



TÜRKİYE  
YAYINCILAR  
BİRLİĞİ

TURKISH PUBLISHERS ASSOCIATION

**2016 FREEDOM TO  
PUBLISH REPORT  
&  
FREEDOM OF  
THOUGHT AND  
EXPRESSION  
AWARDS**



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## **2016 FREEDOM TO PUBLISH REPORT & FREEDOM OF THOUGHT AND EXPRESSION AWARDS**

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TURKIYE YAYINCILAR VE YAYIN DAGITIMCILARI BIRLIGI DERNEGI

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## **PREFACE**

We, as the Turkish Publishers Association, support elimination of all types of restraints on writers' freedom to write and create, publishers' freedom to publish, public's freedom to read and access information. Therefore, we annually grant "Freedom of Expression and Thought Award" since 1995. Through this award, we aim to support writers and publishers, who fight for freedom of expression and thought; to call public attention to this matter; to make efforts of independent bookstores visible, who encounter economic and political difficulties, but continue their existence giving a persistent struggle. At our award ceremony, our report on freedom of publishing in Turkey is released. It covers incidents of censorship, investigations, banning decisions, lawsuits and convictions targeting publications and a free publishing environment, as well as the de facto pressure on it in the given period.

This year's Freedom of Expression and Thought Award is granted to journalist and writer Hasan Cemal, Alfa Publishing Group, and Kırşehir Gül bookstore for their ongoing struggle against political and economic challenges. Hasan Cemal, who has been repeatedly tried throughout his journalism career, was recently a subject of investigation on grounds for terrorism, and banning court decisions have been issued on two of his books. Alfa Publishing Group, an important contributor to the intellectual life in Turkey, has also faced banning decisions for its three books. Gül bookstore, a 32-year-old bookstore in Kırşehir province, has suffered an attack by an angry mob. The bookstore, whose building has been destroyed, is struggling to rise from the ashes.

This year's report on freedom to publish in Turkey covers developments between June 2015 and June 2016. The atmosphere of political polarization and gridlock in Turkey has also affected the publishing world negatively. In this period, apart from the continued oppression of the press, an increase in the number of trials and convictions against publications has been observed. According to an internationally accepted view, political figures should embrace freedom of expression better and have a higher degree of tolerance even to sharp comments. Nevertheless, it has been observed that we have reached a point, where political figures -feeling empowered through politicized judiciary- perceive all forms of criticism as "defamation", and take the matter to courts. Biased approaches and decisions of the judiciary and the fact that being pro-government is now a must at all public

servant posts, have hindered dissemination of opposing views and made it easy for authorities conceal information and refrain from transparency. These conditions have also made it easier to mute all, who want to disseminate this type of information. Not only journalists, writers and publishers but also simple citizens are affected by the rising levels of prohibition. Censorship has become a widespread and a familiar phenomenon. Individuals and institutions from all levels of the society have begun exercising arbitrary censorship and prohibition, regardless of whether they're authorized or not. As a result of the widespread censorship throughout the country in every aspect of life, self-censorship mechanisms are now working automatically, most of the time without getting noticed. The conditions that are essential for an environment of freedom of expression and thought are rapidly diminishing. We are pessimistic.

***Turkish Publishers Association***

## HASAN CEMAL

Hasan Cemal was born in 1944 in İstanbul. He graduated from Political Sciences Faculty of the Ankara University in 1965. Cemal's journalistic career began in 1969 when he became an editor for the political weekly "Devrim" (Revolution) in Ankara. Later, Cemal worked for political weeklies "Yeni Ortam" (New Environment) and "Toplum" (The Society), and for ANKA News Agency. After that, in 1973 he joined the staff of "Cumhuriyet", a national daily. He became the daily's Ankara bureau chief in 1979, and was appointed editor-in-chief in 1981. Cemal held this position for eleven years. Under his editorship, the daily Cumhuriyet received the "Sedat Simavi Award" in 1986 as the "Daily of the Year". Between 1992 and 1998, Cemal was a senior columnist for the daily "Sabah", and from November 1998 until March 2013, he was the senior columnist for the daily "Milliyet" for almost 15 years. Cemal received in 1989 "Doruktakiler" Award given by "Nokta" magazine, as well as columnist award given by the Turkish Journalists' Association. The journalist also received "Research Award" given by the Turkish Journalists' Association in 2004 for his research.

Cemal was harshly criticized by the then-prime minister Recep Tayyip Erdoğan, for defending the newspaper "Milliyet" for its cover story "İmralı Zabıtları" (İmralı Minutes) on the 28<sup>th</sup> of February 2013. The newspaper management ended Cemal's column, justifying their decision on Cemal's "persistence in questioning the prime minister and the media capital". Cemal had been working in Milliyet for the last 15 years. Soon after, Cemal joined the independent online news site T24, where his interviews and articles have been published since March 2013. He was the sole journalist from Turkey, who had observed the withdrawal of PKK forces from Turkish borders.

He was the founding president of Punto24, a platform for independent journalism, founded in September 2013. Cemal is still the Chairman of the Board of the platform. Nieman Fellows in the class of 2015 at Harvard University have selected Cemal as the recipient of the Louis M. Lyons Award for Conscience and Integrity in Journalism in 2015. He has been the first journalist in Turkey to receive this award.

Cemal has faced dozens of trials and investigations during his journalism career. Lately, Ankara Chief Public Prosecutor's Office has launched three separate investigations against him over his articles dated 12/8/2015, 7/9/2015 and 4/10/2015, bearing the titles "Sultan in his palace is responsible for the bloodshed!", "Heeyy you!" and "So you became the president and...", respectively. Lastly, a local court in Gaziantep at first ruled that his books *Delila - Bir Genç Kadın Gerilla'nın Dağ Günlükleri* ("Delila - Mountain Diaries of a Young Guerrilla") and

“Çözüm Sürecinde Kürdistan Günlükleri (“Kurdistan Diaries During the Resolution Process”) -published by Everest publishing house in 2014- should be pulled from bookstores. After considering an appeal over another local court’s decision, it issued a banning order for the books. Once the rulings and the appeals of the writers became known to public via press, İstanbul Chief Public Prosecutor’s Office launched an investigation, charging Cemal with “spreading terrorist propaganda”, “provoking public hatred and hostility” and “praising crime and criminal activity”.

The author’s books in chronological order:

- *Tank Sesiyle Uyanmak* (1986) (Waking Up to the Sound of Tanks)
- *Demokrasi Korkusu* (1986) (Fear of Democracy)
- *Tarihi Yaşarken Yakalamak* (1987) (To Catch History Alive)
- *Özal Hikâyesi* (1989) (The Story of Özal)
- *Kimse Kızmasın Kendimi Yazdım* (1999) (Don’t Be Mad, I Wrote Myself)
- *Kürtler* (2003) (Kurds)
- *Cumhuriyet’i Çok Sevmiştim* (2005) (I Really Liked the Republic)
- *Türkiye’nin Asker Sorunu* (2010) (Turkey’s Military Problem)
- *Barışa Emanet Olun* (2011) (Be One with Peace)
- *1915: Ermeni Soykırımı* (2012) (“1915: Armenian Genocide”)
- *Delila - Bir Genç Kadın Gerilla’nın Dağ Günlükleri* (2014) (“Delila / Mountain Diaries of a Young Guerrilla”)
- *Çözüm Sürecinde Kürdistan Günlükleri* (2014) (“Kurdistan Diaries During the Resolution Process”)

## ALFA PUBLISHING GROUP

Founded in 1990, Alfa Publishing Group, one of the driving forces in Turkey's cultural environment, has published thousands of books. The Group comprises of Alfa, Everest, Kapı, Artemis, Mona and Büyüdü Fener publishing houses. In its nearly 30 years of history, the Group has brought more than 7,000 titles to readers. Alfa Publishing Group publishes titles which appeal to readers from every generation, mainly in literature but also in science, history, sociology, psychology, personal development, food and food culture.

