

**TURKISH PUBLISHERS ASSOCIATION  
REPORT ON FREEDOM TO PUBLISH TURKEY  
(JUNE 2012-2013)**



# REPORT ON FREEDOM TO PUBLISH (June 2012 – June 2013)

## Lawsuits and Investigations against Books, Books Pulled Off the Shelf

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) 336 and 288. Baransu proved to be innocent on May 7, 2012 from the lawsuit where his sentence could have ranged from a year and a half to six years.

Kemal Dal and Hıdır Altun, DTP and BDP administrators, were sentenced to prison due to the allegation that they were doing propaganda for an illegal organization with books of Abdullah Öcalan, violating Anti Terror Law (TMK) 7/2. Dal and Altun were arrested in front of the door of a shipping company’s shop in İzmir, Bornova when they were picking up packages of books, under the allegation that these packages comprised of illegal print media; then, they were released. İzmir Prosecution Office decided to confiscate 30 packages of books that arrived to shipping company because there was a precedent case from Siirt Lower Criminal Court, where it was decided that 2970 books would be confiscated which included Abdullah Öcalan’s plea to European Court of Human Rights (ECHR) and books that included his other pleas published by Aram Publishing such as *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 make society embrace the cause of the organization’’. The last hearing of the case was held on May 21, 2012; where the accused for keeping and selling the books, Dal was sentenced to three years, one month and 15 days whereas, Altun was sentenced to three years, nine months of prison of the same crime. They have both stated that they would appeal to this decision.

## Suspension instead of Acquittal

Charges pressed against ‘‘obscenity’’ (TCK 226) in Chuck Palahniuk’s *Snuff* (Death Porn in Turkish) and William Burroughs’ *Soft Machine* by Board for Protecting Minors from Harmful Publications were heard at the court back to back for the last time on July 5, 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 Sûha Sertabiboğlu for *Soft Machine* were being tried, with the participation of experts who have decided that this book had literary value. The accused were acquitted but the 3<sup>rd</sup> Judiciary Package, which went into effect on the date of the hearing, and according to Law 6352 Article 1/1-b. ‘‘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’’. Judge’s statement that whether 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 being accused of ‘‘propagating 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 May 29, 2012. Babaoğlu was sentenced to a year and 3 months in prison, whereas the Publisher was fined 16.000 TL for compensation. The appeal case was suspended due to 3<sup>rd</sup> Judiciary Package.

Decisions reached at the court and convicted taken to Supreme Court regarding George Jerjian’s *Gerçek Bizi Özgür Kılacak* (The Truth will Set Us Free) and 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), whose publisher is Belge Publishing, were all suspended due to 3<sup>rd</sup> Judiciary Package. Lawsuits were filed for Jarjian’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 ‘‘propagating terrorist organization’’, ‘‘including 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.

Idea Politika Publishing, which started publishing on October 1, 2012, became the subject of an investigation after publishing their first book. Investigation was opened against publishing house director Erol Özkoray, the author of *5. Cumhuriyet* (5<sup>th</sup> Republic) by the press attorney and it was dropped in October 2012 for lack of grounds for legal action.

The case opened in 2010 against Metis Publishing for "denigrating the religious values embraced by a section of the populace" (TCK 216/3) with its 2010 agenda *İllallah*, with the theme of "right to not believe," against publishing house 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 the second hearing on October 11, 2012 in 2<sup>nd</sup> Lower Criminal Court according to 3<sup>rd</sup> Judiciary Package. Those working at the publishing house, in their applications mentioned right to defense and fair legal procedures protected under Article 6 of European Human Rights Convention (EHRC) and Article 36 of the constitution, thus, demanded to be acquitted through suspension of 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, "not committing a crime in the following 3 years", which was the basis for suspension, went against Article 10 of EHRC drafting freedom of expression and Article 3 of Press Law drafting freedom of 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: In the Past State, Today Community), which was accused of "propagating illegal organization", "insult", "violation of secrecy of the investigation" and "attempting to influence the fair judicial procedure", were finalized. The case of "propagating illegal organization", opened in August 2012, was suspended from prosecution with the 3<sup>rd</sup> Judiciary Package. Court cases opened under allegations of "insult" to public prosecutor Mehmet Berk, "insult" to a company representative Muharrem Polat, "violation of secrecy of the investigation" and "attempting to influence the fair judicial procedure" were seen to in two hearings held back to back in 2<sup>nd</sup> Lower Criminal Court of Ankara in October 2012 and both were suspended according to 3<sup>rd</sup> Judiciary Package.

Court case opened in October 2012, regarding Ergün Poyraz's *Kalpazan* (Counterfeiter), which allegedly "insults" Tayyip Erdoğan, was suspended from prosecution due to 3<sup>rd</sup> Judiciary Package.

Cumhuriyet newspaper reporter İlhan Taşçı's *Cüppeli Adalet* (Gowned Justice), 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) books were taken to court by former Specially Authorized Prosecutor of Erzurum, Osman Şanal, who has been leading Ergenekon investigation. The reporters were taken to 2<sup>nd</sup> Lower Criminal Court of Istanbul with the following allegations: "attempting to influence the fair judicial procedure" (TCK 288) and "insult" (TCK 125). At the hearing held in December 2012, it was decided that the case would be suspended according to 3<sup>rd</sup> Judiciary Package.

