and distributors include news reports, having a critical language against the government and working for the Kurdish media, were used against journalists, as if these are not ordinary journalism activities. Journalism is portrayed as a profession "creating a media space for an illegal organization". By using regular journalism activities carried out by journalists and distributors as evidence, the courts are accusing them of the following crimes: "committing a crime on behalf of an illegal organization without membership", "providing help knowingly and with consent; without being a part of the hierarchical structure of the illegal organization", "founding an armed or unarmed illegal organization", "ruling of an illegal organization", "membership of an illegal organization".

Lawsuits against Journalists

In the Oda TV case, of the 13 suspects, including journalists and authors such as Nedim Şener, Ahmet Şık, Soner Yalçın and Doğan Yurdakul, the following were

released: Müyesser Yıldız on 22 June 2012, Barış Pehlivan and Barış Terkoğlu on 14 September and Soner Yalçın on 27 December. Yalçın Küçük and Hanefi Avcı are still detained. These trials were observed by representatives from the EFE News Agency from Spain, Arte TV-channel from Strasbourg, Radio France National from France, Reporters Without Borders International, the European Federation of Journalists, European Union and EU member consulates. The Swedish Journalists Federation made a grant to press organs, to be used in Turkey to ameliorate conditions of freedom of the press and raise awareness on this issue in Turkey, raised from the profits of the book *Girl with a Dragon Tattoo*, donated by its author Stieg Larsson.

At the KCK Press Case hearing held before the İstanbul 15th High Criminal Court, 26 journalists and media workers out of 44 defendants are detained pending trial. The suspects are accused of being members of the KCK and the 800-page indictment is comprised of journalists' news reports and interview notes, phone interview tapes, as well as books and magazines collected from their houses as evidence of crime. The first hearing of the case, held on 22 April 2013, was observed by the Director of Reporters Without Borders Central Asia and Europe Desk, Johann Bihir; Belgian Parliament Green Party Brussels MP Jean-Claude Defossé and German Journalists Union Director Joachim Legatis. The second hearing is scheduled for 17 June 2013.

Journalist-authors Mustafa Balbay, Tuncay Özkan, Yalçın Küçük and journalist Turhan Özlü continue to be detained in the Ergenekon case.

Editor-in-Chief of the newspaper Hawar, Bedri Adanır was sentenced to six years and three months in prison on the grounds of "acting on behalf of an illegal organization without membership" by the Diyarbakır 6th High Criminal Court because of four of the editions published in 2009. Adanır was released considering the period he had already spent in prison.

Sackings of Journalists

Yeni Şafak newspaper columnist Ali Akel was removed from his post after his article on the Roboski (Uludere) massacre, titled "Özür açıklanmaz, özür dilenir" (Apology is not meant to be explained, it is to be proffered). Akel, in his piece criticizing Prime Minister Erdoğan, used the phrase "Allah aşkına susun" (Be silent for the love of god).

CNN Türk stopped broadcasting its news program Medya Mahallesi (Media District) produced by experienced journalist Ayşenur Arslan in February 2013 and Arslan was dismissed from the TV channel. Arslan, on her dismissal, stated that her co-host Akif Beki, who is known for holding ideas close to the govern-

ment's, had developed a negative attitude towards her. She also stated that Prime Minister Erdoğan did not want CNN Türk to air live broadcasts featuring himself while she was working at the station, and that after her dismissal the Prime Minister agreed to allow CNN Türk to broadcast him live.

Prime Minister Erdoğan's speech during a Ramadan fast breaking meal on 11 August 2012, called to media bosses with criticism about certain journalists by asking them: "How do you keep these men as columnists?" Two days after his speech, Yıldırım Türker's piece was not published in Radikal, resulting in the parting of ways between Türker and the newspaper. Türker had previously written pieces criticizing Erdoğan's attitudes towards the Uludere massacre.

Habertürk dismissed two experienced journalists in February and April 2013. In June 2007, Balçiçek İter, who was a columnist at the newspaper and known for her TV programs broadcast on the Habertürk channel, Söz Sende (Word is Yours), Karşıt Görüş (Opposing Ideas) and Memleketin Hali (State of the Country), was dismissed from her post as a columnist. On 2 April 2013, columnist Amberin Zaman was dismissed by patronage decision. A month before, Zaman was warned to "be careful of what she is writing" after having written critical articles on Roboski, Syria and the state-system.

With 45 years of experience, journalist-author Hasan Cemal, after not getting two pieces of his writings published in succession, put an end to 15 years of writing for Milliyet by resigning from the newspaper. After Cemal's writings on the Kurdish issue, the peace process and İmralı records dating 1 and 2 March, Prime Minister Tayyip Erdoğan made a speech in Balıkesir, in which he stated the following: "If you have a drop of passion for this country and you want to contribute to the resolution process you couldn't have printed such news, you shouldn't have (...) If you are going to do such journalism, down with your journalism". After the speech, Cemal stopped his writings for two weeks in protest after which he sent in another article, which was again not published. He resigned from his post at Milliyet on 18 March 2013.

PRESSURES ON INTERNET PUBLISHING

According to Google's July-December 2012 Transparency Report, Turkey came fourth in the world for the number edicts and removals of web pages, a total of 8,751 items. 62 out of 87 demands for removal of content were accepted and action taken. Google drew attention to the steep rise in numbers of requests to remove items from 102 made between January-June 2012. Institutional (directorates, police etc.) requests to remove items came third place with 70 requests, the number of items these institutions wanted to be removed came second place with

1,287 items. Google approved 47 per cent of the requests. The Telecommunications and Communication Directorate (TİB) demanded the banning of 22 blog sites on the grounds that they were criticizing Atatürk, the state, national identity and values but these requests were found inappropriate by Google.

According to Twitter Transparency reports, between January-June 2012 Turkey made only one court ruling against a twitter user. Between July-December it received six requests from institutional bodies within the government and the police to remove content. These demands were not met. In its July-December report, Turkey was on the first rank globally with the number of requests to remove tweets without court rulings. The institution that requested the highest number of deletions was the police department.

The case against 17-year-old B.K opened on the grounds that he insulted the Prime Minister on Facebook was finalized in July 2012 with an 11 months and 20 days prison sentence. Under the Third Judicial Reform Package, he was released under the condition of a three-year suspension. The Prime Minister's lawyer had already withdrawn the complaint.

52 year old, retired, Ali Cemal Ağırman was also taken to court on the grounds that what he had written on Facebook "insulted the president of the Republic" (TCK 299/1); he was sentenced to a year and three months in prison in September 2012. Under the Third Judicial Reform Package, the announcement of judgement was adjourned.

Journalist Cüneyt Özdemir had a lawsuit filed against him for having criticized the court judgement in the N.Ç trial (N.Ç was 13 years old when she was raped by 26 men) by the director of 14th Office of the High Court of Appeals, Fevzi Elmas. The first hearing of his lawsuit was held on 16 October 2012 and the prosecution was suspended under the Third Judicial Reform Package.

Online magazine Arka Pencere's (Back Window) issue no. 156 featured a photograph of actress Sylvia Kristel, known for her role in the movie Emmanuel and who had died on 17 October 2012, on their home page. Facebook's Directorate censored this, also making the magazine's Facebook page editors, Burak Göral, Bilgehan Aras, Burçin S. Yalçın, Okan Arpaç and Cem Altınсарay's personal Facebook accounts inaccessible.

One of the comments made under Barış Yarkadaş's news piece on the Gerçek Gündem website was accused of "insulting the president of the Republic" (TCK 299). At the hearing held in November 2012, the case was suspended under the Third Judicial Reform Package.

Ten suspects in the Redhack case had their first hearing on 26 November 2012. For three of the suspects their internet communications, links visited, con-

tent and comments shared on Facebook since March 2012 were presented as evidence to prove their membership of the organization. The detainees were released after the first hearing to be tried without arrest.

Eskişehir Anadolu University student Gujan Ceyhan was taken to Üsküdar Criminal Court of Peace on the grounds that he insulted Adnan Oktar and Ali Emre Bukağlı on his blog, criticizing them for having filed lawsuits against the contributors of online dictionary Ekşisözlük. He was fined TL 6,000. An appeal was made to the High Court of Appeals. Bukağlı had previously made official complaints regarding news and articles Ceyhan shared on Facebook.

Metin Öztürk was sentenced to nine years and seven months in prison in January 2013. He had been detained since 13 February 2012 on the grounds that his Facebook chats showed that he was a “member of a terrorist organization” and he was creating “propaganda on behalf of a terrorist organization through the press”. Even though it was expected that he would be released under the Third Judicial Reform Package, the court ruled for the continuation of his detention.

An investigation started against Halil Savda in February 2013, on the grounds that he was discouraging people from doing military service on the Anti-War website.

17-year-old high school student İrem Aksoy was arrested in Beylikdüzü, at the high school she attends and was taken to a police station for having used the hashtag #EdepsizsinMelihGokcek (you are shameless Melih Gökçek) in March 2013. Aksoy was released soon afterwards.

Ankara 6th Revenue Office clerks had liked and shared cartoons published by Penguen, Leman and Gırgır (cartoon magazines) on social network sites. For having done so, disciplinary action was taken against them for “insulting state authorities and denigrating the prime minister”; in December 2012 under the command of the Prime Ministerial Office, their testimonies were taken. The Minister of Finance Mehmet Şimşek answered a parliamentary question on 29 March 2013 saying that the “report regarding this subject is being prepared, and according to the report, two of the clerks were warned about their mission and actions without taking any disciplinary action against them.”

AMENDMENTS TO LAW

Law 6352 known as the Third Judicial Reform Package was put into effect on 5 July 2012 with its publication in the Official Gazette. The Package, for crimes under the scope of TMK, made adjournment of rulings, changing of prison sentences to other sanctions and suspension possible. Under the Package, in order to restrict the number of arrest convictions that victimize journalists, writers and thinkers,

conditions were brought to these rulings that now need to be verified concretely in the following area: the existence of high suspicion, justifications for arrest and equanimity of arrest as a precaution. In certain cases, there can be rulings for a juridical control instead of detention.

Law 6352 enables the suspension of sentences for all crimes carried out through the media or other means of expression that were committed before 31 December 2011. On the other hand, the law is criticized for implementing an auto-censorship mechanism that hinders freedom to publish by the application of suspension of sentences, demanding that there be a period of three years of supervision, and with the condition that if a similar crime is committed in that period, the previous case will also be considered as a crime, in effect re-instated for prosecution.

Temporary Article 3 proposed that unless enacted within six months after a ruling is made, the courts overseeing the decision cannot order the continuation of the seizure, ban, prevention of distribution or sale of printed publications. Thus, previous rulings made up to 12 December 2011 by courts that appointed local authorities regarding this issue would be dropped. New rulings could have been given until January 5, 2013; thus all rulings on seizures and banning of books were dropped. On the other hand, as the Package was put into effect, some of the courts were renewing seizure rulings and ordering collection of newly published books.

The Ankara Police Office with regards to amendment made to Article 78 of Law 6352 with temporary Article 3, sent a list that contained “rulings given for seizure, ban, distribution and sale of printed publications” by Ankara Courts and other official authorities (State Security Court, Council of Ministers, Supreme Electoral Council, Ministry of Interior, State of Emergency Regional Governorships) in September 2012 to the Press Crimes Investigation Bureau of the Chief Public Prosecutor’s Office in Ankara. The police, in the cover letter, stated that under the coordination of the Security Branch Office, with the participation of Anti Terror directorships, they had formed a commission and it would encourage continuation of the bans on 67 books and 16 newspapers and magazines on the list.

Prosecutor of Press Crimes at the Ankara Chief Public Prosecutor Office, Kürşat Kayral, took decisions made by the Council of Ministers and other courts to ban or to seize 453 books and 645 other publications were put under investigation. The prosecutor sent a list regarding publications banned under Article 250 of Martial Law Courts, State Security Courts and Criminal Courts Law for consideration by the Deputy Chief Public Prosecutor in Ankara appointed to enact Article 10 of the TMK. Kayral decided that the bans should be lifted. The prosecutor,

explaining this ruling stated that the bans date as far back as 10 February, 1949 passed by the Council of Ministers, and that these rulings that have already been dropped were crimes which neither the present Turkish Penal Code nor special laws sanction. Additionally, most banned newspapers, magazines, brochures and banners are no longer accessible and even if they were to be re-published, they would carry only historical significance. He added that bans on works with allegations on grounds of obscenity could not be justified. In the preamble, it was stated that the security forces found that none of the works on the list were accessible as originals, or as copies that should have been seized or banned. Bans on books that lacked grounds for legal action were dropped under a Press Prosecutor's ruling on 5 January 2013.