In recent mounts, banning decisions were issued for Hasan Cemal's two books published by Everest, and Müslüm Yücel's one book published by Alfa. Both writers have faced investigations on grounds of terrorism. The first edition of the banned *Delila / Bir Genç Kadın Gerillanın Dağ Günlükleri* ("Delila - Mountain Diaries of a Young Guerrilla") by Cemal was published in February 2014, its sixth edition in October 2015. The first edition of *Çözüm Sürecinde Kürdistan Günlükleri* ("Kurdistan Diaries during the Resolution Process") by the same author was published in September 2014. The first edition of *Abdullah Öcalan: Amara'dan İmrالی'ya* ("Abdullah Öcalan: From Amara to İmrالی") by Müslüm Yücel was published in November 2014, its fourth edition in October 2015.

## **GÜL BOOKSTORE**

Gül Bookstore was founded by Sergeant Süleyman Yelim in 1984, who had been forced to retire in the time of the fascist military coup of 12<sup>th</sup> September, in a modest shop of just 13 m<sup>2</sup>. Eşref Odabaşı, then working at the bakery, was a regular customer at the bookstore, purchasing at least one book every week. When Odabaşı -a bibliophile himself- found out that the bookstore would be turned over, he took over the store in March 1987.

In the era following the military coup of 12<sup>th</sup> September, Gül Bookstore had to assume various missions. It acted as a place of socialization and intellect, where people can come together and discuss, in an era where political parties and democratic mass organizations were shut down.

After a short while after he had taken over the bookstore, Odabaşı was arrested for “being a member of an organization”, and spent two years in prison. One and a half years after his release from the prison, he left Turkey on political grounds and lived abroad for one year. He returned to Turkey when the articles 141, 142 and 164 were abolished under Özal’s rule. Facing various challenges, the bookstore continued to survive. After he returned, Odabaşı kept the bookstore alive by starting to sell stationary goods, apart from books. In the 90ties, the bookstore suffered great losses due to the booming book piracy but also the frequently issued banning decisions on books. Thus, there were years where it compulsorily had to reduce its book acquisitions. Over time the bookstore expanded. Once a small store of just 13 m<sup>2</sup>, its area expanded to 50 m<sup>2</sup> in 2005. And in 2012, it became a book and stationary selling store with an area of 456 m<sup>2</sup>. After Odabaşı’s retirement, his niece Sait Akıllı took over the bookstore. They have been working together since.

The first assault on the bookstore happened in the winter of 1994. The attackers broke down the shop windows, poured flammable liquids in the store and started a fire. Fortunately, the damage was minor. The keepers of the bookstore took a substantial amount of loan in order to expand the store. Just as the loan was about to be paid off entirely, there was a cruel assault on the bookstore on 8/9/2015. A large number of attackers attacked the building; the bookstore was sacked and burnt down. Thus, a work of 32 years was destroyed in an instance. This time, the damage was not only physical. Restraints by the state, as well as neighborhood pressure have intensified. Being under pressure, the owner of the store withdrew his support. And consequently, the damage has still not been fixed. It also came to light that directors working under the Ministry of National Education had sent official instructions to school principals and teachers, instructing them to ensure that the students do not buy their school books at the Gül

bookstore. At the same time, having provided no support of any kind, the state asked for the payment of the VATs for the burnt books.

The veteran bookstore keepers Eşref Odabaşı and Sait Akıllı have been facing all kinds of challenges -official, economic or social- of running a bookstore in a province in Anatolia. The keepers, who place importance on having also dissident publications on the shelves, have been striving to bring books and publications to people of Kırşehir for the last 32 years. Gül Bookstore, still in financial difficulties, is waiting to be reopened.

# REPORT ON THE FREEDOM TO PUBLISH (June 2015 – June 2016)

## OPPRESSED WRITERS AND PUBLISHERS

In parallel with the politicization of the judiciary, an increase in the number of convictions are observed, where writers and publishers of books criticizing government officials and their actions, or handling issues such as the Kurdish issue, are tried. Turkish Penal Code's article on defamation is still being used by politicians as a means of censorship to block criticism. Especially, writers of journalism books face severe penalties because of the "defamation" article, regardless of their style, only because they handle certain issues.

Unfortunately, the days are over, where the bans on books were removed. Many of the titles, on which the ban was removed in 2012, are banned again by local courts' rulings. Books are still regarded as evidence of crime, and reading is still conceived as a threat by state authorities. Banning decisions on books are issued at the local level. A banning decision on a book, issued in a province and then nullified, can again be issued in 80 other provinces. Time and effort spent for the appeals against banning and confiscation decisions; hindering of sales; long waiting periods for response from the judicial authorities on submitted appeals; disproportionate imposition of pecuniary fines are bringing the publishers to their limits. On the local level, de facto censorship of the local authorities -stemming from their ideological approaches- on writers and books continues to exist.

## Investigations, bans and censorship

### **Banning decisions and investigations launched on terrorism charges for 25 titles**

Acting on the request of Gaziantep Chief Public Prosecutor's Office, Gaziantep's 3<sup>rd</sup> Criminal Court of Peace regarded the 25 books and magazines, which were seized in the anti-terror operations in Balıkesir, Hatay and Siirt, as criminal evidence and ruled that they would be pulled from bookstores. The Court justified its decision by reference to the Article 25 of the Press Law and Article 28 of the Constitution. Among the books are; Hasan Cemal's *Delila - Bir Genç Kadın Gerillanın Dağ Günlükleri* ("Delila - Mountain Diaries of a Young Guerrilla") and *Çözüm Sürecinde Kürdistan Günlükleri* ("Kurdistan Diaries During the Resolution Process") published by Everest Publishing House; journalist Tuğçe Tatar's *Anneanne Ben Aslında Diyarbakır'da Değildim* ("Grandma, I was not really in Diyarbakır") published by Doğan publishing house; Müslüm Yücel's *Abdullah Öcalan:*

*Amara'dan İmralı'ya* (Abdullah Öcalan: From Amara to İmralı) published by Alfa publishing house; as well as books written by Abdullah Öcalan.

Other books and magazines banned by the decision are: *Soykırıma Karşı Kültürel Direniş* ("Cultural Resistance Against Genocide"); *Soykırım* ("The Genocide"), *Halk Savaşçılığı* ("Battle for the Truth"), *Son İki Yüzyılda Kürt Sorunu* ("The Kurdish Issue In the Last Two Centuries"); *Halk Özgürlük Eğitim* ("Folk Freedom Education"), *Komün ve Meclisler* ("Communes and Councils"), *Demokratik Uygarlık* ("Democratic Civilization"), *Komünal Ekonomi* ("Communal Economy"), *Kapitalist Modernite* ("Capitalist Modernity"), *Akademileşme* ("Academisation"), *Demokratik Özerklik* ("Democratic Autonomy"), *Kürt Aşkı* ("Kurdish Love"), *Sosyalizmde Israr İnsan Olmakta Isrardır* ("Persistence in Socialism"), *Tarihsel Toplum* ("Historical Society"), *Zihniyetimizin Öncüleri* (Pioneers of Our Minds), *Kürt Sorunu ve Demokratik Ulus Çözümü* ("The Kurdish Issue and The National Resolution") by Abdullah Öcalan; *Gün Işığında Zap* ("Zap in Daylight") by Ahmet Tahir; *Jineoloji Tartışmaları* ("Jineology Discussions"), *İlk Kurşunlu Yıllar:15 Ağustos 1984 Şemdinli* ("The First Years of Bullets: 15 August 1984 Şemdinli") by Emin Sarı; *Mavi Ring* ("The Blue Ring") by Fuat Kav; *Böğürtlen Zamanı 1* ("Blackberry Time 1") by Murat Türk; as well as the magazines *Roza Hune Legenina Hegigate*, *Devrimci Genç Kadın*, *Beybünen Heviya Jine*, *Yeni Demokrat Gençlik* and *Kulilken Heviya Jinen*.