### **Ban After Bans Were Lifted**

Istanbul Magistracy No: 3 Appointed for Article 10 of TMK started investigations, after having received applications by chief public prosecutor dating January 2, 3 and 4 about four newly published books of Umut Publishing. *Belgelerle TKP/ML-1* (TKP/ML with Documents-1), *Belgelerle TKP/ML-2/Fırtınalar İçinde Bıçak Sırtında* (TKP/ML with Documents-2/Within Storms Walking On a Tightrope), *İşkencehanelerde Kızıl Direnme Ruhunu Yaşatmaya Hazır Ol* (Be Prepared to Keep Alive the Red Resistance Spirit in Torturehouses) ve *Rüzgar Bizden Yana Esiyor* (The Wind is on Our Side) were alleged to "propagate on behalf of illegal organization"; it was decided that they would be collected and banned. The publishing house's lawyer drew attention to lifting of bans over publications with the 3<sup>rd</sup> Judiciary Package on January 5<sup>th</sup>, which predates the date of decision of the court, January 16-17, 2013 and demanded cancellation of the decision. Five edited volumes by Umut Publishing are in 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 lifted ban with the 3<sup>rd</sup> Judiciary Package is İbrahim Kaypakkaya's *Seçme Yazılar* (Selected Writings) published in 2004. The case against 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 Qu'ran) was taken to court by Fethullah Gülen, on the grounds that it violated TCK 216, TCK 125, "provoking people for revenge and enmity" and "insult". The first hearing was held on October 8, 2012, in which the first allegations were objected to and it was decided that the court should proceed with second allegation about insult. At the last hearing held on February 20, 2013, Karabulut was sentenced to a year in prison because of insulting Fethullah Gülen (TCK 125), which was converted to 14.600 TL fine and postponed.

In January 2013, Aram Publishing Editorial Coordinator Gökhan Bulut was taken to Diyarbakır High Criminal Court on the grounds that he was "propagating terrorist organization" (TMK 7/2, TCK 75, 53, 58/9) with four books of Aram Publishing. Only the publisher gets 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 Guerilla in Mountain Qerejdax), Rodi Zinar's *Tecrit* (Isolation) and Hesên Hüseyin Deniz's *Serpehatiye Penabertiye* (Memories of Exile). The fourth book mentioned in the accusation, *Avrupa'nın Özerk Bölgeleri* (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 book does not contain words like PKK, Kurd, KCK, Kurdistan or Turkey. Bulut stated that the three Kurdish books they have published have already been published in Turkish and that the lawsuit only mentions the Kurdish editions. Prosecution told him that if he were to pay 20.000 TL for each book and 7 TL for court expenses, they would not go forth with court procedures. The first hearing will be held on June 3, 2012 in 9<sup>th</sup> High Criminal Court of Diyarbakır.

After the 3<sup>rd</sup> Judiciary Package, 3<sup>rd</sup> Magistracy of Istanbul decided on February 18, 2013 and March 6, 2013 that Aram Publishing's five books that were previously collected should be collected and rebanned on grounds of Article 25/2 of Press Law. These rebanned books are: *Gözlerinde Berivanın Gözleri Işıldıyordu* (Berivan's Eyes Were Reflecting in Their Eyes), *Yarınlara Yol Almak: Gerilla Anıları III* (Moving to Tomorrow: Guerilla Memoirs III), Qahir Firat's *Gülen Azadiye* (Roses of Freedom), *Gerilla Şiirleri I* (Guerilla Poems I), *Gerilla Şiirleri II* (Guerilla 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 anti terror law. In the accusation, it was stated that writers and the publishing house should be sentenced.

### **"Without Banderole" Case for Books Coming from Holland**

Mehmet Eren, owner of Deng Publishing, had applied ECHR in 2006 due to a confiscation of books about Kurdish history and culture that were sent to the name of Eren from Holland to be archived. The books were never returned. The publishing house was sentenced to paying a fine, as well. Just as Eren was waiting to hear from ECHR, it turned out that a lawsuit was filed against him at Criminal Court of General Jurisdiction 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 selling. The reason he had applied to ECHR was so that these books would be returned to him. It is known that judge has not been able to reach 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 Leader) and Sertaç Doğan's *Şırnak Yanıyor 1992...* (Şırnak is Burning 1992...), both published by Do Publishings owned by Gündüz. These cases were not suspended despite 3<sup>rd</sup> Judiciary Package; Supreme Court had sent the case to 11<sup>th</sup> High Criminal Court of Istanbul. Gündüz was accused of praising the crime and criminal in the last hearing held on May 24, 2013. Finally, according to 3<sup>rd</sup> Judiciary Package, it was decided that the case would be suspended.

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), *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 ECHR from prison, titled, *Kürt Sorunu ve Demokratik Ulus Çözümü* (Kurdish Problem and Democratic Nation Solution), edited by Ararat Publishing was confiscated as it was being printed in thousands, by the police who went to Gün Matbaa (Gün Printing) in August 2012. The decision to collect these books was made by 2<sup>nd</sup> Freedom Magistracy of Istanbul with the application of Chief Public Prosecutor of Istanbul. Appeals were made to 2<sup>nd</sup> and 3<sup>rd</sup> Magistrates on September 27, 2012 and were rejected on the grounds that "there were no changes as to crime's qualifications and importance, existence of elements that lead to 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 constitution: "freedom of thought and conviction". In May, it was decided that Constitutional Court would take Ministry of Justice's opinion. If the ministry deems necessary there will be feedback in a month or two, after their opinion is received, 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 for publishing the book, on the grounds of "infringement on personal rights". The libel suit has been going on since 2011 in the 17<sup>th</sup> Civil Court of First Instance; the next hearing date is September 4, 2013.

### **Other Court Cases Against Writers**

#### **Müge Tuzcuoğlu**

She is the author of *Ben Bir Taşım* (I am a Stone) and an academic who was arrested on March 8, 2012 as a part of KCK operation and was released on September 25, 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**

PM Erdoğan has filed a suit against her because of her article titled "Yok Artık Sayın Başbakan" (It Can't Be True Honorable PM) published in Taraf newspaper. Erdoğan made a case for "violation of personal rights" of his and AKP (Justice and Development Party) as a legal person and demanded 7.500 TL compensation. The libel suit case was closed in October 2012, Mağden and Taraf newspaper were fined 2.000 TL.