After the Press Prosecutor's ruling in December, the Chief Public Prosecutor appointed under Article 10 of TMK, Yıldırım Beyyurt, examined the list that had been sent to his office. Out of the 67 books listed, he made an application to Court Appointed under Article 10 of TMK for the continuation of the bans on 13. Freedom Court Judge Halil İbrahim Kütük stated that for the continuation of the bans, "there should have been an investigation or prosecution in process with regards to these books" and rejected the applications. Thus, the ban on all the books on the Ankara Police Directorate list were lifted.

Books that police insists should be banned but whose bans were dropped are:

Marx's *The Communist Manifesto* (1968), Mahir Çayan's *Toplu Yazılar* (Collected Works of Mahir Çayan) (1978), Abdullah Öcalan's *Kürt Sorununda Demokratik Çözüm Bildirgesi* (Democratic Resolution on Kurdish Problem) (1999), *12 Eylül Faşizmi PKK Direnişi* (Fascism of September 12 and PKK Resistance) (1996) ve *Barışa Doğru Roma Konuşmaları* (Rome Conversations Towards Peace) (1996), *Dersim Türküleri* (Songs of Dersim) (1993), İsmail Beşikçi's *Tunceli Kanunu ve Dersim Jenosidi* (Tunceli Law and Genocide of Dersim) (1992), Zihni Açıba's *Mamak: Zulüm Kalesi* (Mamak: Fortress of Cruelty) (1991), *Devrimci Saflarda Proletaryanın Demokrasi Anlayışını Egemen Kılma* (Making Proletariat's Understanding of Democracy Prevailing in Revolutionary Lines) (1980), *Devrimciler Ne İçin Savaşıyor* (What are Revolutionaries Fighting For?) (1981), *Emperyalizme ve Oligarşiye Karşı Devrimci Gençlik Seçmeler* (Selections from Revolutionary Youth Against Imperialism and Oligarchy) (1978), *Enternasyonalist Son Kavga* (Last Internationalist Fight) (1992), *Kaldıraç 5. sayı* (Kaldıraç no. 5) (1994-95), Şeyhmus Güzel's *Özgür Yılmaz Güney* (Free Yılmaz Güney) (1996), *Sosyalizmin İki Ruhu* (Two Souls of Socialism) (1999), *TİİKP Davası Savunma* (Defence in TİİKP Lawsuit) (1974), *TİİKP Savunmasında Köylü Meselesi* (Villager Problem in TİİKP Plea) (1974), *TİİKP Savunmasında Milli Mesele* (National Problem in TİİKP Plea) (1974), *TDKP*

Programı (TDKP Program) (1980), Sinan Durmaz's *Türkiye Devrimi Kürdistan Devrimidir* (Turkish Revolution is Kurdistan Revolution) (1994), *Türkiye İhtilalci İşçi Köylü Partisi Davası* (Turkish Revolutionary Worker Peasant Party Lawsuit) (1974), *Türkiye İşçi Köylü Partisi'nin Siyasi Çizgisi MK Raporu Tüzük Programı* (Turkish Revolutionary Worker Peasant Party Central Committee Report Bylaw Program) (1980), *Yalanları Parçalayan Ulucanlar Katliamı* (Lie Breaking Ulucanlar Massacre) (1999), *Yaşasın Çorum Silahlı Antifaşist Halk Direnişi* (Long Live Armed Antifascist People's Resistance of Çorum) (1980), *Haklar ve Özgürlükler Cephesi Halk Anayasası Taslağı* (Rights and Freedoms Front People's Constitution Framework) (2007), Zeynep Buruçerdi's *Ashab-u Uhdud* (Ashab Al-Akhdud) (1982), Ahmet Kılıçkaya's *Çağdaş Tagutların İslam Gerçeğini Saptırma Çabalarına Reddiye* (Objection to Contemporary Taguts Trying to Divert the Islamic Truth) (2000), *Cihat-Murtaza-Mutahhari Bütün Eserleri* (Complete Works of Cihat-Murtaza-Mutahhari) (2000), Hüseyin Üzmez's *Çilenin Böylesi* (Suffering As Such) (1984), *Demokrasi Küfür Nizamıdır* (Democracy is a System of Infidels) (2003), *Dabbetül Arz Haykırıyor* (Beast of the Earth Screams) (2005), Yaşar Kaplan's *Demokrasi Risalesi* (Democracy Pamphlet) (1985), *Gerçek İslam Dinini Kimler Bozdu* (Who Ruined the Real Islam Religion?) (1971), *Ham İmam Humeyni* (Inexperienced Imam Humeyni) (2000), *Hizbi Kitleleşme* (Factioned Populace) (2003), *Hizbut Tahrir* (2003), *Hizbut Tahrir Mefhumları* (Conceptions of Hizbut Tahrir) (2003), *Hizbut Tahrir ve Hilafet* (Hizbut Tahrir and Caliphate) (2000), Ali Şeriatî's *Hür Düşünce Mektebi* (Free Thought School) (1989), *İmam Humeyni İslama Davet* (Invitation to Islam Imam Humeyni) (2000), Hüseyin Gazi Metin's *İnsan Tanrı Dinler ve Alevilik* (Human God Religions and Alevisim) (2000), *İslam Anayasası* (Constitution of Islam) (1985), Osman Kayaer's *İslam Anlayışımız Üzerine Makaleler* (Articles on Our Conceptions of Islam) (2000), *İslam Devleti* (Islam State) (2003), *İslam Nizamı* (Order of Islam) (2003), *İslami Şahsiyetler* (Islamic Personalities) (2003), *İslam Şeriatı* (Islamic Sharia) (1984), Fehim Şinasi's *İslam Ümmetinin Yetimleri Kürtler* (Kurds: Orphans of Islamic World) (2000), Ahmet El Mahmut's *İslama Davet* (Invitation to Islam) (2000), Takiyudden En Nephani's *İslamda Yönetim Nizamı* (Managing Order in Islam) (2000), *İslamda Ekonomik Sistem* (Economic System in Islam) (2003), *İslamda İctimai Nizam, İslamda Kadın Erkek İlişkileri* (Social Order in Islam, Women Men Relations in Islam) (2003) ve *Kıvrak Zekâ* (Cunning Wit) (2000), Abdülkerim Zellum's *İslamda Maliye* (Revenue in Islam) (2003), Abdül Kadim Zellum's *İslamda Yönetim Sistemi* (System of Management in Islam by Abdül Kadim Zellum) (2000), Abdurrahman el Muhacir's *İslamın Hareket Metodu 2 cilt* (2 volumes of Method of Action of Islam) (2003), Muhammed Gadban's *Nebevi Hareket Metodu* (Nebevi Method of Action) (2003), *Brifingteki İrtica* (Reaction in

Briefing) (1998), *Başkaldırının Koşulları* (Conditions of Revolt) (1992), *Devrimci Doğu Kültür Ocakları* (Revolutionary Eastern Cultural Centers) (1970), *Kurtuluş İçin İleri AYÖD Gençlik Harekatı* (Forward for Emancipation AYÖD Youth Action) (1976), *Kürdistan Bağımsızlık Mücadelesinin Yılmaz Savaşçısı* (The Enduring Fighter for Kurdish Emancipation Struggle).

Law 6459, also known as Fourth Judicial Package, was put in effect on 30 April 2012. In this package, in order to sentence someone to prison on grounds of propaganda for a terrorist organization or printing and publishing declarations and communiqués, there needs to be a component of “justification, praising of and encouraging people to take up methods that include force, violence or threat”. Those being tried for printing and publishing declarations and communiqués and propaganda for terrorist organizations, who are not a member of these organizations will not be given additional sentences for “being a member of an organization”. The act of “committing a crime for an organization without being a member of the organization” will only be used for armed groups. “Praising the crime and the criminal” contained in an Article of the TCK was amended so that now, in order to consider an action of this kind, the condition of “clear and present danger for public order” needs to be met. The sentences that may be applied were also reduced. For the continuance of arrest during investigations, either the suspect or the plea shall be heard; appeals against arrest will be decided after having heard the suspect, accused or defendant in addition to prosecutor.

EUROPEAN COURT OF HUMAN RIGHTS RULINGS

According to the European Court of Human Rights (ECtHR) 2012 Annual Report, among 47 countries Turkey came second, with Russia coming first, in complaints submitted to it, with 16,879 applications, and it came first place for applications regarding freedom of expression. Turkey’s applications constitute 13.2 percent of the ECtHR’s caseload. In 2012, Turkey was condemned 117 times and eight of these related to violation of freedom of expression. The April 2013 data produced by the European Council shows that Turkey’s compensation penalties amounted to 23,424,794, making it the second highest total penalties served against a State, with Italy being the highest. According to Bianet’s Media Monitoring Report, in 2012 the ECtHR ordered Turkey to pay Euro 78,581 in total to nine people -six of whom were journalists- and an institution. Between January-March 2013, Turkey was fined Euro 73.500 in compensation for nine newspapers and magazines banned between 2008-2009. The ECtHR announced that by the end of 2012, there were 450 files with regard to freedom of expression pending its decision.

Ahmet Yıldırım’s application in April 2012 after a decision was made to render

all Google Sites inaccessible due to a ruling against his own website was considered by the ECtHR which ruled on 12 December 2012 that Turkey should pay a fine of 8.500 in accordance with Article 10 of European Convention on Human Rights.

The following publications, newspapers and magazines were among those that the Court demanded be paid compensation for banning orders delivered between 2008-2009: *Bağımsızlık Demokrasi Sosyalizm İçin Yürüyüş*, *Ezilenlerin Sosyalist Alternatifi Atılım*, *Özgür Mezopotamya*, *Günlük*, *Siyasi Alternatif*, *Özgür Görüş*, *Süreç*, *Rojev* and *Demokratik Açılım*.

Publisher Ahmet Önal was convicted in 1999 and 2002 on the grounds that he was “provoking people to enmity and hatred” (former TCK 312) for the following books: *Teyze Baz* (Auntie Baz), *Bir Kürt İşadamı Hüseyin Baybaşın* (A Kurdish Businessman Hüseyin Baybaşın), *Mahmut Baksi* and *Dersim’de Alevilik* (Alevi Sect in Dersim) by Munzur Cem. After Önal’s application claiming violation of his freedom of expression in 2012, the ECtHR ordered Turkey to pay him Euro 6,000 compensation.

REPORTS OF INTERNATIONAL ORGANIZATIONS

Many organizations, including the following, have published reports and made statements about Turkey analysing obstacles placed in the way of freedom of thought, expression and freedom to publish: European Commission, European Council Human Rights Commission, Organisation for Security and Cooperation in Europe, European Federation of Journalists, United Nations Human Rights Committee, Committee to Protect Journalists, US Department of State, Carnegie Endowment for International Peace, Human Rights Watch, Freedom House, Reporters Without Borders, and Amnesty International. The consensus of these reports was that Turkey still did not provide the conditions necessary for freedom of expression and called the situation “alarming”. The number of journalists detained, denial of access to court files which infringes on their right to defend themselves, the quality of indictments, inadequacy of arrest warrants before prosecution, inefficiency of appeal procedures within the national law system, the minimum duration of arrest before prosecution, inadequate application of alternatives and unfair standards applied to finalization and duration of court cases are criticized in these reports. The proliferation of auto-censorship was observed in the media as a result of lawsuits opened by the state authorities, judges and prosecutors against journalists and with layoffs facing those journalists who criticize the government.

Turkey continued to get low marks in 2012 reports regarding freedom of the

press. In a report by the Committee to Protect Journalists, Turkey was labelled as the “worst country to detain journalists”. It also clarified the reasons why figures of detained journalists it had published earlier were lower than was the actual case, in that journalists who were detained on charges not directly linked to journalist but which were in fact had not been include. Reporters Without Borders’ 2013 Report included its World Press Freedom Index, which evaluated 179 countries. Turkey fell from 148th place to 154th. It was stated that Turkey “is one of the biggest prisons for journalists, especially those expressing their criticisms of the authorities on the Kurdish issue”, and that due to the government’s security paranoia, any criticism could be considered as support for illegal organizations. In the Freedom House World Press Freedom Report, Turkey shared 120th alongside Congo, Fiji, Liberia, Macedonia and Seychelles. Within the Europe region Turkey was considered exceptional in relation to its poor record while it continued to be categorized among “partially free” countries.

These reports mentioned the Third and Fourth Judicial Reform Packages in a positive light but in no means were they deemed adequate measures to ensure freedom of thought and expression in Turkey. They proposed that the Constitution, TCK and TMK be revisited and those laws that serve as a leeway to considering expression of oppositional views and journalism actions as terrorist crimes or constituting elements of terrorist action be redefined in order to limit these interpretations. They also stated that the process of prosecution needs to be shortened and a differentiation made between expression that provokes violence and that of nonviolent ideas should be made clear as a part of more radical constitutional and legal amendments concerning the legal framework of terrorism.

