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YAYINCILAR  
BİRLİĞİ

TURKISH PUBLISHERS ASSOCIATION

**REPORT ON  
FREEDOM TO  
PUBLISH  
IN TURKEY**

June 2017 -  
November 2018





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### **TÜRKİYE YAYINCILAR VE YAYIN DAĞITIMCILARI BİRLİĞİ DERNEĞİ**

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## INTRODUCTION

The annual Report on Freedom to Publish that we used to publish every year in June, will be published from now on at the end of the year. Because of this change in the publishing period, the report you are holding in your hands right now covers a period longer than a year, the period from June 2017 to November 2018. What happened during this time period? The state of emergency that was declared after the military coup attempt of July 15, 2016 remained in effect till July 19, 2018. During the state of emergency, a total of 701 statutory decrees were published through which 30 publishing houses and 116 publishing and broadcasting institutions were shut down, 125,000 state employees including academics and educators were expelled. With the constitutional change of April 16, 2017, the country changed its system of government to presidential government.

This year's report includes court decisions recalling books and blocking circulation, as well as lawsuits against authors and publishers. Hundreds of thousands of books published by publishers that were shut down by statutory decrees fell into banned publication status overnight. People who had these publications in their homes were questioned and arrested.<sup>1</sup> One news portal was shut down 62 times.<sup>2</sup> Special software has been developed "to purge textbooks of terrorist content."<sup>3</sup>

Procedural errors in court decisions banning and recalling books have been observed with increasing frequency during this period. Even though Article 26 of

<sup>1</sup> <https://www.sozcu.com.tr/2016/gundem/fe-tonun-kitaplari-yakiliyor-cope-atiliyor-1332197/>  
<http://www.hurriyet.com.tr/kuyudan-yasakli-kitap-cikti-4056205>  
<http://aa.com.tr/tr/turkiye/uyusturucu-operasyonu-duzenlenen-evden-fe-tonun-kitabi-cikti/881362>  
<http://odativ.com/akpli-bakanin-talimatiyla-kitap-yaziyordum-0809171200.html>  
<http://www.kibrisgazetesi.com/adli-haberler/feto-sorusturmasinda-yeni-tutuklamalar-bekleniyor/24100>  
<http://www.kibrisgazetesi.com/kibris/itfaiye-kuyudan-kitap-cikardi/24170>  
<http://www.starkibris.net/index.asp?haberID=255264>  
<http://www.starkibris.net/index.asp?haberID=255360>  
<http://www.kibrispostasi.com/feto-zanlisi-saliha-duranin-kardesleri-halit-ve-yahya-kurtul>  
<http://www.starkibris.net/index.asp?haberID=255405>  
<http://www.kibrisgazetesi.com/adli-haberler/yasakli-kitaplari-imha-etmek-istemese-basini-derde-soktu/24366>  
<http://www.detarykibris.com/gonyelideki-feto-sorusturmasinda-yeni-gelisme-kitaplar-ambardan-cikti-153125h.htm>

<sup>2</sup> <https://bianet.org/bianet/medya/203283-sendika-org-a-62-erisim-engeli>

<sup>3</sup> <http://www.meb.gov.tr/ders-kitap-incelemesi-yerli-ve-mill-yazilim-programiyla-yapilacak/haber/15798/tr>

Press Law expressly states that a lawsuit can be brought against a book within six months of its publication, this was completely disregarded and lawsuits have been brought against books published decades ago. Court decisions banning and recalling books have been made without regard to limits of jurisdiction determined by related legislation.

It is observed that the practice of not giving official notification of the court decisions to ban the distribution and sale of books to the copyright owners (publishers and authors) continued during this period as well. Publishers and authors have suffered additional rights violations due to the fact that no official notice was made to them. Another category of rights violations that appears to be observed with increasing frequency during this period is the body of decisions made by the Board for the Protection of Minors from Obscene Publications. Many publications were pulled off the shelves with the decisions of the Board describing them as “harmful to minors”. The Constitutional Court, in its decision upon the petition of Sel Publishing regarding its publication of *Yumuşak Makine* (The Soft Machine) by William Burroughs, stated that the Board does not have the capacity or expertise to evaluate a publication as literary work, that the Board’s decision regarding *Yumuşak Makine* is unconstitutional and that it constitutes a violation of freedom of expression.