#### **Ahmet Altan**

Author and journalist Ahmet Altan has proven innocent from 12 lawsuits filed against him due to the content of his columns at Taraf newspaper. 13 lawsuits filed before December 31, 2011 were suspended due to contents of 3<sup>rd</sup> Judiciary Package concerning prosecutions. PM Tayyip Erdoğan has filed four "insult" cases (TCK 125) regarding Altan's pieces called "Dava" (Trial), "Devlet Yardakçılığı ve Ahlak" (State Complicity and Ethics) and "Alaturkalık" (Alaturcaism) and he was proven innocent from one of them. He was sentenced to paying total of 30.000 TL as compensation; after two courts decided in favor of Erdoğan in 2012, which were then appealed to. The other lawsuit will be heard in June. Eight lawsuits filed against Altan due to the content of his columns in Taraf newspaper and in total 231.000 TL were demanded as compensation. From these lawsuits three were objected to, one was suspended, two of

them are at Supreme Court, for two others compensation decisions were appealed against.

### **Pınar Selek**

Writer Pınar Selek was sentenced to life imprisonment after the decision of 12<sup>th</sup> High Criminal Court of İstanbul regarding the bombing of Spice Bazaar. ‘Due to ‘lack of evidence regarding bomb’s reason for exploding’ Selek has been acquitted twice, and for the second time the suit was resent from Supreme Court demanding ‘life imprisonment’ for Selek. On 24 January 2013, the court decided not to insist on its previous decision of acquittal and change it to aggravated life imprisonment. Chief judge of the court went against the decision and stated that indecision with regards to whether the explosion happened due to a bomb or not should have been important for this decision to be made.

### **Ayşegül Devocioğlu**

21 members of BDP (Peace and Democracy Party), including writer Ayşegül Devocioğlu were filed a suit against at the court because of the press release they have 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 22<sup>nd</sup> Special High Criminal Court, where first hearing was held and pleas for not guilty were heard on March 15, 2013. The lawsuit is ongoing.

### **Temel Demirer**

Writer Temel Demirer has made a speech in Ankara during the protests following the murder of Hrant Dink in 2007. He was accused of ‘provoking people for revenge and hostility’ and ‘insulting Turkishness’ (TCK 216 and TCK 301); the case is ongoing since 2008. With a decision taken on February 19, 2013, prosecution was suspended due to contents of 3<sup>rd</sup> Judiciary Package. Demirer has applied to court with regards to suspension, demanded a decision and repeated the content of lawsuit. Because of this application, Public Prosecutor of Ankara asked for permission from Ministry of Justice to reopen the case due to violation of Article 301.

### **Sevan Nişanyan**

A lot 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 for revenge and hostility’ (TCK 125 and 216). Public Prosecutor of İstanbul 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 served one and a half year in prison for having ‘insulted publicly religious values that are embraced by a section of populace’ (TCK 216), thus, a case was opened in 14<sup>th</sup> Lower Criminal Court. The last hearing was held on May 22, 2013 and Nişanyan was sentenced to 9 months in prison. As the crime was committed through media, the sentence was aggravated to 13,5 months. 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 Rubaiyat of Omar Khayyam, which were deemed to be ‘insulting religious values’ (TCK 216/1, 216/3) with the complaint of Ali Emre Bukağılı. With the 3<sup>rd</sup> Judiciary Package, the decision was withheld with a three-year probation. Say’s lawyer appealed to 29<sup>th</sup> Criminal Court of General Jurisdiction with regards to suspension, which has decided that the previous decision as to withhold the decision was lifted and that it is returned to 19<sup>th</sup> Lower Criminal Court. Say will be retried with the same lawsuit.

PEN Turkey has criticized the decision reached regarding Say’s lawsuit, which was followed by another complaint by Ali Emre Bukağılı to PM Communication Center with the allegation that PEN was

“insulting the selfhood of the state and influencing judicial authorities” (TCK 301/4). PEN Center in Turkey, on June 3, 2012, condemned Say’s trial from their website. PEN Turkey Board of Directors made a plea at the prosecution office, stating that words chosen for the statement were expressing a thought and that they were a critique, nevertheless, they had no intention to insult, thus, called for nolo-propos of the indictment. International PEN condemned investigations regarding PEN Turkey after their critique of the government. Director of PEN International John Ralston 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. International PEN, encouraged Turkish government to stop investigations and judiciary procedures regarding PEN Writers Association at once and to cancel Article 301 completely.

Ali Emre Bukağılı, who has complained about Say and PEN Turkey, is known to be in close relationship with Adnan Oktar, who has ideas against evolution and has filed official complaints against Kuzey, Sel and Ayrıntı Publishings who have published books of Richard Dawkins, Burroughs and Palahniuk respectively; Metis Publishing for their agenda themed ‘‘Illallah’’ (Enough); Ekşisözlük (a collaboration based ‘dictionary’) contributors; writer Nedim Gürsel; against cartoon artist, contributor to Penguen magazine Bahadır Baruter and hundreds of people he follows from social media.

Among 118 suspects of Second Ergenekon case, there is one among the not arrested suspects who is an economics academic and a writer with over 30 books, Prof. Erol Manisalı. On March 18, 2013 it was demanded that he would be sentenced to prison for life. He was arrested in 2009 and after two months under custody, he was released right after the cancer operation he went through.