Turkey is reminded in these international reports that it is a signatory body to the International Covenant on Civil and Political Rights and the European Convention on Human Rights and that the Constitution also ensures freedom of expression. They point to the number of cases filed against Turkey before the ECtHR, call for constitutional and legal reforms to be made in order to make the legal system more fitting to international conventions and encourage the continuation of human rights education for other government agencies.

These reports also drew attention to a rising number of lawsuits filed against content shared on the internet and the continuation of bans against internet sites. They called for clarification of Law 5651 on Regulating Broadcasting in the Internet and Fighting Against Crimes Committed through Internet Broadcasting and amendments to be made according to international legal frameworks so that it does not restrict freedom of expression or suppress publishers.

Amnesty International’s report “Time to Deliver on the Right to Freedom of

Expression in Turkey” was released in March 2013, and stated that the biggest problem for human rights in Turkey is the hundreds of exploitative lawsuits filed against political activists, human rights defenders, journalists, lawyers and others. This report identified the following law articles as threatening freedom of expression: Articles TCK 301, 318, 125, 215, 216, 314, 220/6, 220/7 and terror definition under TMK Articles 1, 7/2 and 6/2. They advised cancellation of articles TCK 301, 318, 215, 125, 220/6 and TMK 6/2 and amendments to be made to articles TCK 216, 220/2, TMK 7/2 and Article 26 of the Constitution. Amnesty started a campaign in April to get rid of obstacles regarding freedom of expression called “Not With This Law”.

FREEDOM OF THOUGHT AND EXPRESSION AWARDS 2014

ASSISTANT ASSOCIATE PROF. KEREM ALTIPARMAK

Academician

Kerem Altıparmak teaches human rights and administrative law to graduate and postgraduate students at the Ankara University Faculty of Political Sciences (SBF) and is director of the Human Rights Center where he is in charge of its research and teaching programs. The Center has contributed to many human rights organizations' projects and activities, such as the Human Rights Platform, the Turkish Foundation for Human Rights and the Human Rights Association. He has had many articles on human rights and armed conflict law published in local and international reviews. Apart from freedom of expression, he has also worked on subjects including the European Convention on Human Rights, impunity, the law against torture and the institutionalization of human rights. Together with Prof. Dr. Yaman Akdeniz of the İstanbul Bilgi University Faculty of Law, Altıparmak made an appeal to the Constitutional Court on 24 March 2014, following the ban on the access to twitter which entered into force on 20 March 2014, asking for the ban to be lifted. Twitter had recently become one of Turkey's most important platforms for the exchange of diverse ideas. The Constitutional Court ruled that "freedom of expression, which is guaranteed under Article 26 of the Constitution, had been violated". Following the ruling, which was issued following Akdeniz and Altıparmak's initiative, the ban on Twitter, which had lasted for 13 days, was lifted. More detailed information about Altıparmak can be accessed via the following link: <http://80.251.40.59/politics.ankara.edu.tr/altipar/>.

PROF. YAMAN AKDENİZ

Academician

Until he joined the İstanbul Bilgi University Law Faculty's Center for Application and Research on Human Right Law in 2009, Akdeniz worked as from 2001-2009 as acting coordinator of the Cyber Legal Research Unit of the Leeds University Faculty of Law in the UK from 2001 to 2009, managing its post-graduate Cyber Law program. He founded Cyber-Rights.org, a non-profit civil society organization, of which he has been the president since 1997. He is also the co-

founder and president of BilgiEdinmeHakki.org, a site created in 2003 dedicated to defending the right to be informed.

Together with Prof. Dr. Kerem Altıparmak from the Ankara University Faculty of Political Sciences (SBF), Akdeniz made an appeal to the Constitutional Court on 24 March 2014, following the ban on the access to twitter which entered into force on 20 March 2014, asking for the ban to be lifted. Twitter had recently become one of Turkey's most important platforms for the exchange of diverse ideas. The Constitutional Court ruled that "freedom of expression, which is guaranteed under Article 26 of the Constitution, had been violated". Following the ruling, which was issued following Akdeniz and Altıparmak's initiative, the ban on Twitter, which had lasted for 13 days, was lifted.

Among his numerous international publications, are the following: *Internet Child Pornography and the Law: National and International Responses* published by Ashgate in 2008, as well as *İnternete Girilmesi Yasaktır: Türkiye'de İnternet İçerik Düzenlemesi ve Sansüre İlişkin Eleştirel Bir Değerlendirme (Access to Internet forbidden: A critical Evaluation on Internet Content Regulation and Censorship in Turkey)*, a book he wrote together with Asst. Assoc. Prof. Kerem Altıparmak in Turkish and English, and which was published by İmaj Yayınevi in November 2008. Another of his works, *Racism on the Internet*, was published by the European Council in 2010. The report *Freedom of Expression on the Internet*, which he prepared for the Organization for Security and Cooperation in Europe (OSCE), was published in 2011.

More detailed information about Akdeniz can be accessed through the following link: <http://cyberlaw.org.uk>

TONGUÇ OK

Translator

Born in Kayseri in 1974, Ok was arrested in 1997 while he was in his third year of studies at the Marmara University Department of English Language and Literature. He was sentenced to aggravated life imprisonment in 2008. After he was put in prison, he developed his English while also learning Italian, Spanish and Kurdish. He writes short stories in Kurdish for the bi-monthly review Tiroj. He now translates works in English, Spanish, Italian and Kurdish. His translated articles have been published in the following reviews: *Bilim ve Düşünce Kitap Dizisi*, *Birlik ve Mücadele* and *Özgürlük Dünyası*. He is currently held in solitary confinement in Kandıra Prison.

The following is a list of Tonguç Ok's published translations: *Science in History*, J.D. Bernal, 2 Vol. (From English into Turkish), *In Defense of Philosophy - Against*

Positivism and Pragmatism, Maurice Cornforth (From English into Turkish), *Marxism and Science*, J.D. Bernal (From English into Turkish), *Müzik Üzerine Tartışmalar (Discussions on Music, Compilation)* (From English into Turkish), *Marx Against Keynes*, John Eaton (From English into Turkish), *Manîfestoya Partiya Komünîst*, K. Marx (*Communist Manifesto*, From English into Kurdish), *The Social Function of Science*, J.D. Bernal (From English into Turkish), *Marksizm Ü Pirsgirêkên Zimanzanîyê (Marxism and Problems of Linguistics)*, J.V. Stalin (From English into Kurdish), *Ülkem Toprağım ve Halkım*, Pablo Miranda (*My Country, My Land and My People*, From Spanish into Turkish), *German Ideology*, K. Marx (From English into Turkish), *Divê Çi Bê Kirin? V.İ.Lenin (What is to be Done? From English into Kurdish)*, *Marxist Doctrine*, V.İ.Lenin (From English into Turkish), *Marksizm Ü Pirsgirêka Netawayî*, J.V. Stalin (*Marxism and the National Question*, From English into Kurdish), *State and Revolution*, V.İ. Lenin (From English into Turkish).

AHMET ATILLA GÖZENDOR

Bookseller

Born in Ankara in 1951, Gözendor's interest in books and his passion for reading began during his visits to the Yeryüzü Bookshop, situated in his neighborhood and run by the poet Arif Damar. He decided later to make a living out of books, and started working in 1975 at the Aydınlar Distribution. In 1976 in joined the Cumalı Bookshop bookstore where he worked at the acquisitions and sales department. In 1997 he took on the same task at the Sander Bookshop in Osmanbey. In 1979 he moved to the GE-DA Genel Distribution, and then in 1981 to the May Kitabevi bookshop in Caddebostan, where he held the same post. Between 1983-1985 he worked at the Nezih Bookshop in Şaşkınbakkal as head of the acquisitions and sales department, and then held the same post at Say Distribution between 1985-1987. In 1987-1989 he was in charge of the Ankara-Istanbul stores of Haşet Bookshop, and in 1989 he took charge of the acquisitions and sales department of Kabalcı Distribution. In the years 1991-1987, he was in charge the acquisitions department of the Nezih Bookshop's Kadıköy branch.

Gözendör reached retirement age in 2000. However he did not abandon his trade and he continued to work during the years 2000-2012, having returned to Say Distribution. Currently he is in charge of the Alkım Bookshop's Kadıköy storehouse. He summarizes his life as "a world full of books".

MÜLKİYE DEMİR KILINÇ

Bookseller

Mülkiye Demir Kılınç was born in 1982 in the village of Kelhasan, in the dis-

trict of Sason, Batman province. She was forced to migrate to İstanbul with her four brothers after finishing primary school, her father having been shot by village guards. There she had to work with her brothers in the textile sector while finishing her high-school diploma as an external student. Having always been fond of books, in 2008 she started working at the Mesopotamia Cultural Center, where she was in charge of book sales. She was happy ordering books from publishers, following up newly published ones and learning about new books through the requests she received.

Having worked at this job for three years, she found herself arrested on an ordinary day, in a rather extraordinary manner. One of her customers bought some books that can be found in any ordinary library on behalf of someone who wanted to send it to an illegal organization. That the Cultural Center where she worked is known for its oppositional attitude, and the fact that she is Kurdish, lead the judges to conclude that she knew where these books would end up. So that even while she was pursuing a normal life with no association to criminals, she saw the judges' verdict of guilt immediately approved by the High Court of Appeals.

At the time, Kılınç was four months pregnant with twins. The execution of the sentence against her was first postponed until she gave birth, and then for a further six months, totaling 10 months. She named her baby son Özgür and her daughter Lorin. The sentence postponement ended on 19 May 2014. She then requested a further postponement, claiming that the babies should not grow up in prison, a request that was rejected.

Being physically disabled, Kılınç this time applied to the prosecutor asking for a report from the forensic medical department explaining the difficulties her disability would give rise to in prison. The office of the prosecutor is waiting for the medical report before pronouncing its final ruling concerning this further postponement request.

From the day she learned she had been sentenced for "selling books", Kılınç and her husband have knocked at every door to try and explain their plight. In the meantime, she has had the opportunity to get acquainted with writers such as Elif Şafak, Şükrü Erbaş and Noam Chomsky, whose books she sold and read with pleasure even though she is being punished "because she sold their books to the wrong person." It is now clear that Kılınç will have to go to prison for the "crime" of having sold books and she has no chance left of questioning this injustice. Her only concern at this stage is to avoid going to prison before she can see her now seven months old twins grow a little more, and to ensure that they go through this whole process with the least possible trauma.

FREEDOM TO PUBLISH REPORT June 2013 – June 2014

INTRODUCTION

During the period examined in this report some developments took place in the field of freedom to publish that seem “positive at first sight.” With the legislative changes brought about by the legal reform packages, we witnessed a period during which no publisher was convicted to imprisonment or other heavy sentences for any book published. The abolition of the Special Authority Courts (Özel Yetkili Mahkemeler/ ÖYM)* and the 5-year maximum limit brought to the period of pre-trial detention led to the liberation of many detained journalists, authors, publishers, translators and intellectuals. The list of “detainees” gradually diminished. Lifted were dusty banning orders still carrying the traces of the military coup periods that had for years hung over books bought at different bookshops and book fairs, and fondly read. Thanks to this, readers could finally have free access to books, the printing and distribution of which had been obstructed for so long. However, the picture we get when we look more carefully at these developments which seem so encouraging at first sight does not, unfortunately, permit us to say that this year has been one in which freedom to publish increased.

Our publishers were not imprisoned but they are not freed from the discredit that is still cast on their trade, from being accused and prosecuted for their professional activities and for ensuring that artistic and intellectual works reach their readers. It is impossible to say that publishers are free when, leave alone being acquitted in their current trials, their publishing of any book that may displease can still be considered as an offense and when they live under the continued threat of “having to serve all previous sentences altogether if they commit one more offence”.

The number of detained journalists has rapidly dropped in recent months and many journalists who had spent years in prison were able to rejoin their loved ones. But this does not change the fact that what they get in exchange for the value they give to their profession and all the work they do is the threat of being labeled as “terrorist” and they face unemployment and discredit. Indeed, while the trials they are faced with may have been suspended, the accusations made against them and the sentences given to them still hang over their heads as Damocles Swords.

* Courts set up in 2005 to deal with crimes including terrorism.

At any moment they can be called back to court and be convicted, see their conviction confirmed and be sent back to prison.