In response to the request of the Chief Public Prosecutor's Office dated 4/12/2015, Criminal Court of Peace ruled on the same day that the books would be pulled from bookstores. The exact statement of the Prosecutor's Office was used in the ruling. It was argued that the books were "making propaganda for a terrorist organization by justifying or praising its methods of force, violence and threats or by promoting the usage of these methods; were publicly inciting to crime; and were praising crime and criminals". The fact that the decision was issued without the books having been read and that the publishing houses weren't notified constitutes a violation of the "right to a fair trial".

The decision on the pulling of the books from the bookstores was brought to Parliament via a parliamentary question of HDP (Peoples' Democratic Party) MP Mithat Sancar. In the parliamentary question, submitted in December 2015, it was remarked that in the decision text, only the names of the books and the relevant legislation were mentioned, but no assessment of any kind of the books' content was included. It was also remarked that unjustified pulling of the books from the bookstores, which had been on the market for a long time, and also had appeared in the bestseller lists, was in contradiction to the articles of freedom of expression and freedom of press in the Constitution. The parliamentary question, which also requested information on the number of the books which had been pulled

from the bookstores from November 2002 till today, and between 12/09/1980 - 24/11/1983, as well as their names and publishers, has still not been answered.

In their appellate briefs, lawyers of Hasan Cemal and Tuğçe Tatari emphasized that the decision was issued on the same day of the request of Prosecutor's Office, and that it was beyond any logic that 25 books and magazines could be read and assessed in just one day, and that the decision was issued without the books having been read. Another point made in the appellate briefs was that those books had been on the market for over a year, and they had been publicly known and discussed. It was pointed out that the books hadn't faced any investigations or lawsuits within the 6 month period, as suggested in Article 26/1 of the Press Law, and thus the decision was actually contrary to law. It was also remarked that the decision constituted a violation of the right of freedom of press as embodied in Article 10 of the European Convention on Human Rights, and that according to the new amendments made to the Press Law, decisions on confiscation and distribution block were possible, but decisions on pulling of the books from the bookstores weren't.

The appeal was concluded in January 2016, and the Gaziantep's 1<sup>st</sup> Criminal Court of Peace ruled that the expression of "pulling the books from bookstores" was incorrect. Based on the conviction that "there's strong evidence that the books contain the mentioned crimes", the Court prohibited distribution and selling of the three books by Cemal and Tatari in Turkey. The lawyers of Cemal and Tatari took the case to the Constitutional Court. In their appeal to the Constitutional Court, they argued that the decision of the Criminal Court of Peace constituted a violation of the "right to a fair trial" and "freedom of expression", as embodied in the European Convention on Human Rights, as well as a violation of the articles in the Constitution regarding "the right to express and disseminate opinions", "press freedom", "the right to one's lawful judge" and "right to legal remedies". Furthermore, the lawyers also argued that by narrating what they had witnessed, the writers had solely exercised their right of freedom of expression, thus, ensuring that the public could exercise their right to learn the truth and right to information. It was also stated that the writers hadn't praised violence nor justified it, that they hadn't made any propaganda for a terrorist organization, and that prohibition decisions eliminated free and democratic discussion of opinions.

In February, İstanbul Chief Public Prosecutor's Office launched an investigation against Hasan Cemal, Tuğçe Tatari, Müslüm Yücel and Mitani Basım Yayıncılık, who had printed the books, for "spreading terrorist propaganda", "provoking public hatred and hostility" and "praising crime and criminal activity".

## **Prohibition on books and publications in Mersin**

Criminal Courts of Peace in Mersin have prohibited many publications in March. Mersin's 3<sup>rd</sup> Criminal Court of Peace issued an order on 4/3/2016 for confiscation and prohibition of distribution and sales of the following books: *Dağın Ardına Bakmak* ("Looking Behind the Mountain") by Bejan Matur, *Yüreğimi Dağlara Nakşettim* ("I Engraved my Heart to the Mountains") by Gurbeteli Ersöz, *Özgürleşen Ruhlar: Kürt Gerilla Hareketi* ("The Liberatory Spirits: Kurdish Guerrilla Movement") by Gülçiçek Günel Tekin, published by Belge Publishing House; *Kürdistan Devrim Manifestosu* ("Manifesto for a Kurdish Revolution"), *Demokratik Uygarlık Manifestosu 3 - Özgürlük Sosyolojisi* (Manifesto for a Democratic Civilisation 3 - Sociology of Freedom") by Abdullah Öcalan; and various issues of magazines *Özgür Halk*, *Tamara Kültür ve Sanat*, *Arınlaşan Yurtsever Gençlik*, *Yeni Demokratik Ulus*, *Şarlo*. The appeal submitted by Belge Publishing House on 7/4/2016 is still pending.

On 10/3/2016 Mersin 1<sup>st</sup> Criminal Court of Peace issued a decision regarding these books: *Kasırga Taburu 2* ("The Hurricane Battalion 2") by Mehmet Sebatlı, *Böğürtlen Zamanı 2* ("Blackberry Time 2") by Murat Türk and *Cezayir Bağımsızlık Savaşının Anatomisi* ("An Anatomy of the Algerian War of Independence") by Frantz Fanon. The Court ruled confiscation and banning orders on distribution and sales of Sebatlı's and Türk's books. However, no such decision was issued on Fanon's book on the grounds that "due to the lacking investigation minute, it couldn't be confirmed that any organisation propaganda was made". The same Court ruled a similar decision on 15/3/2016 for the following books: *İdeoloji* ("Ideology") and *Rojhilata Navin* by Rüstem Cudi; *Demokratik Siyaset ve Demokratik Toplum Savunmaları: KCK Savunmaları*; and *Auschwitz'den Diyarbakır'a 5 No'lu Cezaevi* ("From Auschwitz to Diyarbakır, Prison No. 5") by İrfan Welat.

## **"Devrimin Rojava Hali" ("Rojava State of the Revolution") and "Dağın Kadın Hali" ("The Womanly State of the Mountain")**

İstanbul 3<sup>rd</sup> and 6<sup>th</sup> Criminal Courts of Peace ordered in March and in April confiscation and prohibition of sales and distribution of the two books by journalist Arzu Demir, on the grounds that they make "propaganda of a terrorist organization". The related books, published by Ceylan Publishing House, are *Devrimin Rojava Hali* ("Rojava State of the Revolution") and *Savaşta Barışta Özgürlükte Aşkta Dağın Kadın Hali* ("The Womanly State of the Mountain in War, Peace and Freedom"). Demir narrates in her books her observations and interviews, which she conducted in the field. The books, which were published in July and October 2015, had attracted much attention and had had many print runs. Arzu Demir is now facing investigation for "spreading organization propaganda" in her books.

## **The seizure of Kaynak Holding**

One of the most important publishing groups in Turkey, Kaynak Holding has been placed under government-appointed trusteeship. In line with verdict of Anadolu Chief Public Prosecutor's Office in Kartal, trustees have been appointed to 19 companies, one foundation and one association incorporated in Kaynak Holding, allegedly tied to the "parallel state structure" and "Gülenist Terrorist Organization". On 18/11/2015 the trustees entered the administration buildings of the company in Üsküdar, Bağcılar, and Bayrampaşa, escorted by the teams of İstanbul Police Department's Fight against Financial Crimes Unit. Searches and confiscations were carried out in companies' buildings. Seven trustees have taken over the management of the company.

Among the subsidiaries, which were taken over, were important publishing houses, active in the field of education and exam preparation; publishing houses active in publication of fiction and non-fiction cultural titles; a nationwide bookstore chain with hundreds of stores; a distribution company and a paper company. The seizure of these companies by the state is considered to be an act which will undermine the publishing industry. Because, through their domestic activities, as well as their export activities and copyright sales, these companies have promoted the growth of the publishing industry and contributed to the development of the publishing culture, as well as cultural life in Turkey.

After the trustees have taken over, Ufuk Yayınları -an affiliated publishing house- stopped the publication of abridged version of *The Risale-i Nur Collection* in March 2016, on the order of the trustee İmran Okumuş. Also, all copies of the title were pulled from the shelves of 148 bookstores and warehouses. Furthermore, sale of Fetullah Gülen's books was also stopped. It was argued that the decision about *Risale-i Nur* was taken on the demand of AKP MP Said Yüce from Isparta. Sources from the publishing house said that the abridged *The Risale-i Nur Collection* would no longer be published.