### **Detained writers, poets, translators and publishers**

All over Turkey many writers, poets, translators and publishers are detained because of terrorist action allegations like the following: A. Dursun Yıldız, Ayşe Berktaş, Aziz Tunç, Bahar Kurt, Cengiz Kapmaz, Cihan Deniz Zarakolu, Davut Akgül, Doğu Perinçek, Edip Yalçınkaya, Ergün 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, Zeki Bayhan.

### **Lawsuits Against Comics**

PM Tayyip Erdoğan filed an “insult” lawsuit against Yalçın Küçük and Editor in Chief of Aydınlık, Mehmet Bozkurt, for a cartoon published as a part of Küçük’s “Diktatörya” (Dictatoriat) in Aydınlık. 2<sup>nd</sup> Lower Criminal Court of Istanbul sentenced Bozkurt to 11 months and 20 days of prison whereas Yalçın Küçük was acquitted. Bozkurt’s sentence was turned into a 7.000 TL fine. Appealed case was suspended before Supreme Court had made a ruling, due to 3<sup>rd</sup> Judiciary Package in July 2012.

Cartoonist Ayhan Kiraz in Zonguldak, Çaycuma was taken to court under the allegation of “insulting religion” because a cartoon of his criticizes 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 February 10, 2011 was taken to 2<sup>nd</sup> Criminal Court of First Instance under the allegation that he was “denigrating the religious values embraced by a section of the populace” (TCK 216/3). Case was decided to be suspended as a part of 3<sup>rd</sup> Judiciary Package in December 2012.

### **Censorship, Bans and Investigations Regarding Publications**

Theater translation and research periodical Mimesis, No. 19, had an article about a Classical Greek comedy whose descriptions were deemed to be “vulgar” by People’s Library of City of Elazığ, which as an institution has put together a petition and sent Mimesis back. General Directorate of Libraries and Publications contacted the publisher of the periodical, Boğaziçi University Publishing, and stated that they saw no value in the protest of People’s Library of City of Elazığ and that they did not support such

practices.

Kadıköy police were said to have visited bookstores in Kadıköy with a banned books list in their hands in October 2012, confiscating certain newspapers and books and preached bookshop keepers not to sell these publications.

Ankara University Africa Studies Research and Application Center Director Prof. Doğan Aydal censored submissions to 3<sup>rd</sup> volume of refereed academic journal ‘‘Afrika’’, which included the following words: ‘‘Kurdistan’’, ‘‘colony’’, ‘‘racist’’. Researchers have pulled back their submissions.

It is claimed that TÜBİTAK (Scientific and Technological Research Council of Turkey) has removed all books concerned with evolution theory from their Popular Science Publications. 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 a homage to Darwin’s 200<sup>th</sup> birthday. TÜBİTAK has refuted the allegations and stated that the reason for not publishing these books was related to copyright laws.

In February 2013, EMEP’s (Labour Party) *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 it.

Buket Uzuner had prepared a piece for Skylife magazine, titled ‘‘Anadolu Yakasında Bir İstanbul Klasiği: 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 were censored. She went to court against Türk Hava Yolları A.Ş (Turkish Airline Inc.) and won the case on February 22, 2013. Court decided that June 2009 issue would be confiscated, the censored version of the article would be removed from the internet site, the publication of the original article in Skylife magazine within 3 months would be ensured with a 2 TL paid to the writer for damages of mental anguish.

### **Bans on Publications in Prison**

In Kocaeli No:2 F Type Prison, İletişim Publishing’s 7 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 and Ministry of Justice answered it in August 2012. Sadulah Ergün, Minister of Justice, replied that the books of subject were print outs, therefore, do not carry the necessary qualifications to be considered as printed publication. He added that the reason behind their decision to restrict access to these books was the remarks in them that ‘‘denigrate, part and segregate 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 to prison and access to necessary sources to write books, he mentioned that there could be restrictions on books if there was a deemed threat as 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 on in September 2012 that they did not have access to Özgür Gündem and Azadiya Welat newspapers, which they were subscribers 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 as ‘‘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 to number of books allowed in a cell,

claiming that “it took a long time to control all books” and “probability of prisoners setting themselves on fire with books”. This decision was communiqué on January 15, 2013. The directorate objected to appeals and forcibly took “extra books” from prisoners on March 15, 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 prisoners in Bakırköy Prison supported them. Prisoners sent a petition to Ministry of Justice. The decision was removed with a writing sent to prison directorate after protests and statements that amounted to public pressure on Ministry of Justice.

### **Book Censors and Investigations Regarding Educational Institutions**

After a literature teacher’s complaint to Ministry of National Education, Feridun Fazıl Tülbentçi’s *Barbaros Hayreddin Geliyor* (Hayreddin Barbarossa is Coming) was taken out of 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 to suggest this book to students.

It was discovered in December 2012 that one of the hymns of 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 houris. / Give them to those who want them, / All I need is you.)

It was found out in December 2012 that Kaygusuz Abdal’s “Nefes” (Breath) was censored in 10<sup>th</sup> grade Turkish literature books. It was also observed that quadrants containing words related to Alevism such as “month of mourning”, “Zülfikâr”, “Ali”, “Hû” were cut from the poems.

In January 2013, the District National Education Directorate had started an investigation about a teacher in Bahçelievler, Istanbul for assigning *My Sweet Orange Tree*, a book featured in the Ministry’s list of 100 Recommended Works, to the class. The investigation had 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 Ministry of National Education about its concerns about objectionable content of John Steinbeck’s *Of Mice and Men*. Turkish Publishers Association, the book’s publisher Sel Publishing, Translators Association, and Translation Association issued a press release, which condemned censorship.