The formal suspension of convictions against publishers, authors, translators and journalists who are all workers in the field of publication and the lifting of old bans on books does little to change existing laws or diminish the appetite of law enforcers to initiate new trials and put their signature under new complaints and bans. The threat of being discredited or sentenced because of something we have expressed or published has led to an increasing feeling of constant and pervasive censorship and self-censorship. Be it at home, in the street, at school, while we are speaking on the phone, working at our computer or doing our work, we are constantly censoring ourselves or trying to trace the source of some censored information.

Also under the shadow of censorship is the pleasure for children’s reading as well as the sharing of literature between teachers and students. Book inspection committees are being set up in practically each and every school. School administrations are keeping lists of literary books recommended to students and closely following them, seemingly determined to limit students’ relation with books to textbooks created by the State, adding new recruits to the younger generations who are frightened at the sight of a book or get bored at the simple idea of “reading”, and making life impossible for teachers keen to share the pleasure of reading with their students.

As for the internet, which had opened a door to freedom, letting us overcome the restriction we felt within the traditional communication space, it has very quickly fallen under the control of those in power. Changes brought to the law on the internet, which was already subject to heavy criticism in its original state, now makes it easier for the authorities to oppose publishing enterprises, eliminate writings that do not please them or turn them into subjects of offence, discourage internet broadcasting and consistently follow and threaten a significant part of society constituted by internet users. Thousands of local contents have already been banned and every second day some world famous internet platform sees its link with Turkish users broken. Today the internet is no longer a space of comfort and freedom in our country, but the platform for a tough resistance.

From 1995 to this day, the activities we have carried out for the freedom to publish have constituted a history and form a map that hangs before us showing the steps we have taken forward and those we have taken backwards in the field of freedom of expression. As publishers, we now want to consider our resistance as a new beginning, aiming both at avoiding the repetition of the past and at keeping our profession from falling victim to censorship and self-censorship. We thus hereby declare that: “the struggle continues”.

BOOKS RELATED TRIALS, INVESTIGATIONS AND SEIZURES

Apollinaire convicted by the High Court of Appeals for “obscenity”

The 14th Criminal Chamber of the High Court of Appeals has quashed the acquittal verdict given in favor of İrfan Sancı, owner of the Sel publishing, and translator İsmail Yerguz, both on trial for “obscenity” in relation to the translation and publication of the novel *Les Aventures d'un jeune Don Juan (The Adventures of a Young Don Juan)* by French author Guillaume Apollinaire, a source of inspiration for modern movements as diverse as Dadaism, surrealism, cubism, futurism and orphism, and whose works are considered world classics and an integral part of the European literary heritage. In its hearing of 17 December 2013, the 2nd Criminal Court of First Instance opposed the High Court's verdict and deferred the judgment, in accordance with the 3rd Judicial Reform Package.

In its verdict of 5 July 2013, which quashed the acquittal verdict given by the 2nd Criminal Court of First Instance, which itself stipulated that “the book was a literary work” and constituted no offense, the High Court referred to clause No 3 of Article 226 relating to “the use of children in the production of obscene products” of the Turkish Penal Code. Thus, Roger, the 15 year old protagonist of this novel written in 1911 came to be considered “an abused child.”

The verdict specified that the publication and translation of the book could not be considered within the scope of freedom of expression. Rather than referring to the expert report presented to the Prime Ministry Council for the Protection of Minors Against Harmful Publications, according to which “the book had no artistic or literary value whatsoever,” the local court based its verdict on another expert report that used very general and abstract expressions to conclude that the work did have literary value, but it was finally claimed that such a verdict would go against the law.

At the 12 September hearing, publisher Sancı stated “You cannot judge the protagonists or authors of a fictional text. In their books, authors may kill people, blow up whole cities and no one can be held responsible for that. It is not me you are judging here, it is Apollinaire.” As for translator Yerguz, he declared: “I was acquitted by this very court in the trial related to the work *Letters of a Learned and Well Mannered Bourgeois Lady* on the grounds that I was just a translator and that I was just doing the job that had been assigned to me by the publisher, but now I find myself sitting in a trial as a suspect.” It was also reminded that Apollinaire's novel *Onze Mille Verges (Eleven Thousand Rods)* had been tried and seized and that the case had been taken to the European Court of Human Rights (ECTHR) where Turkey was found guilty, a sure indication that Turkey would also be convicted in the present case.

At the verdict hearing that took place on 17 December, the 2nd Criminal

Court of First Instance concluded that there was no child abuse related offense, that the offense in question remained within the scope of the Article 226's 2nd clause relating to the dissemination of obscene material so that the trial remained within the scope of Law No 6352, also known as the 3rd Judicial Reform Package. Stating that it was not formally possible for it to pronounce a verdict of acquittal, the court deferred its judgment for a period of three years.

This is what Ola Wallin, Chair of the Freedom to Publish Committee of the International Publishers Association (IPA), present at the hearing, and speaking on behalf of both the IPA and PEN International had to say: “These kinds of trials constitute a heavy burden on publishers both in terms of time and financial resources and create an atmosphere of threat and fear. And this probably leads publishers to renounce legitimate publishing activities. They also constitute cases of frequent direct legal harassment. There are also problems related to the coherence and independence of the experts called on during these trials. The IPA's Freedom to Publish Committee calls upon the Turkish government to implement the very much needed reforms that will create an effective and modernized framework that will protect publishers like Sancı from the never ending burden of these trials.”

Book Seizure at the Aram Publishing

In September 2013 a van was transporting some 4,000 books gathered from different publishing houses and to be sent to the South Eastern city of Siirt, for the inauguration of the Celaleddin Bedirxan Municipal Library. On board were Savaş Sekmen and Hüseyin Çarus, employees at the Aram Publishing. The van was stopped at the city center. Sekmen and Çarus were taken, together with their vehicle, to the police headquarters where the books were inspected. Five copies of Sinan Şahin's book *Paradigmasal Değişimde Kuantum (Quantum in the Paradigmatic Transformation)*, published by Aram were confiscated, under the pretext of an old and by then null and void confiscation order. A TL 180 fine was imposed on the publishing house employees. An official prosecutor's note was sent stating that the seizure order previously given had been canceled and that “there was no place for any prosecution within the framework of the 4th Judicial Reform Package”. The Aram Publishing House's lawyers' request to have the books returned and the fine cancelled was rejected.

Renewed seizure orders were given concerning the following books published by the Aram Publishing: on 27 August 2013, Mordem Delibaş's *Kırbaşı Baskını (Kırbaşı Raid)*; on 10th of September 2013, *Radikal Demokrasi (Radical Democracy)*; and on 17 January 2014, *Bu Yürek Dağlar Aşar: Gerilla Şiirleri 1 (This Heart Climbs over Mountains: Guerilla Poems 1)*, *Dağın Kalbinde Gizliyiz: Gerilla Şiirleri 2 (We Are Hidden in the Heart of the Mountain: Guerilla Poems 2)*, Kahır Fırat's *Gülen Azadiye*

(*Roses of Freedom*) and Ali Yılmaz's *Gözlerinde Berivanın Gülüşleri Işıldıyordu* (*Berivan's Eyes Were Reflecting in Their Eyes*)

Acquittal Verdict in the case concerning the book *Cübbeli Adalet*

The trial for “libel” and “attempt to influence the fair process of a trial” requested together with a TL 15, 000 fine by the ex-prosecutor of Erzurum, Osman Şanal, against journalist İlhan Taşcı, based on the claim that the bearded person portrayed with a green cap in his book *Cübbeli Adalet* (*Justice in a Cloak*) bore a resemblance to himself was rejected. Taşcı had recorded in his book the events which took place behind the scenes during the investigation on the İsmailağa congregation and led to the arrest of the Erzincan Prosecutor İlhan Cihaner. Following the publication of the book, prosecutor Şanal went to court, claiming that “it was mentioned many times in the book that he had helped a few religious communities and groups and that the book also contained many distorted news about him presented in a way that harmed his personal rights,” that the bearded person portrayed with a green cap on the cover of the book was himself and that some sentences in the book ended with an exclamation mark in a way that cast suspicion on him. The court's decision to reject the trial request stated that “no evidence was delivered which showed that the picture or photograph on the cover of the book resembled the plaintiff”.

The statements subject to complaint were “criticisms concerning trial activities” and “the author's point of view” so did not constitute an insult, and were not directly aimed at the plaintiff and therefore did not constitute an offence. Following Şanal's appeal, the case was forwarded to the High Court of Appeals where it is being examined.

1 Million TL Libel Suit against Kırmızı Kedi Publishing

Another libel suit was brought against Aydınlık newspaper journalist Sabahattin Önkibar in relation to his latest book *Takkeli Firavunlar ve Büyük Siyasi Sırlar* (*Pharaohs with Skullcaps and Major Political Secrets*), published by Kırmızı Kedi Publishing about the İhlas Holding company and its founder Evren Özen. The suit was brought by Özen's power of attorney in the latter's name and in the name of the company on accusation of “insult”. The plaintiffs are asking for reparation and for the book to be seized. In its evaluation of the case, the Court stated that İhlas Holding had not presented the mentioned book and that it could not order its seizure, since the complaint needed to be tried first. The trial is ongoing.

Trial Related to the Book *Gezi Fenomeni*

A suit was brought against Nurten Özkoray and Erol Özkoray on the grounds

that their book, *Bireyselleşme ve Demokrasi: Gezi Fenomeni* (Individualisation and Democracy: Gezi Phenomenon), published by İdea Politika Publishing, contained insults directed towards the Prime Minister. The trial was initiated on the basis of the law penalising “insults made to public officers,” and the prosecutor considered that slogans used during the Gezi Park resistance and mentioned in the book, such as “Eşek olma halkı dinle” (Don't be an ass, listen to the people), “Totoş Tayyip” (Cute Tayyip), “İstifa et şerefsiz” (Resign crook) ve “Münafık Tayyip suç sende değil, seni doğuran ananda” (Factional Tayyip, it's not your fault it's your mother's who gave birth to you) constituted elements of offense. Author Erol Özkoray reacted saying that the slogans mentioned in the indictment are dealt with as if they had been written and expressed by himself. The book includes political and social analyses of the Gezi Park events, and is based on Nurten Özkoray's sociology thesis, “Türkiye'de bireyselleşme ve demokrasi” (Individualisation and Democracy in Turkey), which was accepted by the Bosphorus University. Published in August 2013. The book constitutes the first case of a book related to the Gezi Park events being subject to a trial. The first two hearings took place on 20 March and 22 May 2014 at the İstanbul 2nd Criminal Court of First Instance. In his defense Erol Özkoray declared: “There is an attempt to sentence me for including in my book anonymous writings and slogans written on walls during the Gezi Park events. This would have been possible according to Article 162 of the old Turkish Penal Code, but it is not included in the new code. The prosecution is trying to resurrect a law that does not exist anymore. There is a basic principle in law: If there is no law, there is no sentence. There can be no offense without a (corresponding) law.” The trial was prolonged with another hearing scheduled on 17 June 2014.

Terrorism trial against Aram editor transferred to new Court

The case brought against publishing coordinator Gökhan Bulut for “propaganda for a terrorist organization” in relation to four books he prepared for publication: Hayrettin Ekinci's *Li Ciyane Qerejdax Şopa Gerila*, Rodi Zinar's *Tecrit*, Hesen Hüseyin Deniz's *Serpehatiyen Penabertiye* and Thomas Benedikter's *Autonomous Regions of Europe*, was transferred to Diyarbakır's 3rd High Criminal Court, following the dismantling of the Special Authority Courts. The next hearing is to take place on 25 September 2014.

Öcalan waits for Constitutional Court verdict regarding his banned book

Abdullah Öcalan's book *Kürdistan Devrim Manifestosu* (*Kurdistan Revolution Manifesto*), *Kürt Sorunu ve Demokratik Ulus Çözümü: Kültürel Soykırım Kışkacında Kürtleri Savunmak* (*Kurdish Question and the Solution of Democratic Nation: Defend-*

ing the Kurds in the Grip of Cultural Genocide), was seized and banned as soon as it was published in 2012. An appeal was made to the Constitutional Court, which asked the Ministry of Justice for its opinion on the matter. We learned that the Ministry replied on 17 July 2013, asking the Court to take account of the European Convention on Human Rights (ECtHR), which guarantees freedom of thought and expression, as well as ECtHR jurisprudence, and leaving the final verdict to the discretion of the Court. The reply also referred to the following ECtHR cases where Turkey had been found guilty: Sürek and Özdemir, Gözel and Özer, and Ayşe Nur Zarakolu. The book, which included Öcalan's defense at the ECtHR and his thoughts and proposed solutions in relation to the Kurdish question, had been banned because of the author's identity, for the map featured on its cover and for its content which was considered "organization propaganda". Notably, the Constitutional Court has still not stated its verdict in the case regarding this book, despite the fact that Öcalan was the first person to make an individual appeal to the Court, and that the Court has given verdicts that tended to widen the range of freedom of expression in many other cases of individual appeal.