## **Banning decisions on books by Aram Publications, and confiscation of books at the fair**

Due to numerous lawsuits filed against its books and the banning decisions, Aram Publications continues its publishing activities in challenging conditions. During a police raid on the building in September 2015, where the publishing house is also located, the police wanted to enter the offices of the publishing house. But lacking search warrant, they were unable to enter. The publishing house had sent the books to be displayed at the İzmir Book Fair, -taking place between 16<sup>th</sup> and 24<sup>th</sup> April 2016- via cargo. The cargo truck was stopped and the book parcels were taken down and opened during a general control, which took place around

Kırşehir on 16<sup>th</sup> of April. As a result, 74 titles (3200 books) were confiscated. After the initial inspection, 20 parcels were returned to the publishing house, while the majority of the parcels was not returned.

In Mersin as well as in other provinces, book-banning decisions on the books of Aram Publications have been issued. Acting on the banning decisions issued by the courts of Gaziantep and Mersin, the police raided the publishing house's booth in the 2<sup>nd</sup> Van Book Fair. 180 books present at the booth were confiscated. The confiscation was executed without the court decision being presented; the decision was merely orally mentioned by the police. Publishing house employee was taken to the police department for a testimony. Next day, another police raid was carried out; this time seven copies of *Kasırğa Taburu* ("The Hurricane Battalion") by Mehmet Sebathı and *Rojhilata Navın* by Rüstem Cudi were confiscated, again the police merely mentioned the decision orally.

The appeals submitted by the lawyer of the publishing house, based on the decision of the Constitutional Court, and the nullification of the previous banning decision, have still not been answered. Although the decision issued by Gaziantep's 3<sup>rd</sup> Criminal Court of Peace was nullified by the Constitutional Court, the nullified decision was not removed from the system, so confiscation acts continued. The application for the removal of the former decision from the system has not been answered.

Publishing house's booth at the Amed Book Fair, held between 17<sup>th</sup> - 22<sup>nd</sup> May 2016, was raided by a crowded policemen group with machine guns. The police wanted to confiscate the booth banner, which included images of certain books. The attendants at the booth removed the banner and handed it over to the police. The police raid caused tension in the exhibition area.

### **Ceylan Publications was pushed out of the book fair**

Ceylan Publications faced censorship at the 10<sup>th</sup> Ankara Book Fair, a fair which they had been attending to for years. A commotion took place, when the attendants of the neighboring booth harassed Ceylan Publications employees because of the books *Dağın Kadın Hali* ("The Womanly State of the Mountain") and *Devrimin Rojava Hali* ("Rojava State Of The Revolution") by Arzu Demir, and their posters, present at the booth. Instead of ending the harassment, fair officials suggested "relocating Ceylan Publications' booth to a more invisible place". Upon rejection of the proposal by the publishing house, Ceylan Publications was requested to leave the fair and their contract was terminated. Fair management defended itself by stating that this intervention was undertaken in order to end the discussion and to prevent other publishers from being affected.

## **A high school teacher faces administrative and criminal investigation because of his book**

Administrative and criminal investigations have been launched against Atalay Girgin, a philosophy teacher (at the Haymana Nuri Bektaş High School) and author of seven books. Girgin is charged with “insulting the President” in his book titled *Lağımpaşalı*, which narrates the fable of a group of rats. The investigations were launched on the grounds that the book title “Lağımpaşalı” resembles to the word “Kasımpaşalı”, a nickname used for Erdoğan. Girgin is charged with insulting the President and the Prime Minister. The teacher was first subject to an administrative investigation. The inspectors, appointed by Ankara Provincial Directorate for National Education acting on request of Haymana District National Education Directorate, presented the book and the teacher’s shares in social media as evidence. Before the investigation, launched in February 2016, was closed, Girgin was temporarily assigned to “Bala Anadolu Lisesi” (high-school). In Haymana, he became target of many accusations, such as “heathenizing students”, “making propaganda for a party in lessons”, “training militants”. Then, a criminal investigation was launched against him in response to a denunciation, charging him with “insulting the President”. The autograph session for his latest book *Aşk Mavidir Öğretmenim*, organized at the request of his students, was cancelled under pressure from the managers of Teacher’s Lodge, where the session was to take place. Investigations launched against Girgin are still pending.

## **Investigation against “Şifa Ayetleri” (“Curing Verses”)**

An investigation has been launched against Ahmet Mahmut Ünlü, -also known as “Cübbeli Ahmet Hoca”- for “insulting religious values” in his book *Şifa Ayetleri*. A criminal complaint was filed with the Ankara Chief Public Prosecutor’s Office, arguing that the book was “provoking public hatred and hostility” and “insulting the public”. In the complaint, the usage of surah, verses of Quran and names of Allah in the book were criticized, and regarded as “an insult to Islam, Muslims and Allah”. Furthermore, the complaint called for prohibition of its sale and the pulling of the books from bookstores, claiming that the book could “cause indignation”. The complaint file has been assigned from Ankara to Bakırköy Chief Public Prosecutor’s Office, and an investigation has been launched. In his testimony at the prosecutor’s office, Ünlü claimed that the passages dealing with sexual issues in the book, which were subject to the complaint, were not written by himself, but translated from an Arabic book titled *Fatiku’r-rath ala Ratiku’l-feth*.

### **“Family Tea Garden” reading event banned**

Yekta Kopan’s book *Aile Çay Bahçesi* (“Family Tea Garden”) is pulled from the bookstores due to the “sexually explicit” expressions in it. An investigation has been launched over its distribution.

Within the scope of a project undertaken by Bolu Provincial Directorate for National Education with the aim of motivating children to read, various events were planned, where children and authors could come together. The selection of the authors and the books was undertaken by a commission, comprising of the literature teachers in the province. Amongst the books selected for 2016 was also *Aile Çay Bahçesi* by Yekta Kopan, published by Can Publications. The book was sold to the children so that they could read it before the event. Examining the book, some of the parents found some expressions in it to be “sexually explicit”, and complained about it. The autograph session to be held with Kopan and the students was cancelled. Bolu Governorate has launched an administrative investigation against those, responsible in the process of distribution of the book to the students, so that legal action can be taken against them.

### **Amendment to the Article 47 of the Law No. 5846 annulled, publication for free of Risale’i Nur Collection**

Article 47 of the Law No. 5846 on Intellectual and Artistic Works, on orphan works, was amended by the Omnibus Bill No. 6552 in 2014. The amendment had empowered the council of ministers for the State to appropriate the copyrights of some works, before the term of protection expires. The amendment had been regarded as an act to ensure that the contents and the publication of Bediüzzaman Said Nursi’s *Risale’i Nur Collection* were put under state control, and that the title wouldn’t be published anymore. *Risale’i Nur Collection* is considered of importance by Gülen followers, and was published by Gülen movement affiliated publishing houses. Several CHP MPs petitioned the Constitutional Court regarding the repeal of some articles of the Omnibus Bill No. 6552, including the aforementioned amendment. The Constitutional Court annulled the amending law in its judgment dated 15 June 2015 on the grounds that the constitutional right to property (Art. 35) was disproportionately restricted, and the freedom of expression and dissemination of thought (Art. 25, 26) were also violated. After that, lawyers of the publishing house appealed to the Council of State for the annulment and stay of execution of the Cabinet Decree, which had transferred the publication rights of *Risale’i Nur Collection* to the Presidency of Religious Affairs. Based on the decision of the Constitutional Court, Council of State issued a stay order on the Cabinet Decree, on 10/09/2015. Then, Saadettin Kaynak, the lawful heir of Said Nursi, signed a letter of consent to enable publication of the *Risale’i*

*Nur Collection* for free. Thus, publication of the abridged versions of *Risale’i Nur Collection* was legally blocked. On the other hand, the Ministry of Culture and Tourism will give banderols to all of the publishing houses who bring the letter of consent from the lawful heir.