It was observed again during this period that the practice of demanding expert opinion from people who are not experts in the field as part of the investigation and prosecution process regarding books, and that investigation and prosecution processes were initiated based upon such expert opinion reports. For example, during the investigation regarding Hamide Yiğit’s book *Tekmili Birden İŞİD: El Kaide’den İŞİD’e Amerika İçin Cihat* the court requested expert opinion for the evaluation of the book and the expert opinion report was taken as the basis for the initiation of a lawsuit against the author and the publisher.

Some book fairs organized with the sponsorship of municipalities or city governorates barred various authors or publishers from participating as they were found “objectionable”. Moreover, violations regarding the restriction of the right to access books in prisons are included in our report.

There has been an increase in the violation of rights in the category of press and internet freedom during the period covered in this report. With the changes in the legislation, new regulations have been brought to Internet publishing.



## COURT DECISIONS BANNING BOOKS AND LAWSUITS

### Ban and recall of 13 books by Avesta Publishing

Avesta Publishing, a publisher of books in Turkish and Kurdish for 23 years, had closed down its warehouse and bookstore in Diyarbakır upon the arsoning of its warehouse in Diyarbakır on June 10, 2016, which had caused damage to a lot of books. Since 2017, three local courts have banned and recalled 13 of the publisher's books on the basis of "provocation of the public to hatred and enmity" and "doing propaganda of illegal organizations".

İdil Criminal Court of Peace made the decision on September 29, 2017 to "seize, recall and ban the publication, distribution and sale" of 9 books by Avesta Publishing that were found in the homes of the suspects during an investigation because these books were taken as evidence according to Article 7/2 of the Anti-terrorism Law and Article 25 of the Press Law. Publishing house representatives stated that no previous investigation was made regarding these books that were published between 2003 and 2015. They also stated that they were given no official notice of the Court decision from September 2017 and they learned about it upon notification from a bookstore in May 2018.

### The 9 books banned by the Court:

*Kan, İnançlar ve Oy Pusulaları, Cesur Adamların Ülkesine Yolculuk, Tasavvur Mu Gerçek Mi? Mahabad Kürt Cumhuriyeti Büyük Güçlerin Politikasında Kürtler 1941-1947, Mağdur Diasporadan Sınır-Ötesi Vatandaşlığa Mı?, Ülkemde Bir Yabancı, Çaldıran Savaşı'nda Osmanlılar Safeviler ve Kürtler, Tanrı ve Şeyh Adi Kusursuzdur: Yezidi Tarihinden Kutsal Şiirler ve Dinsel Anlatılar, Kürdistan Bayrağının Altında ve Irak'ta Soykırım.*

Ayvalık Criminal Court of Peace made the decision on July 1, 2018 to "recall and ban" Avesta Publishing's book *Kürdistan Tarihi*, published in 2000. No official notice was made to the publisher. The publishing house stated that they learned about the Court's decision upon the written request of the Office of the Chief Public Prosecutor of Istanbul for information regarding 10 of their books including this one.

Hakkâri Çukurca Criminal Court of Peace made the decision on September 12, 2018 to "ban the printing, publishing, distribution and sale and the recall of existing copies" of Avesta Publishing's books *Kürt Ulusal Hareketi* by Chris Kutschera, published in 2001, *Kürtler ve Kürdistan* by Abdurrahman Qasimlo, published in 2009, and *1880 Kürt Ayaklanması Şeyh Ubeydullah Nehri* by Celilê Celîl, published 2014. The Court decision argued that the books could "provoke the public to hatred and enmity" and that they could "do irreparable harm".

## Police raid to Aram Publishing, 85 books banned

The office of Aram Publishing located in Diyarbakır was raided by the police on February 15, 2018. According to the information gathered from the publisher's representatives, the office sustained damage during the raid and a lot of books, which were declared to be banned, were seized. At the time of the preparation of this report, there were 85 books by Aram Publishing that were banned and recalled based on 14 different court decisions by 10 different courts located in Batman, Diyarbakır, Gaziantep, Mersin and Siirt.

### The list of banned books:

By Diyarbakır 1<sup>st</sup> Criminal Court of Peace, decision dated June 10, 2016 and numbered 2016/1674:

*Güneşin Çocukları Ezidiler, 21. Yüzyılın Sömürgeciliği Toplum Kırım, Hawar, Geliya Zilan Jederka Jin u Jane, Elveda İki Yüzlü Umut, Mermer Kanatlı Kuşlar, Vakayiname, Tarih Şimdi Kürdistan, Tarihine Özlü Bir Bakış, Hayatın Kıyısına Yolculuk, Rojhilata Navin, Ayıntap Üstünde Kızıl Bir Zaman, Sürgün (de) Kürtler Kürt Sorununu Anlamak Üzerine..., Hep Kavgaydı Yaşamım (3 volumes), Em Bun Baran, Kasırga Taburu (2 volumes), Yaşamın Kıyısında, Eylül Kasırgası, Dağlar Konuşsun, Bizim Çocuklar, Demokratik Kurtuluş ve Özgür Yaşamı İnşa, Demokratik Modernitede Gençlik, Gözyaşımın Ağıydı Seni Beklemek, Gedeye Şirin, Lilavlar Akacak, Dörtlerin Gecesi, Dağın Yüreği Mavi Derya, Mavidir Avaşının Suları, Diyarbakır Zindanları (2 volumes), Korkunun Rengi, Tül ve Kül Aksı Yalandır, Gurbetin Güncesi Yüreğimi Dağlara Nakşettim, Bizim Mazlum, Mordemin Güncesi, Abdullah Öcalan Demokratik Uygurluk Çözümü (5 volumes), Kültür ve Uygurluk, Özgür Eş Yaşam, Hedera Henaseyen Azad, Rojnivisa Hevaltiye, Bir Yarım Dağda, Gerilla Anıları (5 volumes)*

By Batman 2<sup>nd</sup> Criminal Court of Peace, *Bir Savaşın Anatomisi: Kürdistan'da Askeri Çizgi*  
decision dated June 29, 2015 and  
numbered 2015/846:

By Mersin 5<sup>th</sup> Criminal Court of Peace, *Böğürtlen Zamanı*  
decision dated May 26, 2017 and num-  
bered 2017/2190:

By Mersin 1<sup>st</sup> Criminal Court of Peace, *Böğürtlen Zamanı 2*  
decision dated March 10, 2016 and  
numbered 2016/1126:

By the now-defunct Diyarbakır 1<sup>st</sup> *Dağın Samimi Dostu*  
Court, decision dated August 14, 2013  
and numbered 2013/282:

By Mersin 5 <sup>th</sup> Criminal Court of Peace, decision dated May 26, 2017 and numbered 2017/2157:	<i>Devlet Dışı Toplum ve Demokratik Konfederalizm</i>
By Gaziantep 3 <sup>rd</sup> Criminal Court of Peace, decision dated December 4, 2015 and numbered 2015/6002:	<i>Akademikleşme, Soykırım, Özgür Eş Yaşam, Kültür ve Uygarlık, Halk Özgürlük Eğilimi, Demokratik Özerklik, Zihniyetimizin Öncüleri, Hakikat Savaşçılığı, Tarihsel Toplum, Soykırımı Karşı Kültürel Direniş, Komün ve Meclisler, Uygarlık-Demokratik Uygarlık, Komünal Ekonomi, Kapitalist Modernite, Son İki Yüzyılda Kürt Sorunu, Böğürtlen Zamanı, Jineoloji Tartışmaları, Gün Işığında Zap, Kürt Aşkı, Mavi Ring</i>
By Mersin 1 <sup>st</sup> Criminal Court of Peace, decision dated March 15, 2016 and numbered 2016/1859:	<i>İdeoloji</i>
By Mersin 1 <sup>st</sup> Criminal Court of Peace, decision dated March 10, 2016 and numbered 2016/1782:	<i>Kasırga Taburu 2</i>
By Siirt Criminal Court of Peace, decision dated March 14, 2011 and numbered 2011/200:	<i>Paradigmasal Değişimde Kuantum</i>
By the now-defunct Diyarbakır 3 <sup>rd</sup> Court, decision dated August 27, 2013 and numbered 2013/389:	<i>Kırbaşı Baskını – PKK'nin Doğum Gecesi, Radikal Demokrasi</i>
By Mersin 3 <sup>rd</sup> Criminal Court of Peace, decision dated October 4, 2017 and numbered 2017/3978:	<i>Her Kuş Kendi Sürüsüyle Uçar</i>
By Mersin 4 <sup>th</sup> Criminal Court of Peace, decision dated November 8, 2017 and numbered 2017/4581:	<i>Onbinler Ölmesin, Gire Şeran 'Serhıldan', Sevdam Güneş Tadında Gerilla Anıları-1, Bir Muhatap Arıyorum</i>
By Mersin 3 <sup>rd</sup> Criminal Court of Peace, decision dated January 09, 2018 and numbered 2018/195:	<i>Qerin, Benav</i>

### **Ban and recall of books by three publishing houses**

Adıyaman Kahta Criminal Court of Peace made the decision on October 2, 2017 to “ban the publication, distribution, sale and recall” of books by Belge, İletişim, and Tutku Publishing houses. The decision was put in effect immediately and the sale of books was blocked. The Court decision states that the books “contain features of terrorist organization”. The publishers did not receive any official notice of the Court decision and they learned about it from their distribution and sale agencies.