Ertuğrul Günay, the previous Minister of Culture and Tourism, criticized both Ministry of National Education’s investigation about a teacher’s assignment of *My Sweet Orange Tree*, a book featured in the Ministry’s list of 100 Recommended Works, 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 investigations were dropped as both of the books were in 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 according to 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 the reading list, which featured Muzaffer İzgü’s *Zıkkımın Kökü* (The Poison’s Root), after Bursa Osmangazi District National Education Directorate decided that the work “is not convenient for teenagers” in reply to a parent’s complaint.

It was revealed in January 2013 that Konak District National Education had started an investigation after an unsigned complaint letter was received about Turkish teachers of İzmir Güzelyalı Primary School,

who assigned Muallim Naci's *Ömer'in Çocukluğu* (Ömer's Childhood) and *Çılgın Babam* (My Crazy Father), 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 of Necip Fazıl Kısasürek High School in Bahçelievler, Istanbul recommended Amin Maalouf's *Semerkant* (Semerkand) to his students. District National Education Directorate has 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 the pages which showed 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 a product of a work, to which I was invited as an academician. Nobody can censor Yunus Emre." In reply to accusations of censorship to certain works, Avcı said that functional quotations with reservations about 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 keep 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 with a desirable identity' then this is shameful. Edip Cansever has lots of other poems, which is suitable for educational purposes. It is an issue of mentality if one decidedly chooses this poem and changes a stanza. Turkey will overcome this; it is indeed overcoming it. These are not decisions made by the Commission of Instruction and Education."

It was observed in February 2013 that 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 9<sup>th</sup> grade Turkish textbook.

Certain lines of Cahit Külebi's poem, "Hikâye" (Song) were deemed unsuitable and censored in a 9<sup>th</sup> 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 in Cemal Süreya's "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 had 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 defense, High Education Board decided that an investigation was unnecessary.

### **Books as Crime Evidence**

Books were considered as crime evidence in the case that ensued operations against Confederation of Public Workers' Unions (KESK) on 29 June 2012. 15 year-long teacher, Deniz Dozbey, who was jailed pending trial, was asked about "banned books" found in her home. Dozbey answered that she bought one of the books at Istanbul Book Fair and the other in Taksim on May Day. Erdal Yılmaz, Eğitim-Sen (Education Workers Union) Adıyaman Branch Organization Secretary, said that a portion of his 1500 books, which were collected and sent to Ankara during a house search on June 25<sup>th</sup>, was used as evidence for a non-existent crime.

Majority of the evidence put forth in the indictment of KCK Press Case, in which journalist and media workers were put to trial, consisted of books and periodicals. The 800 pages indictment had 352

occurrences of the work 'book'. Writing, editing, publishing, distributing, selling, distributing through internet, and finally translating books by and about Abdullah Öcalan, his life and his thought were considered as "propaganda on behalf of an illegal organization". Many books and periodicals, which were found on KCK Investigation related house raids, were given place in the indictment as "organizational book-periodical", "completely organizational book" due to expired decisions to collect books from the market 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 have quoted from or interviewed on these books were regarded as organization propaganda.

With 3<sup>rd</sup> Judiciary Package, books confiscated as evidence of crime were not returned even though collecting and ban rulings over these publications were lifted despite requests made for their return. Students released from Hopa case requested their confiscated books with application made by their lawyers but the court objected. Among these books, there are those whose bans are 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 operation to DHKP-C members, which also resulted in arrests of ÇHD (Progressive Lawyers Association) lawyers. The book was confiscated even though there were no legal restrictions or collecting ruling made about the book. It was registered as a crime tool to Istanbul Police's record of Incident Arrest Warrant and Confiscation.

## **Pressures on Press**

According to data of Bianet and Tutuklu Gazetecilerle Dayanışma Platformu (Solidarity Platform with Arrested 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 and violation of TMK and TCK; with links to illegal organizations. 42 out of 67 journalists and 29 out of 30 journalists have been taken to court because of Kurdish media, 42 of KCK, PKK and DYG, 12 of DHKP-C, four of MLKP, one of Odatv, one of Direniş Hareketi, one of IBDA-C cases. Indictments regarding these journalists and distributors include news watch, reporting critical of government and working in Kurdish media set as allegations against journalists, as if these are not ordinary journalism activities. Journalism is portrayed as a profession "creating the media space for an illegal organization". By showing journalism activities of journalists and distributors as evidence, they accused them with the following crimes: "committing a crime on behalf of illegal organization without membership", "providing help knowingly and with consent; without being a part of the hierarchical structure of the illegal organization", "founding armed or unarmed illegal organization", "management of illegal organization", "membership to illegal organization".

## **Lawsuits against Journalists**

From Odatv case with 13 suspects, including journalists and authors such as Nedim Şener, Ahmet Şık, Soner Yalçın and Doğan Yurdakul, the following were released: Müyesser Yıldız on June 22, 2012; Barış Pehlivan and Barış Terkoğlu on September 14, 2012; Soner Yalçın on December 27, 2012. Yalçın Küçük and Hanefi Avcı are still detained. These trials were observed by representatives from EFE New Agency from Spain, Arte TV-channel from Strasbourg, Radio France National from France, Reporters Without Borders International, European Federation of Journalists, European Union and EU member consulates. Swedish Journalists Federation offered a sum of money to press organs, to be used in Turkey to ameliorate conditions of freedom of press and raise awareness on this issue in Turkey, from the profits of *Girl with a Dragon Tattoo*, donated by Stieg Larsson to be used towards freedom of press.