## **Cases and Decisions**

### **“Potus ve Beyefendi” (“Potus and the Gentleman”)**

President Tayyip Erdoğan’s lawyer Ahmet Özel filed a complaint against Tolga Tanış, the Washington correspondent of daily *Hürriyet*, accusing him with “insulting and slandering the President” in his book *POTUS ve Beyefendi*, published by Doğan Kitap. Özel claimed that «POTUS» was the nickname for US President Barack Obama in the White House and «the gentleman» was used for Erdoğan, and that the book contained «untrue information that could damage his client’s reputation and could provoke the public against him”. The lawyer also claimed that the book could not be considered as a source book. During the investigation, launched by İstanbul Chief Public Prosecutor’s Office, Tanış was called on to testify. In October 2015, the Court issued a decision of non-prosecution. The book gives an analysis of the relationship between US and Turkey, starting from 2009, when the U.S. President Barack Obama came to power and 2014, when Erdoğan left his seat as a prime minister to become the president.

### **“Musa’nın Gül’ü” (“The Rose of Moses”)**

Ergun Poyraz was sued for causing mental anguish in 2007, for “harming the reputation and honour” of Abdullah Gül, the then presidential candidate, in his book *Musa’nın Gül’ü* (“The Rose of Moses”). The case had ended in acquittal in 2009, and the decision was approved in 2011. Upon Gül’s revision request, the decision was reversed by the Court of Cassation, and thus Poyraz was tried again. This time, the Court had convicted Poyraz to a compensation of 15 thousand Turkish Liras, in 2013. Poyraz then took the case to the Constitutional Court, arguing that his freedom of expression had been violated. The Court ruled on 27/10/2015 that the compensation decision was unconstitutional and Poyraz’s freedom of expression had been violated. Proceedings expenses will be reinstated to Poyraz.

### **“Paralel Yürüdük Biz Bu Yollarda” (“Together We Have Walked These Parallel Paths”)**

Binali Yıldırım, the former Minister of Transport, Maritime Affairs and Communications, had lodged a complaint against journalist Ahmet Şık, and had also sued him for mental anguish in 2014, for his book *Paralel Yürüdük Biz Bu Yollarda* (“Together We Have Walked These Parallel Paths”), published by Postacı Publica-

tions. Anadolu 22<sup>nd</sup> Criminal Court of First Instance ruled on 15/12/2015 that Yıldırım should receive 4 thousand in compensation.

### **“Askere Gitmeyin Çünkü...” (“Do not Join the Military Because...”)**

Round 400 people had finished the sentence “Do not join the military because...” with their own words, and later a book had been published including all of the sentences written, bearing the same title. Later, the sentences in the book were read out loud at the civil disobedience action held before Çağlayan Courthouse. On 21/5/2015, the investigation launched against lawyer Ali Başaran, one of the editors of the book, on the allegations of “alienating people from military service” according to the Article 318 TPC, turned into a prosecution. In his testimony, Başaran stated that he was for conscientious objection on religious grounds. He also said that the criminalization of “alienating people from military service” was irrational and unlawful. Başaran was acquitted at the hearing on 14/5/2016.

### **“Hırsız Vaaar!” (“Catch that Thief”)**

Ali Özsoy had been sued last year for “defamation of the President” over his book “Hırsız Vaaar”. At the hearing before İstanbul’s 2<sup>nd</sup> Criminal Court of First Instance on 29/3/2015, the two defamation cases initiated by Bilal Erdoğan and Binali Yıldırım against Özsoy’s book and “defamation of the President” case initiated against his article, which appeared in the conclusion of his book, were joined. The request for an expert’s report was accepted, and the hearing was postponed to 28/6/2016. Three mental anguish cases are launched, where Tayyip Erdoğan demands 100 thousand TL, Bilal Erdoğan 50 thousand TL, and Binali Yıldırım 30 thousand TL. The cases are still pending.

### **“Hayırsever Terörist: Yasin El Kadı” (“The Benevolent Terrorist: Yasin El Kadı”)**

A criminal action was initiated by Yasin El Kadı against journalist-writer Nedim Şener over his book “Hayırsever Terörist: Yasin El Kadı” (“The Benevolent Terrorist: Yasin El Kadı”), published by Destek Publishers. The court had issued a non-prosecution decision in 2014. Also, mental anguish lawsuits were filed against the book by El Kadı -for 100 thousand TL-, and by Cüneyt Zapsu -for 5 thousand TL-. The lawyers of the publishing house filed a demurrer, arguing that the book was published with the same content by another publishing house in 2006, and that the prescription period for a mental anguish lawsuit had come to an end, as provided for in the Press Law. On 23/2/2016, the court sustained the demurrer regarding Zapsu’s lawsuit, and the case was dismissed. The hearing of the El Kadı’s case was postponed to 21/6/2016.

## **“Big Boss”**

Mental anguish lawsuit, filed against journalist Mustafa Hoş's book “Big Boss”, published by Destek Publishers, is still pending before İstanbul's 12<sup>th</sup> Civil Court of First Instance. The complaint was lodged by Hasan Yeşildağ in 2015, about whom the book contained some statements. The court, having turned down the request of Yeşildağ for a banning decision on the book, decided to continue the trial on 31/5/2016. Another mental anguish lawsuit -for 100 thousand TL- has been filed against the same book by President Recep Tayyip Erdoğan. Launched before İstanbul's 25<sup>th</sup> Civil Court of First Instance on 16/11/2015, the case is in pre-investigation phase. A hearing date has yet not been set.

## **“Beni Sen Öldür: Maraş 78” (“You kill me: Maraş 78”) and Şener's article**

Author and journalist Nedim Şener wrote an article in his column in “Posta” daily, about Aziz Tunç's book *Beni Sen Öldür: Maraş 78* (“You kill me: Maraş 78”). Having heard about the book via the article, Ramazan Tural, an inmate of Maltepe Prison sentenced for arms smuggling, had filed a complaint against Tunç, Şener and Doğan Holding -owner of the daily-, claiming that the book would cause enmity in the society. Tural had confessed that he hadn't read the book. The Court had issued a decision of non-prosecution. Tural has again filed a complaint against Tunç, Şener and Doğan Holding, this time for mental anguish compensation, claiming that the book is causing “separatism” and that he had been “damaged by the book.” His complaint was rejected in April 2016.

## **ECHR: Convictions over books constitute violation of rights**

Müdür Duman, Head of Eminönü District Management for HADEP, had been put on trial for some publications including Abdullah Öcalan's books and articles, which the police had found in his office during a search undertaken during his absence. Duman was sentenced to 6 months in prison for “praising crime” and “misprision of felony”, as well as to a fine of 91 million 260 thousand (old Turkish Lira). After the sentence was finalized, Duman took the case to the ECHR. On 6/10/2015 the Court decided Duman's sentence to be a violation of his rights, and sentenced Turkey to pay Duman compensation.

## **BURNING DOWN, PLUNDERING AND DESTRUCTION**

### **Şırnak Public Library burnt down**

During an operation in Şırnak on 25/12/2015, improvised explosive devices were detonated in the building, which also housed the Provincial Directorate of Culture and Tourism, as well as the Provincial Public Library. The explosion led to a fire in the building. Six students working in the library and members of the staff were injured and taken to the hospital.

## **Gül Bookstore burnt down, its owners injured**

A 32-year old bookstore, Gül Bookstore in Kırşehir was plundered and burnt down on 8/9/2015 by a group of protesters, protesting terrorist acts. The group of hundreds of aggressive people has first attacked a political party building and some offices, and then headed for the Gül Bookstore. Shouting slogans, the group threw stones at the two-storey bookstore, run by Eşref Odabaşı and Sait Akıllı, known for their leftist identities. Then, they poured gasoline and threw Molotov cocktails at the bookstore, which started a fire, burning the items at the display and the interior of the store. Assaulters injured Akıllı on the head. The owners of the bookstore recounted that the few policemen, which were present on the scene, had done nothing against the assaulters, and that five people, who were in the store at the time of the attack, had been able to rescue themselves by jumping out of the window on the upper story. After the attack, which reminded everyone the events of Sivas Massacre, a support campaign was launched for the re-construction of the bookstore building. Although the lynching attempts of the assaulters were known, they had been only charged with “causing damage to property”. The case began before the 2<sup>nd</sup> Criminal Court of First Instance in December 2015, and most of the accused detainees were swiftly released. The case was consolidated with the other cases regarding the stores, which were also attacked on the same day. Although there were successive assaults and burning incidents caused by hundreds of assailants, only 17 accused are being tried, and two suspects are arrested. Fifth hearing of the case will be held on 24/5/2016.