Acquittal Verdict given by a Military Court regarding a book

Convicted to an 18-year sentence of imprisonment in the so-called Balyoz trial, Rear Admiral Semih Çetin has described what he has gone through, in his book *Bir İhanetin Öyküsü: Hasdal'da Bir Amiral (Story of a Betrayal: An Admiral in Hasdal Prison)*, published by Kaynak Publishing. In May 2013, an investigation was undertaken against him by a military prosecutor following which a trial was initiated at the Military Headquarters Court, on the grounds that Admiral Murat Bilgel had been "insulted". The book included details such as the fact that special public prosecutor Fikret Seçen conducted a search at the Navy Command, that Admiral Bilgel offered tie pins to the prosecutors doing the search, and that officers detained at the Hasdal prison had written a letter to Bilgel criticizing the fact that military personnel who had produced forged digital data were still on duty. It was also discovered that the Military Headquarters prosecutor has an ongoing investigation into some 30 books on the Balyoz trial, written by officers held as suspects in the trial.

OTHER TRIALS LAUNCHED AGAINST AUTHORS

Bekir Çoşkun

Journalist-writer Bekir Çoşkun was sued for libel at the Ankara 9th Criminal Court of First Instance on the grounds that "he had violated the personal rights of

Prime Minister Recep Tayyip Erdoğan" in his article titled "Büyük Devlet Şeyi..." (The State's Big Thing...) published on 20 September 2012 in the daily Cumhuriyet. The trial was concluded in July 2013 with Coşkun being sentenced to a TL 5,000 fine.

Ahmet Altan

A trial had been initiated against journalist-writer Ahmet Altan in relation to a column he had written in January 2013 with a sentence of some 2 years of imprisonment requested on the grounds that he had insulted Prime Minister Recep Tayyip Erdoğan. The case was heard by the 10th Istanbul Criminal Court of First Instance which convicted Altan to an 11 months 20 days prison sentence at its final hearing on 18 July 2013. The sentence was converted to a TL 7,000 fine, to be paid to the Prime Minister.

Fazıl Say

World famous pianist Fazıl Say had received a 10-month prison sentence for sharing on Twitter a rubaia (quatrain) by Ömer Hayyam, on the grounds that he had "publicly debased the religious values upheld by a certain section of the population". Say's lawyers opposed the court's decision to defer the announcement of the verdict, which had been taken within the scope of the 3rd Judicial Reform Package, whereupon the case was retried. On 20 September 2013 Say was again sentenced to 10 months in prison, but this time, the judge did not implement his previous decision to "defer the announcement of the verdict." Instead he had the sentence suspended, with a probation period of two years.

Eren Erdem

Prime Minister Tayyip Erdoğan opened a suit against writer Eren Erdem in relation to his article published on 8 August 2012 in the daily newspaper Aydınlık titled: "Başbakan hain ve hırsız mıdır?" (Is the Prime Minister a Traitor and a Thief?) The defendant was accused of "insulting publicly a public officer through the press" and a prison sentence was requested. The trial ended on September 2013 with Erdem being condemned to pay a TL 7,000 punitive fine.

Doğan Akhanlı

Charged with "robbery" and being a member of an "armed organization", writer Doğan Akhanlı was acquitted by the local court in charge of his trial, but the High Court of Appeals quashed the verdict in February 2013 and returned the case to the local court with a request for life imprisonment. The trial hearings

resumed on 31 July at the İstanbul 11th Criminal Court of First Instance. While the lawyers requested acquittal, the court ordered an international search warrant for Akhanlı who was living abroad. The original case had been initiated against Akhanlı on the charge that he had instigated the robbery of an exchange office in Eminönü, with a request for a life prison sentence. He was arrested on 10 August 2010, upon his return to İstanbul, where he wanted to see his critically ill father one last time. Called to witness 19 years after the event, the son of the exchange office owner stated that he couldn't recognize Akhanlı for sure and that in 1992 he had not been shown the photograph that was in the case file. Akhanlı was released after a 113 day long detention on 8 December 2010.

In its 12 October 2011 hearing the İstanbul 11th Criminal Court of First Instance gave an acquittal verdict on the grounds that “no evidence sufficient to conclude definitely, without any doubt and in all conscience that the suspect had committed the offense he was accused of had been found.” The 9th Criminal Chamber of the High Court of Appeals to which the case had been sent on appeal, quashed the verdict and requested an aggravated life-time prison sentence on the grounds that “the suspect was a member of a terrorist organization at the time of the crime” and that “Article 146/1 of the old Turkish Penal Code (TCK) should be taken into account.”

In his letter titled “Red-i Dava” (Trial dismissal) Akhanlı specified that from the beginning of the trial he had used his right not to speak or participate in the trial as a means of protest, and that “the same High Court of Appeals which was incapable of finding the organization behind the assassination of Hrant Dink could, for the world to behold, declare me once again the leader of a non-existent organization under the code name of DOĞAN K., and expect that I – just like the novel protagonist Joseph K., should stretch my neck to the executor in full acquiescence. To me, the DOĞAN K. trial is but a piece of injustice, one of hundreds of similar cases that are instigated, pursued and concluded with inexplicable arbitrariness and arrogance. My decision to dismiss this trial is also a declaration of solidarity with all the victims of practices that violate the rule of law and who are hopelessly trying to have their voice heard. With the abolition of Special Authority Courts (ÖYM), the case was transferred to the İstanbul 3rd Criminal Court of First Instance which will be holding its next hearing on 2 October 2014.

Emrah Serbes

A trial was launched against author Emrah Serbes for “insult to a public officer”, an offense that carries a prison sentence ranging from 10 months and 5 days to 12 years, on the grounds that he had insulted Prime Minister Recep Tayyip

Erdoğan, Minister of Interior Muammer Güler and İstanbul Governor Hüseyin Avni Mutlu. During the proceedings, it was claimed that on 1 May Serbes had criticized on television the governor of İstanbul's decision to prohibit the May Day celebration in Taksim Square, and that his reference to Prime Minister Erdoğan as “Recop Tazyik Gazdoğan”^{*} amounted to an insult. On 7 November 2013, during the second hearing of the case, Serbes defended himself before the 18th Criminal Court of Peace at the İstanbul Courthouse stating that in the interview he was criticizing assaults made by the police, that he had made this ironic comment after being hit by a water cannon, thinking the Prime Minister had his share of responsibility in the event, and that his words were not intended as an insult to the Prime Minister. The Court concluded that he should be acquitted.

Ayşegül Devecioğlu

A prosecution was brought against writer Ayşegül Devecioğlu, a member of the party assembly of the Peace and Democracy Party (BDP), and 20 other party members, for taking part in Newroz (spring) celebrations in Yalova in 2012. They were charged with “organizing illegal meetings and demonstration marches” and “making propaganda for a terrorist organization.” On 30 December 2013, at the 6th Criminal Court's hearing in Bursa, Devecioğlu was convicted to an 11-month prison sentence for “making propaganda for the PKK by exhibiting the fact that they were members and supporters of the terrorist organization.” The sentence will be carried out if they commit another offence requiring a prison sentence within a 5-year probation period.

Sevan Nişanyan

Sevan Nişanyan was prosecuted on the grounds that he had insulted the Prophet Mohammed, and a request for a 1,5 year prison sentence was made against him for “publicly denigrating the religious values upheld by a certain section of the population” in his article titled “Nefret suçlarıyla mücadele etmeli” (Hate crimes must be fought against) published in his nisanyan1.blogspot.com blog page. The court found him guilty. The indictment stated that the phrase “... Making fun of an Arab leader who claimed centuries ago that he was in contact with God and thus secured political, financial and sexual advantages does not constitute a hate crime...” “Unnecessarily hurt the feelings of others while bringing no contribution to any public debate that could serve to improve human relations.” At its hearing of 22 May 2013, the İstanbul 14th Criminal Court of Peace convicted Nişanyan, giving him a 13,5 month prison sentence.

^{*} A word play on the words “cop” (club) “Tazyik” (water jet) and “gaz” (gas).

Nişanyan declared with regard to the trial that “The fact that so many trials were initiated and rapidly concluded shows that what we are dealing with here is a political change. What is being done here is an open and blatant defiance of the jurisprudence and verdicts of the European Court of Human Rights. I think one should not ignore the fact that this is not just an issue of internal policy but one that also has a foreign policy dimension.” Because he has had previous convictions, the sentence cannot be converted into a fine. The case was forwarded to the High Court of Appeals where it awaits its verdict. In the meantime the High Court Public Prosecutor has requested in his own evaluation statement of May 2014 that the sentence be approved.

Aytuğ Akdoğan

Known as one of the youngest writers in the country and author of the novels *Ben, Hiçbir Şey, Ağladı ve Gözyaşlarını Öptüm* (*Me, Nothing, She Cried and I Kissed her Tears*) and *Ben Hep 17 Yaşındayım* (*I am Always 17*), Aytuğ Akdoğan is being prosecuted for taking part in the Gezi Park events, and charged with “Opposing the law on meetings and demonstrations”, “damaging public property” and “resisting against the carrying out of a public duty.” Following its first two hearings on 20 January and 3 March, the 13th Criminal Court of First Instance, where the trial is taking place, decided to postpone the trial to May.

Deniz Zarakolu

Because of the lessons he gave at the BDP political academy, writer, translator and publisher Deniz Zarakolu was charged with “being a leader of a terrorist organization,” in the main Union of Communities of Kurdistan (KCK) trial His books and telephone conversations were presented as evidence. After spending 2.5 years in detention, he was released with 37 other suspects, following the abolition of the Special Authority Courts (ÖYM). However the charges against him are retained and the trial is to be resumed at a new court on a still unknown date.

Imprisoned poets, writers and translators

According to the joint declaration made on 15 November 2013, by the PEN Turkey Centre, the Turkish Writers Union and the Turkish Publishers Association, at that time there were 73 writers, journalists and translators in prison, while many writers, journalists, translators and publishers were at risk of being put in prison. The declaration also requested that the laws restricting freedom of thought and expression be changed. The number of writers, translators and publishers in prison has dramatically diminished following the releases that took place after the

recently passed legal reform packages. The PEN Turkey Center stated in May that none of its members were still in prison at that time, but that the trials of most of the released writers were ongoing and that the verdicts given still stood.

Tried caricaturists

On 31 August 2013 caricatures referring to the Gezi Park events were hung on billboards in Didim, province of Aydın, as part of celebrations of World Peace Day on 1 September. They were seized on the night of the same day, giving rise to a trial for “insulting the Prime Minister.” Caricatures by Carlos Latuff (Brazil), Erdoğan Karayel (Germany), Marco De Angelis (Italy), Murat Ahmeti (Kosovo) and from Turkey, Köksal Çiftçi, Kürşat Zaman, Mehmet Gölebatmaz, Menekşe Çam, Muammer Olcay and Sait Munzur were seized by the police at midnight, upon the instructions of the prosecutor, following a complaint filed by the local branch of the AKP (Justice and Development Party). An investigation was launched against Mehmet Gölebatmaz, organizer of the exhibition, three members of the Didim Gezi platform and the company executive who had rented the billboards, which concluded that Gölebatmaz should be put on trial on the basis of article 125/1 of the Turkish Penal Code, which deals with “insults made to public authorities”, requiring a prison sentence of no less than one year. The trial began on 22 November at the Didim Criminal Court of Peace and is to hold its fourth hearing on 30 May, after the expert examination is completed.

PUBLICATIONS SUBJECT TO CENSORSHIP, BANS, SEIZURES AND INVESTIGATIONS

The No 1 Criminal Court of First Instance of Adana issued a seizure order for the first issue (June 2013) of *Devrimci Yolda Devrimci Gençlik* (Revolutionary Youth on the Revolutionary Path), a review published by university students in Istanbul, on the grounds that it “made propaganda for an illegal organization.”

During the month of July, Sabri Adanır and Harun Olaş, both employed at the *Azadiya Welat* newspaper, were arrested during the Berxbir Festival, in Beytüşşebap, Şırnak. After they had spent two hours under arrest, the 1,000 copies of the *Demokratik Ulus* newspaper they carried with them were seized on the grounds that they were “illegal”.

The distributor of *Azadiya Welat*, Ömer Baran Şırnak was arrested in Cizre while distributing the newspaper for “making propaganda for an organization.” The 100 copies of *Azadiya Welat*, 40 copies of *Özgür Gündem* and 70 copies of *Demokratik Ulus* which he carried with him were seized.