#### **The books banned by the court:**

Belge Publishing’s book *Birakuji* by Faysal Dağlı, first published in 1994, İletişim Publishing’s book *Rojava Kürtlerin Zamanı* by Fehim Taştekin, published in 2016, and Tutku Publishing’s *Kürt Tarihi* by Aytekin Gezici, published in 2013. Fehim Taştekin reported that his book has been included in a lot of other investigations, that it was found in the homes of Eğitim-Sen members arrested in Diyarbakır and of a teacher who was arrested in Ankara based on a tweet, and counted as criminal evidence, that Aydın Engin and lawyer Ali Bozan were interrogated about the book. İletişim Publishing filed an objection to the decision on October 9, 2017 but it was rejected by the court on October 18, 2017. Faysal Dağlı’s book, on the other hand, had been banned and recalled upon its first publication in 1994 and the publishing house had paid a fine, the owner Ayşenur Zarakolu was jailed for 5 months, and the book was never printed again. For this reason, the new court decision was reported by the media as “the banning of the book that does not exist”.

### **Ban and recall of *Kan ve İnanç***

Şanlıurfa 4<sup>th</sup> Criminal Court of Peace made the decision on January 4, 2017 to “seize, recall and ban the publication, distribution, and sale” of İletişim Publishing’s *Kan ve İnanç: PKK ve Kürt Hareketi* by Aliza Marcus, published in 2009. The publisher did not receive official notice of the Court decision and they learned it from police officers in May 2018. Their lawyers appealed for the reversal of the decision on May 22, 2018 but the Court rejected it on July 2, 2018.

### **Advertisement and Sale Censorship to *Mahrem* on the Internet**

İstanbul 1<sup>st</sup> Criminal Court of Peace made the decision on September 22, 2017 to “block access to the content and remove the content from the Internet” of Kırmızı Kedi Publishing’s book *Mahrem: Gizli Belgelerde Türkiye’nin Sırları* by Barış Pehlivan and Barış Terkoğlu. The book which deals with the claims of an organized cover-up of multiple accounts of sexual assault of a minor in Erzurum in 2007 was first published in 2015 and no legal action was taken against it upon its publication. The decision involved Kırmızı Kedi Publishing and Oda Kitap websites, it included the ban of online advertisement and sale as well as social media sharing of the book; it

was practically a book ban. The decision also requested the removal of a part of the book. It was later learned that the Court made the decision upon the petition of the lawyer of AKP parliamentarian Celalettin Güvenç for the “violation of [his] personal rights”. Upon the objection filed by the publisher’s lawyers, the Court lifted the ban on access to the sale advertisement link on Oda TV website.

### **Ban and recall of Sabahattin Önkibar’s book on Bahçeli**

Before Sabahattin Önkibar’s book *Devlet Bahçeli ve Ülkücüler Hakkında Her Şey* was published, a group of masked civilians attacked the office of Kırmızı Kedi Publishing on February 10, 2017. The day before the book was originally due to come out, on January 19, 2017, the book had been recalled by the decision of Ankara 6<sup>th</sup> Court of First Instance upon petition by Bahçeli’s lawyer on the same day. Even though the book was not on the market yet, simply based on the cover and blurb included in the internet advertisement, the Court decision stated that “the information in the book could violate his personal rights”. Without seeing the content of the book, the Court decided to recall the book simply looking at the sentences in the advertisement because there was a “possible attack” on Bahçeli’s personal rights. Following the publication of the book, upon Devlet Bahçeli’s complaint Ankara 30<sup>th</sup> Criminal Court of First Instance initiated a lawsuit based on Turkish Criminal Code, Article 125/2-4 for “attack on personal rights” and “libel”. In addition, Bahçeli’s lawyers filed for the recall of the book at Ankara 15<sup>th</sup> Court of First Instance. During the first hearing of the lawsuit at the Criminal Court of First Instance on March 20, 2018, the original “preventative” decision to “recall and stop the distribution” of the book was turned into a justified decision. In the justification, the fact that the book calls Devlet Bahçeli “unequipped” was counted as an attack on personal rights.