## **TÜBİTAK pulls its books from the bookstores and destroys them**

A new regulation regarding the publication of foreign works has been put into force by the President of TÜBİTAK (Scientific and Technological Research Council of Turkey) Arif Ergin in 2014. According to the new regulation, foreign works will now be assessed in terms of criteria of “being in conformity with the Turkish culture” and “localness”. In line with the new regulation, especially popular science books for children and young people are now closely examined. It has come to light that in 2015, it was decided to recall and evaluate approximately 50 thousand books. The books which don't meet the criteria will be destroyed.

A columnist in “Yeniçağ” daily Arslan Bulut wrote a piece, claiming that the showing of some Jewish and Christian religious rituals in the book Gökkuşağının Tüm Renkleri (“*All the Colours of the Rainbow*”) published by TÜBİTAK, were “Zionist propaganda”. Bulut then published the response of Arif Ergin in his column on 21/11/2015. In his letter, Ergin stated that TÜBİTAK had published 700 titles, reaching a total print run over 17 million and that the publishing processes of the books to be published, as well as the published 700 titles would now be cont-

rolled. Ergin also wrote in his letter: “In pursuing our aim to bring intellectual works of good quality, we strive to publish works, which won't lead to moral and cultural erosion.”

### **Attacks on İthaki Publishing**

İthaki Publishing was severely criticized on social media, for the sexist style of the short biographical text, printed in Virginia Woolf's *Kendine Ait bir Oda (A Room of One's Own)*. After the reactions on social media, a group of protesters entered the offices of the publishing house in Kadıköy and protested in an offensive way in front of the office door. They threw some paint on the door, and also wrote on it. Worrying about their security, some of the publishing house staff left the building. The aggressive character of the assault and the fact that it had taken place after the publishing house had made an apology announcement, has caused reactions among the readers.

## **BANNING OF BOOKS IN PRISONS**

### **Reason for book banning in solitary confinement: “Putting public safety in danger”**

Books, sent to UK citizen Steve Kaczynski, who was imprisoned in Maltepe L-Type Closed Prison, No:3, held in an isolation cell, were confiscated by prison management. The confiscated books were *Bütün Yoksul Mahalleler Bizim Olacak* (“All the Poor Neighbourhoods Will Belong to Us”), *Halkların Bütün Acılarının Hesabını Sormak için Sınıf Kini* (“Class Hatred”), *Adımız İsyân* (“We're Called Rebellion”) and *Kavgamın Çırağı Olmak İsterim* (“I want to be the Novice of My Struggle”). The Prison Education Committee justified its decision by arguing that the books contained “statements, which encourage crime and praise organizations, who have attempted to bring down the democratic order” and that they also “made propaganda for subversive organizations”. The decision was based on some of the articles of the relevant legislation, which are as follows: “publications which will put public safety in danger, cannot be given to the inmates”, “factors, which will prevent the convicts to relapse into crime, should be intensified.” Kaczynski's lawyer Aycan Çiçek stated that the books were sent to Kaczynski from another prison, that they were given to the inmates in that prison and read, and that there was neither a banning nor a confiscation decision on them. Appeal submitted by the lawyer before İstanbul Anadolu 2<sup>nd</sup> Office of Execution Judge was denied by the Judge of Execution Remzi Gemici on 18/06/2015. Çiçek stated that also letters, newspapers and magazines sent to Kaczynski were withheld arbitrarily.

### **Limitation in the number of the books in Bakırköy Prison for Women**

Bakırköy Prison for Women prison authority issued a decision on 16/11/2015, limiting the number of books, which inmates are allowed to have. The prison authority asked the inmates to deliver the “extra books” to them until the end of the year. The authority justified its decision by stating that cell-searches were difficult to conduct and disturbing the cell order. In the decision, by-law on belongings from 2005 and the ruling of the Constitutional Court from 30/1/2015 were referred to. The related ruling of the Constitutional Court states that restrictions brought in on the number of books inmates allowed to have, do not violate Article 26 of the Constitution on freedom of expression. According to the decision of the prison authority, inmates can borrow 3 books from the library, and can keep maximum 10 books. Text-books and the sacred texts of religions are excluded from the decision.

### **Constitutional Court: “Hindering access to publications in prisons; a violation of rights”**

In 2015, many convicts have applied to the Constitutional Court about their hindered access to publications. The Court responded positively to all of those individual applications, and ruled retrials and/or compensation payments. On 26/02/2015, the Court ruled for a retrial regarding the application of İbrahim Bilmez, imprisoned in Kocaeli F-Type Prison, No:2. Bilmez had applied to Constitutional Court on the grounds that “Demokratik Modernite” (Democratic Modernity) magazine sent to him was not delivered. Imprisoned in Ankara F-Type Prison, No:2., Bilal Demirdağ, Kamuran Reşit Bekir and Mehmet Çelebi Çalan had made individual applications on the grounds that newspapers and magazines were delivered to them after some pages had been torn off. In case of Demirdağ, it was the Azadiya Welat newspaper; in cases of Bekir and Çalan, the newspaper Özgür Gündem and the magazine Demokratik Modernite. In all three applications the Court ruled -on 5/11/2015, 8/4/2015, 4/11/2015, respectively- that there had been a violation of rights, and a compensation to be paid to the convicts.

Bejdar Ro Amed, imprisoned in Bafra T-Type Closed Prison, applied to the Constitutional Court on the grounds that his book draft *Demokratik Siyaset ve Özgür Toplum* (“*Democratic Politics and Free Society*”) was brought out of the prison and its publication was hindered. Some parts of the book draft were found by the prison authority to be making “propaganda for a terror organization”. On 16/4/2015, the Constitutional Court ruled for a compensation to be paid to Amed. Imprisoned in Kırkkale F-Type Prison, Hüseyin Sürensoy was confined solitary confinement, after a leaflet found in cell search was accepted as organization document. Sürensoy applied to the Constitutional Court, and the Court ruled on 6/10/2015 for a compensation payment.

## **OPPRESSION ON PRESS**

According to Media Monitoring Report 2015 by Bianet, number of journalists, who were convicted for insulting the President Tayyip Erdoğan in 2015, has increased tenfold since 2014. Charged with insulting the President under the articles 125/3 and 299 of the Turkish Penal Code, 28 persons, -amongst them 19 journalists and 2 caricaturists- received a total imprisonment of over 21 years. There has also been a critical rise in the number of journalists who have been detained, arrested, dismissed or forced to leave. In 2015, 120 journalists were detained, 31 journalists were arrested. 39 journalists and publishers entered the year 2016 in prisons, all of whom were charged with organization affiliated crimes. 348 journalists were dismissed or forced to leave. Journalists and media outlets, who expressed critical views, were drawn away from media or censored via media blackouts, confidentiality orders, accreditation discrimination or denial of access. Between January-March 2016, 49 journalists and media outlet employees were detained. By April 2016, 28 journalists and 10 distributors are in prison, charged with organization affiliation. Recently, there have been numerous incidents, where journalists have been attacked and threatened. The impunity of police violence against journalists has been an issue.

Falling back two more spots, Turkey came in at #151 among 180 countries in the World Press Freedom Index, released by Reporters Without Borders. In the Freedom of Press Report released by Freedom House, Turkey came in at #156, ranking as a country without a free press among 199 countries.