KCK Press Case at 15<sup>th</sup> High Criminal Court of Istanbul, 26 journalists and media workers out of 44 are being detained pending trial. Suspects are accused of being members of KCK and the 800-page indictment is comprised of journalists' news and interview texts, phone interview tapes, books and magazines collected from their houses as evidence of crime. First hearing of the case, held on April 22, 2013, was observed by Director of Reporters Without Borders Central Asia and Europe Desk, Johann Bihir, Belgian

Parliament Green Party Brussels MP Jean-Claude Defossé and Germany Journalists Union director Joachim Legatis. Second hearing is scheduled on June 17, 2013.

Journalist-authors Mustafa Balbay, Tuncay Özkan, Yalçın Küçük and journalist Turhan Özlü continue to be detained because of Ergenekon case.

Editor-in-Chief of Hawar Newspaper, Bedri Adanır is sentenced to six years and three months in prison on the grounds of “acting on behalf of an illegal organization without membership” by 6<sup>th</sup> High Criminal Court of Diyarbakır because of four issues published in 2009. Adanır was released considering the duration he spent detained.

### **Layoff of Journalists**

Yeni Şafak newspaper writer Ali Ekel was removed from his post after his article on 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 PM Erdoğan, used the phrase “Be silent for the love of god”.

CNN Türk has stopped broadcasting Medya Mahallesi (Media District) produced by experienced journalist Ayşenur Arslan in February 2013 and Arslan was dismissed from the TV channel. Arslan, regarding her dismissal, stated that her co-host Akif Beki, who is known for his ideas close to government, had developed an attitude towards her. She also stated that PM Erdoğan did not want CNN Türk to broadcast live while she was working at CNN Türk, and after her dismissal PM agreed with CNN Türk to broadcast him live.

PM Erdoğan’s speech during fast breaking meal on August 11, 2012, called out to media bosses 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 newspaper, thus, resulted in parting of ways between Türker and Radikal. Türker had previously written pieces criticizing PM Erdoğan’s attitudes following Uludere massacre.

Habertürk newspaper dismissed two experienced journalists in February and April 2013. In June 2007, Balçışek İler, who was a columnist at Habertürk newspaper and known for her TV programs in Habertürk channel, Söz Sende (Word is Yours), Karşit Görüş (Opposing Ideas) and Memleketin Hali (State of Country), was dismissed from her post as a columnist. Amberin Zaman was dismissed on April 2, 2013 with patronage decision. A month before Amberin Zaman was dismissed, she was warned to “be careful of what she is writing” after having written critical articles on Roboski, Syria and state-system.

With 45 years of experience, journalist-author Hasan Cemal, after not getting couple of his writings published one after another, put an end to 15 years of writing at Milliyet newspaper. After Cemal’s writings on Kurdish issue, peace process and İmralı records dating March 1<sup>st</sup> and 2<sup>nd</sup>, PM 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 resolution process you couldn’t have printed such news, you shouldn’t have (...) If you are going to do a journalism as such, down with your journalism”. After the speech, Cemal stopped his writings for two weeks. Two weeks after, Cemal sent in another article, which was not published. He resigned from his post at Milliyet on 18<sup>th</sup> March 2013.

### **Pressures on Internet Publishing**

According to Google’s July-December 2012 Transparency Report, Turkey came fourth place with 87 precepts and fourth place in the world with requesting removal of 8.751 items. 62 demands out of 87 precepts were found suitable and necessary actions were taken. They drew attention to the rise in numbers of requests to remove items from 102, 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 requests. Telecommunication and Communications Directorate demanded banning 22 Blogger blog sites on the grounds that they were criticizing Atatürk, state, national identity and values but these requests were not found appropriate.

According to Twitter Transparency reports, Turkey between January-June 2012 had one court ruling;

between July-December had six requests from institutional bodies like government or the police to remove content. These demands were not met. In July-December report, Turkey came first place with the number of requests to delete 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 has insulted PM on Facebook finalized in July 2012 with 11 months and 20 days of prison sentence. According to 3<sup>rd</sup> Judiciary Package, he was released with a three-year supervision. The lawyer of PM had already stated the withdrawal of their complaint.

52 year old, retired, Ali Cemal Ağırman was also taken to court on the grounds that what he has written on Facebook ‘‘insulted the president of the republic’’ (TCK 299/1); he was sentenced to a year and 3 months in prison in September 2012. Within 3<sup>rd</sup> Reform Package, announcement of judgement was adjourned.

Journalist Cüneyt Özdemir was filed a lawsuit against for having criticized the court judgement regarding N.Ç trial (N.Ç was 13 years old when she was raped by 26 men) by the director of 14<sup>th</sup> Office of Supreme Court, Fevzi Elmas. The first hearing was held in October 16, 2013 and the persecution was suspended as a part of 3<sup>rd</sup> Judiciary Package.

Online magazine Arka Pencere’s (Back Window) No: 156 made Sylvia Kristel’s picture, known for her movie Emmanuel, who died on October 17, 2012, their cover. Facebook Directorate censored this. Directorate also made magazine’s Facebook page administrators, Burak Göral, Bilgehan Aras, Burçin S. Yalçın, Okan Arpaç and Cem Altınaray’s personal Facebook accounts inaccessible.

One of the comments made under Barış Yarkadaş’s news piece on 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 due to 3<sup>rd</sup> Judiciary Package.

10 suspects of Redhack case had its first hearing on November 26, 2012. For three of the suspects their internet communications, links visited, content and comments shared on Facebook since March 2012 were presented as evidence to prove their membership to the organization. Detainees were released after the first hearing to be tried without arrest.

Eskişehir Anadolu University student Gujan Ceyhan, was taken to Üsküdar Lower Criminal Court on the grounds that he insulted Adnan Oktar and Ali Emre Bukağılı on his blog, in an entry criticizing them for having filed lawsuits against Ekşisözlük contributors. He fined 6.000 TL. Appeal was made through Supreme Court. Bukağılı 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 February 13, 2012 on the grounds that his Facebook chats showed that he was a ‘‘member of a terrorist organization’’ and he was ‘‘propagating on behalf of terrorist organization through press’’. Even though it was expected that he would be released after the 3<sup>rd</sup> Judiciary Package, court decided for continuation of his detention.