Publications banned in prisons

Enver Özkartal, imprisoned at the Bafra T-type prison, saw 13 pages of the draft version of his book *Demokratik Siyaset ve Özgür Toplum* banned by the Bafra T-type prison's Education Board Presidency on 9 June 2013. The minutes of the banning decision show the following justifications for the ban: "A detailed description of the KCK, which is an urban model of the PKK, propositions for the urban organization of the KCK, requirements for urban members and mentioning names of past and present PKK activists in a laudatory manner." Also mentioned is the following excerpt from the book: "Official modernity can be described as beginning with a basic form of State to evolve towards a political government system with no State." The objections made by Özkartal in July and August to the enforcement judge and the court were rejected on the grounds that the decision "was in conformity with the article titled 'publications not to be accepted in the institution' of the Ministry of Justice directive concerning the penal institutions libraries and books, that the document contained statements on how the KCK should be organized and that it should not be published." In reaction to the ban, Özkartal said the book aimed at contributing to the democratic solution process and that he would take the case to the High Court of Appeals.

In October 2013, it was revealed that the Muş prison administration had imposed a "seven book limit" for convicts and that books "above" that number would be seized. There were also restrictions brought to the right to write. Demir Çelik, member of the BDP party and Deputy of Muş, presented a written question in parliament to the Minister of Justice, Sadullah Ergin, on the matter.

Gülçin Bulut and Yurdakul Gümüş were arrested in 2012 during an operation against Halk Cephesi (Popular Front) for distributing magazines, selling tickets and taking part in a demonstration. In January 2013, the books *Birleşelim, Savaşalım, Kazanalım* (*Let's Unite, Fight and Win*) and *Büyük Direniş, 122 Şehit* (*The Big Revolt, 122 Martyr*) which had been sent to them by friends of theirs, were delivered to them, following approval from the prison authorities. Ten months later the detainees were transferred from Antalya to Alanya, where the books were seized on the grounds that they were "banned". The related proceedings were sent to Anti Terror and public prosecutors and an investigation was initiated by the Antalya Office of the Prosecutor on the grounds that the detainees "carried banned publications" and that, despite the fact that they were kept in a two-person cell, they had "made propaganda for an organization." On 8 October 2013 their depositions were taken following their release, and while the Anti-Terror Prosecutor gave a non-prosecution verdict, the Public Prosecutor imposed a TL 185 fine on 20 January 2014, on the basis of the Law of Misdemeanors.

At the Sincan prison, the sentencing Judge ordered that some pages of a book sent to convicts that were deemed objectionable be torn out before the book was forwarded to them. The book, titled *Acıların Hesabını Sormak İçin Sınıf Kini* (*Class Hatred to Ask Accounts for Our Suffering*) had been sent to 14 convicts by their relatives and scrutinized by the prison Education Board. The book had been subject neither to a seizure nor a banning order, but was however seized, on the grounds that it contained excerpts from the Yürüyüş Review and other "banned" publications. Upon the convicts' objection, the Sincan judiciary finally ruled in October 2013 that the book would be delivered to the convicts after the banned parts were removed.

Convicted to 30 years in prison in the Marxist Leninist Communist Party (MLKP) trial and ordered to be kept under isolation for one and a half year at the 2nd F-Type prison in Kandıra, where he has been detained since 2004, Sami Özbil can receive only a limited number of books and documents since his isolation began in October 2013 and is prohibited from reading any newspaper or periodical, as well as from using notebooks. He is the author of the novels *Suluk Soluğa* (*Breathless*), *Kan Kurumaz* (*Blood Does not Dry*) and *Şafakta Yankılanan* (*Echoing at Dawn*), and of the poetry books *Harman* (*Harvest*) and *Yeraltı Suları* (*Underground Waters*), Özbil, who is sick with the Korsakoff and Crohn diseases, will not be able to write during his solitary detention if the order remains unchanged.

It was revealed in January 2014 that the book of recollections *Wēneyek Veşartî* (*Secret Photograph*), written by Abdullah Yılmaz, detained at the İzmir Şakran T-type closed prison, was sent for publication to the Doz Publishing with the consent of the prison administration. After it was published, a copy of the book sent to the convict by his family was seized by the prison administration and not forwarded to Yılmaz. Convicted to 17 years, Yılmaz has had the following books published: *Rêça li ser berfê* (*Traces on the Snow*), a book of short stories, and the novels *Jan û Jîn* (*Pain and Life*) *Derba Xencerê* (*Knife Strike*) and *Pirtûka Jiyanê* (*Book of Life*).

BOOK CENSORSHIP AND INVESTIGATIONS IN THE FIELD OF EDUCATION

Book censorship in schools and universities during the preceding period had already drawn attention. Grave examples of educationists being subject to investigation for having suggested books to their students or having used them during their lessons multiplied. The use of auxiliary textbooks to enhance students' interest in books and to enrich the context of lessons given was totally overlooked and was interpreted as "putting a compulsory burden on parents". Teachers were accused of taking this initiative and the use of auxiliary books was banned in practice through a circular sent to schools.

The subject of “evolution”, part of the canon of the history of science worldwide, is one of the most censored issues in this country. It is carefully avoided in debates. This goes to explain why taking up evolution as a subject matter in schools demands great courage. Teachers who muster such courage are continually deterred by the investigations launched against them. Black listing practices also bear witness to how researchers are made to pay a high price for looking into such subjects as the “Armenian question”, considered as forcing limits on the study of national history.

Obstruction to teaching with auxiliary textbooks

The Ministry of National Education banned the use of all auxiliary books in schools, apart from the textbooks distributed free of charge by the Ministry, on the pretext that this constitutes a supplementary financial burden for parents. In a circular dated 21 October 2013 and numbered 2994840, bearing the signature of the Vice Undersecretary of the Ministry, Yusuf Büyük, teachers were given instructions to “not have students buy books apart from those distributed by the school.” The circular states that the legislation concerning textbooks and teaching material has been renewed, that text books, students’ exercise books and teachers’ guide books have been prepared with a view to increasing quality in education on the basis of enhanced and updated teaching programmes. It is further stated in the circular that “despite the written instructions of the General Directorate for Secondary Education, dated 17 September 2012 and numbered 23124 and the information given by our Ministry on the subject, it has been revealed through news reaching our Ministry that auxiliary material is being used in class, that homework is given based on this material and that parents are thus obliged to buy this educational material.” Governors of provinces are asked to inform school administrators and teachers not to require parents to buy such books. Representatives of the sector and teachers are of the view, however, that such circulars create pressure on teachers and that students are kept from the possibility to learn from a wealth of sources.

A request was issued to have a list of the names of teachers who recommended and taught with auxiliary books published by the Zambak and Zirve publishing houses in Şırnak. In a message dated 30 April 2014, sent by the Silopi District Directorate of National Education to school principals, it was requested that an investigation concerning staff who had such publications bought and used in class should be immediately carried out in order to inform the Directorate of the issue. Mehmet Şirin Arslan, Director of National Education of the district, stated that the request had come from the Ministry by the intermediary of the Head of the

District Inspection Council, that they had only passed on this information, and that this was carried out not only in Silopi but in the whole of the Şırnak province. This practice was considered by representatives of the sector as an act of blacklisting which put pressure on teachers and which would be harmful for children as well as for children’s literature.

Investigation concerning members of the academy who read books

On 20 June 2013 members of the academy of the Çanakkale Onsekiz Mart University, namely Prof. Talat Koç, Associate Prof. Ekrem Tufan, Associate Prof. Murat Gümüş, Associate Prof. Ahmet Kamil Tunçel and lecturer Ömer Faruk Kırmıç, together with their students, organised a “Standing Man” action in front of the Office of the President of the University and stood reading books to protest against their not being granted their personal rights, as well as against oppressive and biased attitudes against them. An investigation was carried out by the administration of the university in November against those members of the academy who had participated in this action. The Office of the President of the University, pretexting the reasons given for their action, penalised various members of the academy by dismissing them, freezing their promotion, making cuts in their salaries etc.

Ban on talking about evolution in school

The Bartın Provincial Directorate of National Education initiated an investigation against Mustafa Şahin, writer and geography teacher at the Bartın Sabri Çavuşoğlu Fen Lisesi High School, for having recommended to his students the following books published by Türkiye İş Bankası Publishing: *Dünyanın En Güzel Tarihi (The Finest History of the World)*, *Hayvanların En Güzel Tarihi (The Finest History of Animals)* and *Bitkilerin En Güzel Tarihi (The Finest History of Plants)*. Following an anonymous call to the denunciation hotline “Alo 147”, claiming that “the recommended books offended the caller’s religious feelings”, the Bartın Inspector for National Education and Vice-Director of National Education arrived at the school, interrogated four students from each class from the 9th and 10th Grades, asking such biased questions as “The teacher is imposing his political views on you, isn’t he?” and “Is he talking about the Theory of Evolution?” It was pointed out that pressure was put on certain students who objected to such questions and did not want to answer them. The inspectors also pressured the teacher with the following questions: “Did you have students buy books not included in the curriculum and having nothing to do with the subject matter, in order to impose your own ideas?”, “Did you give non-religious knowledge to your students?” and “Did you have them

buy a book published by Türkiye İş Bankası Publishing about evolution?”.

Zeki Coşkun, a teacher of religious culture and ethics in the 19 Mayıs High School in Adana, Seyhan, was subjected to an investigation by the Provincial Directorate of National Education for having written a book titled *Biyolojik Adem'in Emerjansı (The Emergence of the Biological Adam)*, thereby “explaining evolution by referring to verses in the Koran” and in so doing “debasing religious values”. The National Education Inspectors who came to the school asked Coşkun’s students the following questions: “Did he sell you books?” and “Did he debase religious values?” In his book Coşkun states that the Koran contains the knowledge found in the natural sciences, in mathematics and teachings of logic and upholds the “process of evolution which began with mononucleic beings to evolve into the present-day human being through millions of years” and not that “man was created like a statue from mud” or that “man was parachuted from the sky upon the earth”.

Levent Tüzel, an İstanbul Member of Parliament from the Peoples’ Democratic Party (HDP) submitted a question to parliament on 24 April 2014 concerning the investigations carried out against Coşkun and Şahin as well as a science teacher in İzmir, Buca who, in January 2013 gave a lesson on “Mutation and the Theory of Evolution” figuring in the curriculum. Tüzel asked “what are the acts which constitute the debasing of religious values?” and “which legislation stipulates the disciplinary measures for such acts?” Tüzel remarked that pressuring teachers with investigations and disciplinary measures on such pretexts showed that the Ministry of National Education had launched a war against Darwin’s theory, against science and scientific thought.

Blacklisting students who study the Armenian question

In January 2013 it was revealed that the Turkish History Institute (TTK) had sent a note to universities through the intermediary of the Council of Higher Education (YÖK) requesting the names of master and doctorate students working on the Armenian question, the titles of their studies and their contact information. Mehmet Metin Hülügü, President of the TTK, denied such news, stating that they had requested this information on students working in the field of social sciences in order to post it on the TTK’s Research Info System, so as to help avoid loss of time for those working on the same subjects. It was observed, however, that the web site was organised to enable academicians to enter and to update their information themselves. The fact that this note had been sent through the intermediary of YÖK was also led to reactions.

CONSIDERING BOOKS AS CRIMINAL EVIDENCE

Those who were arrested in June 2013 for having supported the Gezi Park movement were charged with “being a member of a terrorist organisation”. Their domiciles were searched and many books and periodicals were seized as “documents of the organisation”. Among the 44 books seized as “criminal evidence” in the home of Can Deliduman, a Post Office employee, was a work entitled *İletişim ve Emperyalizm: Türkiye’de Telekomünikasyonun Ekonomi Politikası (Communication and Imperialism: the Political Economy of Telecommunication in Turkey)* by Associate Professor Funda Başaran Özdemir and used as a textbook in the Faculty of Communication of the Ankara University. The writer Özdemir stated that she was very surprised to see that an academic work could be considered as “criminal evidence” and said “I believe the security forces must have been alerted by the word ‘imperialism’ in the title of the book.”

On 18 December 2012 a ceremony was organised at the Middle East Technical University (ODTÜ) to mark the launching of the Turkish satellite Göktürk 2 from China. Prime Minister Tayyip Erdoğan who participated in the ceremony was protested by students. 11 of them were brought to court in October 2013 on the grounds that “even if not members of the armed terrorist organisation, they should be considered as members of the organisation, having committed a crime in the name of that organization”.

The indictment considered the pictures of and brochures concerning revolutionary figures Deniz Gezmiş, Mahir Çayan and İbrahim Kaypakkaya, as well as the leftist publications found during the search conducted in the domiciles of the students as evidence of their being members of the organisation.