### **Seizure of media outlets and attacks on the media outlets**

Recently, numerous media outlets, allegedly Gülen-affiliated companies, were placed under government-appointed trusteeship. In September 2015, the police conducted consecutive raids on the building of İpek Koza Holding as part of the “corruption” investigation against the company. İpek Koza Holding is the parent company of 23 media outlets including Kanaltürk and Bugün TV television stations. On 26/10/2015, the holding was placed under government-appointed trusteeship on the order of Ankara 5<sup>th</sup> Criminal Court of Peace. On 4/3/2016, İstanbul 6<sup>th</sup> Criminal Court of Peace issued a decision to appoint trustees to manage Zaman newspaper, which has been active since 1986. The trustees, entering the newspaper escorted by the police took over the management. In the following days, managements of the other subsidiary companies of Feza Yayıncılık A.Ş were also placed under government-appointed trusteeship;

Meydan newspaper, Today's Zaman, Cihan News Agency, Aksiyon magazine, Zaman publishing house, Cihan media distribution, Irmak TV, Radio Cihan, Zaman US, Zaman Azerbaijan, Zaman Austria, Zaman Europe, Zaman Bulgaria, Zaman Kazakistan, Zaman Romania and Zaman Turkmenistan.

On 6<sup>th</sup> and 8<sup>th</sup> of September, İstanbul office of the independent daily Hurriyet was attacked by an aggressive group of people. On the evening of 6<sup>th</sup> of September, approximately 200 persons first shouted slogans in front of the building, and then managed to get over the barriers and smashed the windows of the front entrance, damaging the security cabin and the cameras outside. 48 hours after the first assault, a group of 100 people gathered in front of the building, this time with two excavation trucks, a truck and minibuses. In time, number of the vehicles and protesters rose to 21 and 400, respectively. Being not able to enter the building, the assaulters smashed the windows. Carrying Turkish flags in their hands they shouted slogans like “Ya Allah bismillah Allahu ekber” and “We’re all police, we’re all soldiers”. On the night of 9<sup>th</sup> of September, at around 01.55 a.m., a group of 40-50 taxis appeared before the building and shouted some slogans. In the investigation launched against the attackers, the prosecution released 25 persons, who testified saying “We didn’t do any harm to the building”. No progress has been achieved in the proceedings.

On the evening of 8 September 2015, a group of protesters attacked the buildings of Sabah daily and ATV television station. First carrying out whistle protests before the building, the group then tried to enter the Sabah - ATV building, and threw stones, shouting anti-government slogans. It was with difficulty that the group was prevented from entering the building.

### **ECHR rulings on the violations of rights of journalists**

Three recent rulings of ECHR stand out regarding violation of freedom of expression, which occurred as a result of fines imposed on publications.

Abdurrahman Dilipak had been sentenced to compensation for insulting Güven Erkaya, a commander of the Turkish naval forces in his article, published in a weekly magazine in 2003. Dilipak applied to the ECHR, and the Court ruled on 15/9/2015 that there was a violation of right.

Owner of the Evrensel newspaper Ahmet Sami Belek and its chief-editor Savaş Veliöğlü had faced investigations for an article published in 2003, demanding a democratic solution to the Kurdish issue. In 2003, the State Security Court had issued a fine and a three-day publication ban. Belek and Veliöğlü had applied to the ECHR in 2004. In its decision of 6/10/2015, the Court found Turkey guilty.

In 2007, a police raid had been conducted on the office building of “Nokta”, a weekly magazine, upon a military court ruling issued on the “Andıç” issue of the magazine. In the raid, all of the documents and the PCs were seized. The then-editor-in-chief of the magazine Alper Görmüş and the reporters working at the magazine Mehmet Ferda Balancar, Ahmet Haşım Akman, Ahmet Şık, Nevzat Çiçek and Banu Uzpeder had applied to the ECHR. In its decision of 21/1/2016, ECHR found Turkey guilty and has ordered Turkey to pay compensation.

## **OPPRESSION ON INTERNET PUBLISHING**

The effects of the freedom-restricting amendments made to the internet law in 2015 can now be observed clearly. Hindering of dissemination of critical views has continued, through blockings of access in internet and social media, content removal decisions, investigations, as well as lawsuits. Twitter, which was blocked in the past and then unblocked upon a Constitutional Court decision, was blocked again in July 2015 for a day.

In the Freedom of Press Report for 2015 released by Freedom House, Turkey was listed as a country, whose press is “partly free”. The report stated that the latest amendments made to the internet Law No. 5651 and MIT Law have increased the government’s control over internet, and have also ensured state’s access to personal data without any notification. It was also remarked that internet content could now be easily censored with justifications like protection of private property, national security or public order. The report also mentioned that over 67 people had faced criminal actions for insulting Recep Tayyip Erdoğan via internet, after he had become the President.

According to data provided by “Engelli Web” (Disabled Web), access to a total number of 27,346 web sites had been blocked in 2015. 26,663 (%94.1) of the blockings were executed by TİB, and 683 (%5.9) of them by other institutions. According to the data log of 10/5/2016, in the 10-year period, from 2006 -where Engelli Web started to record- till the end of 2015, a total number of 109,572 web sites were blocked.

### **Turkey ranks high worldwide in censorship of social media and the internet**

In the transparency reports of Twitter and Facebook, Turkey is again among the leading countries regarding the content removal requests. According to Twitter’s 2015 Transparency Report, Turkey ranks as #1 worldwide with a landslide. Between 1<sup>st</sup> January - 30<sup>th</sup> June 2015, Turkey sent 718 content removal requests to Twitter, 408 of which by court orders. Twitter accepted 34 % of the requests, and removed the related contents. Between 1<sup>st</sup> July - 31<sup>st</sup> December 2015, Turkey sent 450 content removal requests by court order and 1761 content removal requests by other authorities. Twitter accepted 24 % of the requests, and removed the related contents. Furthermore, in 2015 there were 815 account information requests made by Turkey, none of which Twitter accepted. According to the transparency data provided by Facebook for the same period, personal data of 368 users were requested by Turkey, related to criminal proceedings. Facebook answered 87,5 % of the requests with partial information. Upon requests of courts and TIB, based on the Law No. 5661, 4496 contents were removed. According to Google Transparency Report for 1<sup>st</sup> January - 30<sup>th</sup> June 2015, Turkish authorities sent 3,467 content removal requests, asking to remove 34,299 items. For 506 requests and 6207 items, the authorities put forward “confidentiality and security” reasons.

## **Media blackout decisions increase**

Censorship in media and internet via media blackout decisions has also continued to exist in this period. The courts swiftly issue media blackout decisions on nearly every incident which raises a lot of concern in the society. Because of the blackout decisions, it has become impossible to be able to publicly discuss issues which are of interest to the general public, or to follow the investigation processes.

The blackout decisions issued in this period include the decisions regarding the explosions and bombings in Suruç, at the Ankara main train station, in Gaziantep, Sultanahmet, Diyarbakır and Kilis; the incidents of sexual abuse of children in Pamukova, Karaman, Milas, Kocaeli; the operation in the Ayvalık Directorate of Land Registry; case of Mehmet Baransu, where the journalist is being charged with “violation of confidentiality”; child murders and child pornography. It’s a serious issue of debate, whether the blackout decisions issued, aim in fact to protect the victims or to protect the criminals; whether the confidentiality is provided to ensure that the investigations are conducted soundly, or to hinder that the public finds out about the truth. It has been observed that in case of the media blackout decisions on criminal investigations where victims are children, the blackout decisions not only protect the identities and ensure the security of the victims, but also protect the suspected persons and institutions and prevent the social dimensions of injustice to be perceived and discussed, and generate solutions. The lacking of information about the subject matters and persons on the blackout announcements and the court documents, published on the web site of The Radio and Television Supreme Council (RTÜK), is an interesting detail pointing out as to where censorship starts.

## **ECHR convicts Turkey for censorship on YouTube**

Serkan Cengiz, Yaman Akdeniz and Kerem Altıparmak had applied to the ECHR concerning the blocking of access to YouTube in 2008 and 2010. In its ruling of 1/12/2015, the Court found Turkey guilty, ruling that the freedom of expression and the right to receive information of all the citizens were restricted through the blocking decision. The ruling of the ECHR has paved the way for internet users to be able to apply to the Court against the blockings of access.