Investigation started about Halil Savda in February 2013, on the grounds that he was discouraging people from doing military service on Anti-War website.

17-year-old high school student İrem Aksoy was arrested in Beylikdüzü, at the high school she goes to and was taken to police office for having used hashtag #EdepsizsinMelihGokcek (you are shameless Melih Gökçek) in March 2013. Aksoy was released afterwards.

Six Ankara Revenue Office clerks had liked and shared cartoons of Penguen, Leman and Gırgır (cartoon magazines) on social sharing 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 Office of Prime Minister, their testimonies were taken. Minister of Finance Mehmet Şimşek answered the parliamentary question on March 29, 2013 saying that ‘‘report regarding the 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**

Known as 3<sup>rd</sup> Judiciary Package, Law 6352 was put into effect on July 5, 2012 with its publication in Official Gazette. Package, for the crimes under the scope of Anti Terror Law, made adjournment of ruling, changing of prison sentences to other sanctions and suspension possible. With this package, in order to restrict the arrest rulings that victimize journalists, authors and thinkers conditions were brought to these rulings that need to be verified concretely in the following domains: existence of high suspicion, justifications for arrest and equanimity of arrest as a precaution. In certain cases, there can be rulings for a juridicial control instead of arrests.

Law 6352 proposes for all crimes that are sentenced to judiciary fines or maximum of 5 years in prison, committed before December 31, 2011 through media or modes of thought expression, taking them to court, duration of prosecution and execution of criminal sentence to be suspended. On the other hand, the law is criticized for implementing an autocensorship mechanism that hinders freedom to publish with conditions of suspension, where there can be cases demanding 3 years under supervision and a condition that the previous case will be seen to or sentence executed in case of committing another crime within this period.

The temporary Article 3, proposed that unless set forth within 6 months after a ruling is made, appointed and in charge courts cannot decide on continuation of the collection, ban, prevention of distribution and sale of printed publications. Thus, previous rulings made until December 12, 2011 by courts, appointed local authorities regarding the same subject would be dropped. New rulings could have been given until January 5, 2013; thus all collection and ban rulings regarding books were dropped. On the other hand, as the package was put into effect, some of the courts were renewing collection rulings and ordering collection of newly published books.

Ankara Police Office with regards to amendment made to Article 78 of Law 6352 with temporary Article 3, sent the list that contained ‘‘rulings given for collection, 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 internal affairs, state of emergency) in September 2012 to Press Crimes Investigation Bureau of Chief Public Prosecutor’s Office in Ankara. Police, on the cover letter, stated that under the coordination of Security Unit Directorship, with the participation of Anti Terror Directorships, they had formed a commission and that the commission encourages continuation of the ban on 67 books and 16 newspapers and magazines from the list.

Chief Public Prosecutor Office of Ankara, Prosecutor of Press Crimes, Kürşat Kayral, took decisions by Council of Ministers or other courts to ban or to collect 453 books and 645 other publications under investigation. Prosecutor sent the list regarding publications banned in effect of Article 250 of Emergency Law Courts, State Security Courts and Criminal Courts Law for the discretion of Deputy Chief Public Prosecutor in Ankara appointed to Article 10 of Anti Terror Law. Kayral decided that bans should be lifted on the list of books he has received. Prosecution, in justification of this ruling stated that bans rulings date as far as February 10, 1949 by the Council of Ministers, and that these rulings have already been dropped as they are part of a set of crimes which neither new Turkish Penal Law nor special laws provide any sanctions against. Additionally, most banned newspapers, magazines, brochures and banners were not accessible anymore and even if they were to be published, they would carry a historical significance. He added that bans on works with allegations on grounds of obscenity could not be justified and examined properly. In the preamble, it was stated that under the investigation of security forces, none of the works on the list were found in original copies, or in a copy that should have been collected or was banned. Bans on books that lacked grounds of legal action were dropped with the ruling of Press Prosecutor on January 5, 2013.

After press prosecutor’s ruling in December, public prosecutor appointed to Article 10 of Anti Terror Law, Yıldırım Beyyurt, examined the list that was sent to him. Out of 67 books in the list, he made an application to Court Appointed to Article 10 of TMK for the continuation of the ban on 13 of these books. Freedom Judge Halil İbrahim Kütük stated that for the continuation of the ban, ‘‘there should have been an investigation or prosecution in process with regards to these books’’ and objected to application due process of law. Thus, books on the list of Ankara Police Directorate were all freed from the ban.

Books that police insist should be banned but whose bans were dropped are:

*Komünist Manifesto* (The Communist Manifesto) (1968), *Mahir Çayan Toplu Yazılar* (Collected Works of Mahir Çayan) (1978), Abdullah Öcalan's *Kürt Sorununda Demokratik Çözüm Bildirgesi* (Resolution on Kurdish Problem) (1999), *12 Eylül Faşizmi PKK Direnişi* (Fascism of September 12 and PKK Resistance) (1996) ve *Barişa Doğru Roma Konuşmaları* (Towards Peace- Rome Conversations) (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-Akhdu) (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 Muhacır'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 4<sup>th</sup> Judiciary Package, was put in effect April 30, 2012. In this package, in order to sentence someone to prison on grounds of propagating terrorist organization or printing and publishing declarations and communiqués, they need to have a component of ‘‘justification, praising of and