The list featuring as evidence in the indictment includes such books as *Mahir Çayan Teorik Yazılar (Mahir Çayan’s Theoretical Writings)* and *Tekel Direnişi Dersleri 2010 (Lessons from the Tekel Resistance 2010)*. These publications are mentioned as “publications (reviews, books, newspapers, documents, notes etc.) about organisational activities which are in line with the views and ideas propagated by terrorist organisations”.

Mülkiye Demir Kılınç who worked in the İstanbul Mezopotamya Kültür Merkezi (İstanbul Mesopotamia Cultural Center) was faced with a lawsuit where she was charged with “helping the terrorist organisation” by selling books to an alleged member of a terrorist organisation. Kılınç, who in November 2011 had received a book order by telephone and had prepared the books in the list and sold them, was sentenced to 2,5 years of prison on the charge that these books “had been a source of morale for the organisation.” The verdict was approved by the High Court of Appeals. Among the books sold by Kılınç are works by Nâzım

Hikmet, Elif Şafak, Şükrü Erbaş, Ahmet Telli, Kazım Karabekir, Yunus Emre, Turgenyev, Michel Foucault and Noam Chomsky.

While her trial was going on, Kılınç became pregnant. When their twins were born prematurely, Kılınç and her husband made a request to have the execution of the verdict postponed until the babies were older. The execution of the verdict was first postponed until the birth, then for a few months more. Despite the fact that the law allows for a longer period, no decision was taken to further postpone the execution of the verdict. So Kılınç will have to go to prison in May with her babies who are only 5-months old and who need special care. The efforts of the couple, who launched a campaign to collect signatures to support their request that the verdict be postponed for a longer period, who went to Parliament to plead their cause and who explained their situation to the court, have been of no avail. The postponement requested in consideration of the babies' welfare was overruled. Kılınç then demanded that the enforcement of the verdict be postponed for one year due to her 43 percent physical disability, basing her request on Article 16 of the Law on the Enforcement of Judgments, which refers to health conditions. The prosecutor's office demanded an assessment by the Institution of Forensic Medicine for the health report submitted by Kılınç. The decision as to whether the sentence will be executed or postponed will be made following the assessment of the Institution of Forensic Medicine. If the decision turns out to be negative, Kılınç will have to go to prison with her two babies.

PRESSURES ON THE PRESS

According to the Committee for the Protection of Journalists (CPJ) annual report, Turkey accounted for 40 journalists out of the 211 in prison worldwide. It was top of the list in 2012 as well as last year. According to information given by the Journalists Solidarity Platform, with the ongoing release of prisoners as a result of modifications to legislation, the number of imprisoned journalists as of May 2014 was below 30. An important majority of the nearly 30 journalists who are still in prison are being judged in the KCK trials. Verdicts were also given in the MLKP and Ergenekon trials which are now in the High Court of Appeals phase. The situation with regard to ongoing trials is not clear due to the changes made in the organization of the courts.

The abolition of Special Authority Courts in 2014, the ensuing change of courts in charge of such trials and the shortening of the maximum period of preventive detention have led to the release of many journalists. This should not be interpreted, however, as a lessening of the injustice suffered by journalists or of the pressure exercised upon the freedom of the press. For journalists who have

been charged with terror crimes are still on trial and the imprisonment verdicts which are now in the High Court phase have not yet lost their validity. Many journalists who are now free may, in the coming months, find themselves back in prison if imprisonment verdicts are executed.

Journalists were also subjected to increasing police violence during the Gezi Park resistance and in the following months. During the events, reporters frequently became the direct targets of the police. Many journalists fell ill on the job because of pepper gas; others had to be hospitalized when they were wounded by gas canisters, plastic and paint bullets. Journalists were taken under custody and interrogated along with the demonstrators.

In Freedom House's 2013 Freedom of the Press Report, Turkey had fallen to 134th position from its previous 120th position among 197 countries. It lost its previously "partially free" status and became qualified as "unfree". The pressure exercised on opponent journalists, layoffs and police violence were among the reasons given for this regression.

Journalists brought to Court

Within the scope of the KCK investigation, on the 20 December 2011 raids were carried out in 8 provinces on various news agencies, mainly the offices of the DİHA agency. As a result of these raids, 44 Kurdish journalists were taken under custody, 36 of whom were arrested. The journalists were tried at the İstanbul 15th High Criminal Court. During the court hearing on 3 March 2014, three of the 18 journalists were freed and 15 remained under arrest. Following the abolition of Special Authority Courts, the trial was transferred to the İstanbul 3rd High Criminal Court which decided to free eight of the 15 journalists under arrest. On the other hand, the remaining seven journalists who had been in prison for the same length of time and had been arrested based on the same evidence, were not freed. The 3rd High Criminal Court decided to free the remaining journalists on the 12 May, whereby there remain no accused under arrest. The next hearing of this court will be held at the İstanbul Courthouse in the Çağlayan district on 10 July 2014.

The last hearing of the OdaTV trial, with 13 suspects, either journalists or writers and amongst whom are Nedim Şener, Ahmet Şık, Soner Yalçın and Doğan Yurdakul, was held on 12 December 2013 at the İstanbul 16th High Criminal Court with Special Authority. During the hearing, Hanefi Avcı who claimed that he was being tried because of a book he had written, was questioned regarding investigations held against him previous to the publishing of the book. Avcı stated that the previous investigations were all of an administrative nature and that following the

publishing of his book, he was included in the Devrimci Karargah (Revolutionary Headquarters) trial and accused of a terror crime. The court decided to free the arrested suspects Yalçın Küçük and Hanefi Avcı, although they would remain as suspects under trial, and postponed the hearing to 1 April 2014. With the abolition of the Special Authority Courts, however, the magistrates of the trial were changed. The OdaTV case will be handled by the İstanbul 18th High Criminal Court from now on. The date of the next hearing is unknown.

Like the other political cases, the OdaTV case has been largely impacted by the recent modifications to legislation and the shuffling of magistrates. The prosecutors who had conducted the investigation and prepared the indictment were dismissed. Prosecutors changed three times in the process of the trial. Some of the assigned judges working on this case were moved elsewhere, some objected to this measure and were reassigned to their posts. All of the Chiefs of Police who had taken part in the investigation were dismissed.

In the Ergenekon case which counts 23 indictments, 275 suspects are tried, 66 of whom are under detention. There are a great number of journalists among them. The İstanbul 13th High Criminal Court handling the case pronounced its verdict during a hearing on 5 August 2013. The court which ruled that Ergenekon was an armed terror organisation, gave the journalists harsh sentences: Tuncay Özkan, aggravated life imprisonment; Mustafa Balbay, 34 years 8 months; writer Ergun Poyraz, 29 years 4 months; writer Yalçın Küçük 22 years 6 months; Aydınlık newspaper columnist Hikmet Çiçek, 21 years 9 months; Aydınlık magazine writer Adnan Akfırat, 19 years; Journalist Ünal İnanç, 19 years; Aydınlık magazine Editor-in-Chief Deniz Yıldırım, 16 years 10 months; Ulusal Kanal TV Channel Executive Editor Adnan Türkkın, 10 years 6 months. Other suspects, namely Güler Kömürcü, Adnan Bulut, Vedat Yenerer, Serhan Bolluk, Adnan Bulut, Turan Özlü, Özlem Konur Usta, Mehmet Bozkurt, Ruhsan Şenoğlu and Ufuk Akkaya were convicted to prison sentences ranging from 6 to 10 years. Journalist Caner Taşpınar was acquitted. In the following months the Special Authority Court accepted only Mustafa Balbay's demand to be released. Following the abolition of Special Authority Courts and the decrease of the maximum period of preventive detention to 5 years, various courts which examined requests for release and freed 19 suspects. Tuncay Özkan, Merdan Yanardağ and Yalçın Küçük were among those released.

Broadcast coordinator of Özgür Radio and writer Füsün Erdoğan, journalists Arif Çelebi and Bayram Namaz were among the 26 suspects who were arrested on 12 September 2006 and tried in the MLKP case. The suspects were tried by the İstanbul 10th High Criminal Court with Special Authority on the charge of being

leaders of an organisation. On 4 November 2013 the court condemned Erdoğan, Namaz and Çelebi to life imprisonment for "having attempted to change the constitutional order with arms". While the case was being examined by the High Court of Appeals the legislative changes in the law which decreased the maximum time that can be served under preventive detention and abolished the Special Authority Courts came into force. As a result, the case was transferred to the İstanbul 20th High Criminal Court. Eight detainees, including Erdoğan, Çelebi and Namaz were released on 8 May 2014, given that they had already served the maximum period of detainment.

Sedat Selim Ay, Vice Chief of İstanbul Security Forces responsible for Anti Terror Operations, brought a lawsuit against journalists who had reported stories told by people who alleged that they had been tortured in 1990, charging the journalists with "defamation" and "insult". The case against Goncagül Telek, Director of ETHA, was postponed under the 3rd Judicial Reform Package. The lawyers objected to this decision and demanded acquittal, whereupon the case was re-opened on 7 May 2014. The prosecutor renounced the accusation of "defamation" and demanded that the court try the suspect on charges of "insult". The trial hearing was postponed to 9 September 2014.

Ay also filed a lawsuit against the Evrensel daily, the T24 news site and Marksist.org on charges of "targeting a public officer" which met with a verdict of non-prosecution. The prosecutor then presented the same case to the court, this time alleging that Ay had been subject to "insult". In the first hearing of the trial, held on 13 September 2013, the accused Fatih Polat, Editor-in-Chief of Evrensel newspaper, Metin Kıvanç Yener, Editor-in-chief of T24, Ahmet Doğan Akın, Executive Director of Broadcasting of T24 and Ozan Tekin, Editor of Marksist.org, stated that this piece of news subject to the complaint had been published in other news media, that their account of the news did not include comments and that they had not received any demand to have this news removed. The second hearing was held on 30 January and the next one is due on 25 June 2014.

Sami Menteş, reporter of the daily Yurt and Gamze Keşkek, Editor of the review Tavr are among the 29 suspects tried on charges of "belonging to an illegal organisation" and "illegal organisation propaganda" in the DHKP/C's youth organisation case. The trial began in October 2013 at the İstanbul 23rd High Criminal Court and Sami Menteş was released at the first hearing. Keşkek is still in prison. The case is ongoing

Azadiya Welat, Turkey's sole newspaper published in Kurdish has been subject to prosecution for years with requests for heavy penalties. İbrahim Güvenç, the former Editor-in-Chief of the newspaper was prosecuted in February 2013 on charges of "organisational propaganda in the press" and "propaganda for the

organisation” with regards to the totality of the news which figured in 2012 in the following editions: 10 June, 25 June, 29 July, 6 August, 8 August, 17 August, 24 August, 29 August, 2 September, 10 September, 1 October, 8 October, 21 October, 23 October, 29 October, 3 November and 4 November. The Diyarbakır 8th High Criminal Court condemned Güvenç to a total of 10 years 3 months and 22 days of imprisonment and the Diyarbakır 9th High Criminal Court gave him a fine of TL16,500. Aydın Atar, the new Editor-in-chief was also prosecuted on charges of “propaganda for a criminal organisation”. The Diyarbakır 8th High Criminal Court condemned Atar to a total of 11 years and 3 months of imprisonment in its hearing in December 2013.

Dismissal of Journalists

In recent months a great number of reporters and columnists who wanted either to print news without censorship or resisted disinformation, whose language was critical vis-a-vis the government, or who used opponent expressions in their social media accounts, were either dismissed or chose to resign because their work was obstructed and censored. According to the declaration made by the Istanbul branch of the Journalists Union of Turkey (TGS) on 22 July 2013, as of 27 May 2013 the number of journalists dismissed was 22, those who were forced to resign totaled 37 and 14 were under the threat of unemployment. Those journalists who are able to stay in their jobs are under increasing pressure from their employers. Self-censorship has become the main mode of reporting.

Kürşad Bumin, journalist and writer was discharged from the daily Yeni Şafak where he had been writing for the last 16 years. While there was no explanation given by the newspaper, it is believed that Bumin was fired because he wrote articles criticising the Yeni Şafak columnist Salih Tuna who is known for supporting the government.

Alper Bahçekapılı who wrote in the culture and arts page of the Sabah newspaper, performed a “Standing Man” protest act in front of the newspaper’s building in June 2013 and then resigned. Bahçekapılı stated that he had resigned because the newspaper was “not reporting the facts”. Tuluhan Tekelioğlu was first warned by the administration of the newspaper about her comments on Twitter. Tekelioğlu who had been writing Sunday interviews for the last 6 years was finally fired in July. Yavuz Baydar, the readers’ representative in the same newspaper, published readers’ letters criticising the newspaper’s headline on Gezi Park in his column and wrote an article titled “Media bosses are undermining democracy in Turkey” in the New York Times. His two articles in Sabah were censored and he was fired in July.