## **DECISIONS OF HIGH COURTS**

### **Decisions of the Constitutional Court**

In its numerous decisions in the recent period, the Constitutional Court has ruled many times that violation of freedom of expression has occurred. In its plenary decision of 8/12/2015, the Court ruled that the censorship-extending

amendments made to the Internet Law 5651 (Law on the regulation of publishing in the internet environment and the combating of offences, committed through such publication) by omnibus laws were unconstitutional. The annulled amendments were made to ensure 1) that content, hosting and access providers were to deliver information demanded by the Turkish Telecommunications Authority (TIB) to them, and were to be responsible to take the measures notified, 2) and that the same access-blocking decision was to be implemented, in case same or alike broadcasts, which were denied access, appeared on some other internet sites.

The amendment made to the Article 47 of the Law No. 5846 on Intellectual and Artistic Works regarding orphan works, by the Omnibus Bill No. 6552, aimed to empower the council of ministers for the State to appropriate the copyrights of some works, before the term of protection expires. Some CHP (Republican People's Party) MPs had appealed to the Constitutional Court for the annulment of the amendments. The Constitutional Court ruled on 11/06/2015 the annulment of the amendment, finding it to be unconstitutional and constituting a violation of freedom of expression.

The Constitutional Court also accepted numerous individual applications on freedom of expression violations regarding publications. The Court responded positively to all of those applications by finding violations of rights and ruled retrials and/or compensation payments. The individual applications were made by; Bekir oşkun, a journalist and writer, who had been sentenced to a punitive fine because of an article of his in Cumhuriyet daily,

Ali Gürbüz, publisher of «Ülkede Özgür Gündem» newspaper and editor-in-chief Hasan Bayar, who had faced public prosecution charges because of the news they published, and were tried for a long time, also an issue of the newspaper was seized,

Ali Rıza Üçer, a radiation oncology expert, who had been sentenced to pay compensation for insulting Melih Gökçek, Mayor of Ankara Metropolitan Municipality, in his report on contamination in drinking water,

Can Dündar, editor-in-chief of Cumhuriyet daily and Erdem Gül, daily's Ankara bureau chief, who were imprisoned because of the headline "Here are the weapons Erdoğan claim to not exist" on 29/5/2015, and the news on the vehicles linked to Turkey's MIT intelligence organisation,

Ergun Poyraz, who had been sentenced to pay compensation for his book "The Rose of Moses".

In this period, the Constitutional Court also received many individual applications by convicts, whose access to publications were restricted. The applications included pleas against incomplete delivering of the publications, hindering

of a script written in prison to be taken out and published, solitary confinement because of a publication found in the cell. The Court responded positively to all of the applications, and ruled retrials and/or compensation payments. The Constitutional Court denied applications made by convicts about the censorship exercised on the letters which they write, but found violation of right and ordered compensation, regarding an application submitted by a convict, whose letter was destroyed.

### **Decisions of the European Court of Human Rights**

ECHR released its statistics for 2015 on 28/01/2016. ECHR is responsible for applications from 47 member states of the Council of Europe. According to the statistics, in 2015 Turkey is ranked 3<sup>rd</sup>, regarding the number of cases brought before ECHR. With 8,450 cases Turkey comes after Ukraine and Russia. Regarding the number of rulings issued, Turkey is ranked 2<sup>nd</sup> following Russia. By 28/01/2016, 8,450 of the total 64,850 files before ECHR are regarding Turkey. 87 of 823 rulings issued in 2015 were regarding Turkey. 13 % of the Court's workload concerned Turkey, in terms of number of rulings. In 79 of the 87 rulings on Turkey, Turkey was fined for violation of rights. In 2015, Turkey was fined mostly for the violation of the right to a fair trial. Also, Turkey has been the country, about which the ECHR has ruled a violation of freedom of expression the most; of the 28 cases, 10 were regarding the applications from Turkey.

In the first three months of 2016, the ECHR has convicted Turkey of violation of freedom of expression in four cases.

## **REPORTS WRITTEN BY FOREIGN BODIES**

### **EU Commission Turkey Progress Report 2015**

Expected to be released on 14/10/2015, the release date of the Turkey Progress Report was first postponed to 21/10, then to a later date after the general elections of 1<sup>st</sup> October in Turkey. The postponement of the release due to the refugee crisis negotiations between EU and Turkey drew criticism. It was suspected that the harsh criticism of the freedom of expression violations was toned down. The statements on the freedom of expression in the report, released on 10<sup>th</sup> of October, can be summarized as follows: There has been no progress in the past year regarding "judiciary and fundamental rights". The independence of the judiciary and the principle of separation of powers were seriously undermined. After several years of progress on freedom of expression, serious backsliding was seen over the past two years. Freedom of expression is frequently challenged, in particular through arbitrary and restrictive interpretation of the legislation and adoption of

some improper legislation; political pressure; criminal cases against journalists, writers or social media users; dismissals of journalists; censorship cases; and through self-censorship as a result of all this incidents. Deportation of some international journalists; attacks and threats against media outlets; imprisoned journalists, physical assaults against journalists; media blackouts; arbitrary accreditation decisions; unfair distribution of the state-sponsored advertising across the media organs, criminal legislation on defamation; widened practice of prison sentences for insulting the President are issues of serious concern. Changes to the internet law, which are a significant step back from European standards, increased the government's powers to block content. The insufficiency of the existing internet legislation in protection of freedom of expression, privacy and personal data is regarded as a serious matter of concern. The articles of the Criminal Code on "defamation" and on "membership of an armed organisation" need to be amended.

### **European Parliament Turkey Resolution**

European Parliament's resolution of 14 April 2016 on the 2015 report on Turkey of the EU Commission is received as the harshest and the most negative resolution of the Parliament about Turkey. In the resolution it's stated that there has been significant backsliding in the areas of freedom of expression, and also in democracy and rule of law. The resolution covers more examples of incidents regarding the pressure on media outlets, and also more detailed than in the 2015 report of the EU Commission. In the resolution the Parliament calls on the Council of the EU to propose the opening of chapters 23 (judiciary and fundamental rights) and 24 (justice, freedom and security) and to ensure that the reform process in Turkey is shaped on the basis of EU values and standards. It also calls on Turkey to engage fully with the Council of Europe and with the Venice Commission in the areas of judicial reform. The Parliament also remarks the case against Can Dündar and Erdem Gül, their imprisonment, as well as the severe sentences demanded by the prosecutors. And it urges Turkey to defuse the tense political climate which creates an environment curtailing freedom of speech in the media and on the internet. The Turkish government responded harshly.

### **USA Department of State Human Rights Report**

The Turkey section of the report covered the human rights issues in Turkey in three main topics; "government interference with freedom of expression", "impunity and weak administration of justice" and "inadequate protection of civilians". Apart from the government pressure on the media, following issues, relating to the violation of freedom of expression, were also mentioned in the report: hindering of access to information through media blackouts on developments in Sout-

theast of Turkey; taking control of the media outlets and digital media platforms affiliated with the Fethullah Gülen movement, shutting some of them down. The restrictions on books were mentioned in the report as follows: “While the law does not ban particular books or publications, publishing houses were required to submit books and periodicals to prosecutors for screening at the time of publication. Media activists reported that, as a means of censorship, the Ministry of Culture sometimes denied approval of a barcode required for all publications. The Turkish Publishers Association (TPA) reported that publishers often exercised self-censorship, avoiding works with controversial content that might draw legal action. The association also reported that the state established book inspection committees in public schools and that school administrators closely monitored book recommendations, increasingly limiting students to ones approved by the state. The association described cases in which teachers who shared unapproved literature with students, even at the university level, faced investigation. Writers and publishers were subject to prosecution on grounds of defamation, denigration, obscenity, separatism, terrorism, subversion, fundamentalism, and insulting religious values. [...] The TPA stated that publishers faced publication bans and heavy fines if they failed to comply in cases where a court ordered the correction of offensive content. Publishers were also subject to book promotion restrictions.” The bans on the books of Hasan Cemal, Tuğçe Tatari and Müslüm Yücel were mentioned in the report as examples.