encouraging people to take up methods that include virtue, violence or threat”. Those being tried for printing and publishing declarations and communiqués and propagating for terrorist organization, who are not a member of the organization will not be given additional sentences for “being a member of the organization”. The act of “committing a crime for an organization without being a member of the organization” will only be used for armed organizations. “Praising the crime and the criminal” law in TCK was amended that in order to consider an action of this kind, the condition of “clear and close danger for public order” needs to be met. The sentences were also reduced. For the continuance of arrest during investigations, either the suspect or the plea will 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 ECHR 2012 Annual Report, among 47 countries Turkey came second after Russia with 16.879 applications, and came first place with condemnations regarding freedom of expression. Turkey’s applications in line constitute 13.2 percent of the ECHR’s caseload. In 2012, Turkey was condemned 117 times and in eight of these there were violation of freedom to expression. April 2013 data of European Council, Turkey’s compensation penalties amounted to 23.424.794 Euros, and with this amount Turkey came second place after Italy. According to Bianet’s Media Watch Report, in 2012, ECHR fined Turkey to pay 78.581 Euros in total to nine people -six of whom were journalists- and an institution. Between January-March 2013, Turkey was fined 73.500 Euros for nine newspapers and magazines banned between 2008-2009. ECHR announced that by the end of 2012, there were 450 files regarding freedom of expression at their hands.

Ahmet Yıldırım’s application in April 2012 after a decision was made to make all modules of Google Sites inaccessible due to a ruling regarding a blog was evaluated by ECHR and came to a decision on December 12, 2012 that Turkey needs to be fined 8.500 Euros in accordance with Article 10 of European Human Rights Convention.

ECHR, for those banned publications, collected newspapers and magazines between 2008-2009 such as Bağımsızlık Demokrasi Sosyalizm İçin Yürüyüş (Walk for Independence Democracy Socialism), Ezilenlerin Sosyalist Alternatifi Atılım (Socialist Alternative for the Oppressed Atılım), Özgür Mezopotamya (Free Mesopotamia), Günlük (Daily), Siyasi Alternatif (Political Alternative), Özgür Görüş (Free Perspective), Süreç (Process), Rojev (Agenda) and Demokratik Açılım (Democratic Expansion) condemned and fined Turkey to pay 13.500 Euros each for compensation.

Publisher Ahmet Önal was convicted in 1999 and 2002 on the grounds that he was “provoking people for revenge and enmity” (old TCK 312) for the following books *Teyze Baz/Bir Kürt İşadamı Hüseyin Baybaşın/Mahmut Baksi* (Auntie Baz/A Kurdish Businessman Hüseyin Baybaşın/Mahmut Baksi and Alevism in Dersim, Munzur Cem). After Önal’s application concerning the violation of his freedom of expression in 2012, ECHR condemned Turkey to pay 6.000 Euros to Önal.

## **Reports of International Organizations**

A lot of organizations, like the following, have published reports made statements about Turkey analyzing obstacles in front of freedom of thought, expression and publishing: European Commission, European Council Human Rights Commission, European Security and Co-operation Organization, European Journalists Federation, United Nations Human Rights Committee, Committee to Protect Journalists, Department of State USA, Carnegie Endowment for International Peace, Human Rights Watch, Freedom House, Reporters Without Borders, Amnesty International. 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, disrupted access to court files which infringes on their right to defend themselves, quality of indictments, inadequacy of arrest warrants before prosecution, inefficiency of appeal procedures within national law system, the minimum duration of arrest before prosecution, inadequate application of alternatives and no fair standard applied to finalization, duration of court cases are criticized in these reports. Proliferation of autocensorship was observed in media through

lawsuits opened by state authorities, judges and prosecutors against journalists and with layoff facing those journalists criticizing the government.

Turkey continued to get low marks in 2012 reports regarding freedom of press. In a report by Committee to Protect Journalists, Turkey was labeled as 'worst country to detain journalists'. It was clarified that most cases that were not counted in previous countings were related to news-making and research related to journalism. Reporters Without Borders 2013 Report included World Press Freedom Index, which evaluated 179 countries. Turkey fell to 154<sup>th</sup> place from 148<sup>th</sup>. It was stated that Turkey "is one of the biggest prisons for journalists, specially those expressing their criticisms of authorities on Kurdish issue", and that due to government's security paranoia any criticism could be considered arguments for illegal organizations. In Freedom House World Press Freedom Report, Turkey shared 120<sup>th</sup> place with Congo, Fiji, Liberia, Macedonia and Seychelles. Within its regions Turkey was considered exceptional while it continued to be categorized with "partially free" countries.

These reports mentioned 3<sup>rd</sup> and 4<sup>th</sup> Judiciary Reform Packages in a positive way 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 constrict interpretations. They also stated that process of prosecution need to be shortened and a differentiation between expression of provoking to violence and of nonviolent ideas should be made clear as a part of more radical constitutional and legal amendments concerning legal framework of terrorism.

Turkey is reminded in these international reports that it is a signing body to International Covenant on Civil and Political Rights and EHRC and constitution ensures freedom of expression. They point at the number of cases filed against Turkey in ECHR, call for constitutional and legal reforms to be made in order to make the legal system more fitting to international conventions and encourage continuation of human rights education for other government agencies.

These reports also drew attention to rising number of lawsuits filed against content shared on Internet and continuation of banning Internet sites. They called for clarification of Law 5651 and amendments to be made according to international legal framework so that it does not restrict freedom of expression or suppress publishers.

Amnesty International "Time to Deliver on the Right to Freedom of Expression in Turkey" report 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 laws as threatening freedom of expression: Articles TCK 301, 318, 125, 215, 216, 314, 220/6, 220/7 and TMK's terror defining 1, 7/2, 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. AI has started a campaign in April to get rid of obstacles regarding freedom of expression called "Not With This Law".