Can Dündar, a columnist in the daily Milliyet was first given leave, then fired. The columns where Mithat Sancar and Dündar’s son Ege Dündar wrote articles were removed from the newspaper’s pages. Executive Editor Derya Sazak who had gone to Gezi Park with Can Dündar to do interviews was discharged from this post and finally dismissed as a columnist in August. Mirgün Cabas, a columnist in the same newspaper wrote a last article titled “Egemenlerin Tarihi” (History of Hegemons) and then resigned.

The daily Vatan fired one of its columnists, Mustafa Mutlu, an experienced journalist and administrator. Columnist Zülfü Livaneli left the newspaper upon Mutlu’s dismissal. Columnist Can Ataklı was given leave for an indeterminate period after his last article and was dismissed in July. Columnists Ruhat Mengi and Güngör Mengi were also dismissed in December.

Following the seizure of the daily Akşam by the Saving Deposit Insurance Fund (TMSF) in July, dismissals came one after the other. Executive Editor İsmail Küçükaya was dismissed along with many columnists and journalists. Küçükaya’s position was replaced by Mehmet Ocaktan, a one-time Member of Parliament from AKP. Hüsnü Mahalli who criticised the government’s Syrian policy had his column removed from the newspaper. Tuğçe Tatari, Sevim Gözay, Gürkan Hacı, Hüsnü Mahalli, Semra Kardeşoğlu, Banu Kurt, Süreyya Üstünel, and Özlem Çelik Akarsu were fired for their articles, reports and social media comments supporting the Gezi Park resistance. Çiğdem Toker resigned.

NTV, one of the most criticised members of the media for not having broadcast the Gezi Park movement objectively, witnessed a great number of resignations during this period. Gürsel Gönçü, Executive Editor of NTV’s history review NTV Tarih, Neyyire Özkan, Director General in charge of the reviews of the Doğuş Publishing Group, Cem Aydın, CEO of the Doğuş Publishing Group, Çiğdem Anad, a programmer at NTV, Nilgün Balgaç, NTV’s Ankara correspondent, Mirgün Cabas, Executive Editor of the GQ magazine and Dilara Eldaş, programmer at NTV Radio resigned. The Doğuş Group did not publish the special edition of its history review NTV Tarih on Gezi Park and put an end to the review’s publication altogether.

PRESSURES ON INTERNET BROADCASTING

In the period from June 2013 to June 2014, in parallel with increasing restrictions on freedom of the press, the internet and social media increasingly became the sole outlet for freedom of expression in Turkey. As a result social media then became a medium where government pressure was felt most severely. A great number of journalists and public officials lost their jobs, were prosecuted, re-

ceived fines and prison sentences because of the political views they had aired over their personal social media accounts.

Turkey continues to preserve its high-ranking place in the world as far as its censorship of internet platforms and their contents go. According to data provided by Engelli Web (Obstructed Web), 15,626 web sites were banned in 2013. The total number of domains to which access has been banned had reached 39,517 by 14 May 2014. The total number of orders to ban access up to this date reached 40,851. 89.4% of these orders were issued by the High Council for Telecommunication (TİB). No information is provided about obstructions due to court decisions.

According to Google's Transparency Report covering the period between January and June, the sudden rise in demands coming from Turkey did not go unnoticed. Turkey rose to first place among countries demanding the removal of content. During this period Turkish authorities made 1,673 demands to have content removed. The number of demands rose by 966 percent in comparison with those of the previous six months. The number of cases of removed content was 9,610 following 184 demands made by courts and 2,552 following 1,489 demands made by other institutions and individuals. 42 percent of demands made by courts and 13 percent of demands made by others met with approbation.

According to Facebook's Transparency Report, the two countries which most frequently imposed obstruction to access to web site content during the January-June 2014 period were Turkey and India. 96 users from Turkey sent 170 demands asking for obstruction of content. 47 of them met with approval. During the July-December period 353 users made 129 demands for obstruction of content. 59.56 percent of these them met with approbation and 2014 contents were removed. The greatest number of demands from Turkey were made by the Information and Communications Technologies Authority (BTK). The usual justifications stated for the demands were "insulting Atatürk" or "denigrating the Turkish state".

In Twitter's 2013 Transparency Report covering the first six months of the year it is noted that despite the severe criticism by the government, the recent number of demands to have content removed remained below ten. Twitter did not reply in the affirmative to any of these demands.

With the new modifications brought to Internet Law Number 5651, censorship on the internet has become quicker and easier. It is mostly carried out by the TİB, attached to the executive, frequently without the need for a court decision. The first major victims of this new legal disposition were Twitter and YouTube. About four hours after the Prime Minister had uttered the words "We will eradicate Twitter", access to Twitter from Turkey was shut down upon the initiative of

TİB, on the night of 20 March 2014, based on previous court decisions. Following this measure the Turkish Bar Association and the Ankara Bar applied to the Ankara 15th Administrative Court to have this decision cancelled and to have a suspension of execution which was granted.

Applications were made to the Constitutional Court on 24 March by Professor Yaman Akdeniz from the Faculty of Law of İstanbul Bilgi University and Associate Professor Kerem Altıparmak from the Faculty of Political Sciences of Ankara University, and on 25 March by Sezgin Tanrıku, Vice-President of the People's Republican Party (CHP). The Constitutional Court ruled that "the freedom of expression under the guarantee of Article 26 of the Constitution was violated". It took 13 days before Twitter became accessible again after the BTK and TİB were notified of this decision. The decision to close down the whole platform instead of only URL-based obstructions was justified by the Twitter authorities' refusal to carry out the demands for obstruction and their lack of cooperation. Following the meeting held between the Vice-President of Twitter with BTK, the Office of the Prime Minister and the Presidency, an agreement was reached to freeze contents deemed "harmful" by court decisions. In the days which followed Twitter disabled the accounts "başçalan" (chief thief) and "Haramzadeler 333" (bastards 333), for violation of personal rights and privacy".

A few days after the Twitter black-out, YouTube was shut down upon the publication of transcripts on Syria and access to YouTube was still banned at the time the present report was being prepared.

In June the Istanbul Police Department examined 5 million tweets and Facebook messages with critical content against the government and public officials during the Gezi Park resistance, with a view to determining who had shared these messages. The IPs of 35 suspects were sent to the Public Prosecution Office. The Ministry of Transportation began to track social media closely and launched an initiative to set up the National Cyber-intervention Center (USOM) and the Intervention Center for Cyber Events (SOMA) in order to uncover "illegal activities".

Facebook's closing down of the pages of many groups and individuals, which had political content and were very popular during the Gezi Park events, such as Ötekilerin Postası (The Mail of the Others), Peace and Democracy Party, Sırrı Süreyya Önder and Irkçılığa ve Milliyetçiliğe Dur De (Say No to Racism and Nationalism) was met with a strong reaction. More than 225 academicians from 16 countries launched a campaign in August against this censorship on Facebook.

Messages shared on social media by Turkish Radio and Television Corporation (TRT) personnel and by teachers and principals in various schools regarding the Gezi Park events were examined, some were prosecuted and others were required

to plead in their defense. Children and youngsters who had sent tweets about the authorities were taken under custody, interrogated and prosecuted.

Ekşisözlük (Sour Dictionary) writers brought to court for debasing religion

The manager of the web site Ekşisözlük, Sedat Kaplanoğlu and 39 writers who had contributed to the site were put on trial by the Anadolu 32nd Criminal Court of Peace, requesting imprisonments ranging from nine months to 1.5 years, on charges of “debasing religious values”. It was alleged that what the writers wrote on such religious concepts as “Allah, the prophet, heaven, hell, the Koran, the Bible” were not of a character “to contribute to public debate” and that the writers “had no reason to hurt feelings having to do with concepts representing the common values shared by the three great religions.” During the first hearing of the trial which began in January, the writers stated that there was no intent to debase or insult in what they had written, that their writing remained within the limits of freedom of expression. In the final hearing on 15 May 2014, the court ruled that Sedat Kaplanoğlu, the founder of the site and writer Özgür Kuru had committed the offence of “publicly denigrating the religious values upheld by a certain section of the population” and sentenced Kaplanoğlu to 10 months and Kuru to seven months and 15 days of imprisonment. The sentences were formally suspended. The court acquitted Altuğ Şahin since there was no evidence as to his having committed the said offence. For the remaining 37 suspects, the court decided to reprieve the sentence in accordance with the 3rd Judicial Reform Package, on condition that the suspects would be tried once more if they were to commit the same offence within the next three years.

Collective trial in İzmir for tweets

On 5 June 2013 the İzmir police department in charge of the Fight Against Organised Crime launched an investigation against 38 people, charging them with having “incited people to illegal acts” with the tweets they had sent during the Gezi Park resistance. At the end of the seven-month long investigation, 29 individuals who did not know one another, were prosecuted with a request of up to three years of imprisonment.

The fact that the investigation was undertaken the day after the Prime Minister’s declaration that Twitter was a “pest” and that the only wronged party in the indictment was the Prime Minister himself did not go unnoticed. The first hearing of the trial was held at the İzmir 1st Criminal Court of Peace on 24 February. 20 suspects and their attorneys were present. Some suspects acknowledged that

the tweets were theirs but did not contain hate-speech or violence, while others alleged that their tweet accounts had been hacked. During the second hearing, Erdoğan was accepted as an intervening party with regard to the offense of insult. The case is ongoing.

LEGISLATIVE CHANGES

Law No 6526 “Concerning Changes to Be Made to the Anti Terror Law, the Code of Criminal Procedure and Certain other Laws” entered into force on 6 March 2014. With this law, the Special Authority Courts, which had previously already been abolished, but which, according to article 250 of the Code of Criminal Procedure, were to continue functioning until the cases they were in charge of were all concluded, are now completely abolished. With the abolition of Article 10 of the Anti Terror Law, trials related to offences that enter the scope of this law have been transferred to High Criminal Courts so that with this change, political trials such as the KCK, Ergenekon and OdaTV, where many journalists, writers, translators and academicians were being prosecuted under preventive detention, had re-start from scratch. Lawyers took this opportunity to object to previous court verdicts to the new courts and request the release of their clients so that many detainees were released by decision of the court.

According to the new law, detention orders will be made not according to signs or indications but only on concrete evidence that a person has committed an offence. Judges and prosecutors previously posted in Special Authority Courts will be appointed to other appropriate tasks by the Higher Council of Judges and Prosecutors. Investigation files treated by appointed Special Authority Courts will be transferred to the Chief Public Prosecutor’s Office. Cases currently under prosecution will be transferred to competent courts where prosecution will resume from where it was interrupted. The examination of cases transferred by these courts to the Chief Public Prosecutor of the High Court of Appeals or to a High Court of Appeals Chamber will be pursued. The justifications for convictions given by these courts that have not yet been written will be written within 15 days after this new legislation has entered into force.

EUROPEAN COURT OF HUMAN RIGHTS RULINGS

According to the ECtHR’s 2013 statistics, Turkey ranked 5th among 47 countries as of 31 December 2013, in terms of the number of pending applications to the Court, with 10,931 appeals. This was equivalent to a 35% drop compared to the previous year. Thus, on the basis of the rate of applications per 10,000 persons, Turkey has receded from the 15th to the 30th rank among 47 countries. The

establishment of a Human Rights Compensation Commission through Law No 6384 has played an important role in the ECtHR's rejection of a great number of appeals. The establishment of the Human Rights Directorate, the passing of legal reforms and the creation of new internal legal dispositions are considered among the reasons for this positive development. In 2013, Turkey was condemned in 118 cases, nine of which had to do with infringements of freedom of expression.

The ECtHR evaluated the application of Hatip Dicle who had been condemned in Turkey for criticizing the government, claiming that the Kurds of the region had been victims of genocide and assimilation. In its ruling of October 2013, the ECtHR declared that Turkey had infringed Article 10 of the European Convention of Human Rights related to freedom of expression. According to the ruling, Turkey will have to pay the sum of € 4,500 to Dicle.

The Court concluded the case of the Mezopotamya Publishing application in January 2014, ruling that Turkey would have to pay a fine of €5,000 to the said publishing house which had been closed down after being charged with disturbing public order. The Urfa, Diyarbakır and İzmir affiliate branches of the Mezopotamya Publishing were raided in 1997 and books, newspapers, magazines, cassettes and documents were confiscated. The managers of the Urfa branch were charged with keeping banned books, while the publishing board of the branch in Diyarbakır, which was closed down by the Governorship, and the İzmir branch managers were accused of making propaganda for the PPK. The ECtHR concluded that the closing down of the publishing house was a disproportionate measure and that since there had been no democratic requirement for this, Article 10 of the European Convention on Human Rights had been violated.