### **Lifting of the ban and recall of *Tilkiyle Vals***

Siyah Beyaz Publishing’s book *Tilkiyle Vals: İhale, Rant, Para* by Ergun Poyraz was the subject of another court decision by Ankara 17<sup>th</sup> Court of First Instance on December 18, 2017, upon the complaint of Emrullah Turanlı, the owner of Taş Yapı which is mentioned in the book. The Court made the decision to “stop the distribution and sale, to recall, and to stop the sale and circulation on the Internet” of the book. The Court also rejected the publisher’s objection. The publisher’s objection was referred to the Administrative Court. Ankara Regional Court of Justice, 25<sup>th</sup> Civil Chamber examined the initial court decision and on June 27, 2018 decided on appeal. The appeal resulted in the reversal of the decision and the original decision to recall and ban the book became invalid.

## A slew of lawsuits against Hamide Yiğit and her book on ISIS

Several lawsuits have been started against Hamide Yiğit and her publisher Tekin Publishing regarding her book *Tekmili Birden IŞİD-El Kaide'den IŞİD'e Amerika İçin Cihat*. In 2015 Ankara Directorate of National Education received a letter of complaint from someone who introduced themselves as a concerned parent and in the letter, Yiğit was accused of being a "sympathizer of terrorists". An administrative investigation was initiated about Yiğit based on this letter. Even though it was later revealed that the letter was not written by a parent, Ankara Directorate of National Education did not close the investigation and, instead, prepared a file of Yiğit's social media posts and submitted it to the prosecutor's office, accusing her of "doing terrorist propaganda" (Anti-terror Law, Article 7/2), "openly humiliating the state" (Turkish Criminal Code, Article 301), and "insulting the President" (Turkish Criminal Code, Article 299). Two separate lawsuits were started against Yiğit, one for "insulting the President" and the other for "openly humiliating the state and the government". With the addition of another lawsuit against her for "insulting the President" based on an anonymous letter of complaint to the police, she was tried for these two in a joint lawsuit and she was given a jail sentence of 1 year, 2 months, 17 days, but the announcement of verdict was deferred. The second lawsuit in which she was tried for violating Turkish Criminal Code, Article 301 in Ankara was still pending at the time of the preparation of this report.

In the meantime, the book continued to receive complaints. Humanitarian Relief Foundation (İHH) filed a complaint to Istanbul Court of First Instance for the recall of the book and a compensation of 40,000 TL, and another complaint to the Office of Istanbul Chief Public Prosecutor for "libel". Berat Albayrak and Bilal Erdoğan also filed criminal complaints for the same reasons. During the investigation, the prosecutor's office requested an expert opinion report in the form of the evaluation of the book to determine whether it contained anything that constituted a crime.

A lawsuit was started at İstanbul 30<sup>th</sup> High Criminal Court for "libel" and "insulting a public official for his position" (Turkish Criminal Code, Article 125) with İHH, Berat Albayrak and Bilal Erdoğan as plaintiffs. Another lawsuit against her started in the same court for the violation of Turkish Criminal Code, Article 301 and "praising terror" (Turkish Criminal Code, Article 215) and the Anti-terror Law, Article 7/2. During the first hearing on November 3, 2017 Yiğit was acquitted of the accusation connected with Turkish Criminal Code, Article 215, and the Court the decision of non-jurisdiction for the other accusations. Upon the decision of non-jurisdiction, two new lawsuits were started at İstanbul 2<sup>nd</sup> Criminal Court of First Instance, one for violation of Turkish Criminal Code, Article 301 with İHH, Berat Albayrak and Bilal Erdoğan as plaintiffs and the other for "libel" and "insulting a public official for his

position". At the final hearing of the lawsuit for Article 301, she was given a jail sentence of 6 months on September 6, 2018. Yiğit's attorneys took this decision to the Court of appeals. The final hearing of the lawsuit in which she is being tried for libel will be on February 19, 2019.

Yiğit had to request retirement from teaching due to the pressures of administrative and criminal investigations. She has received threats from jihadist groups in Syria as well as being targeted on social media during the trials.

### **Bans on Belge Publishing's Books**

Upon some complaints, a criminal investigation has been started by the Office of Istanbul Press Prosecutor for the violation of Turkish Criminal Code, Article 301 about Konstantinos Fotiatis's book *Pontos Rumlarına Yönelik Soykırım*. A lawsuit can start upon permission from the Ministry of Justice. During a search in a student's home in Mersin, Gülçiçek Günel Tekin's book *Özgürleşen Ruhlar* was found and Mersin Criminal Court of Peace made the decision to ban, seize and recall the book in April 2016. As of the preparation of this report, no answer was received for the appeal for the reversal of this decision.

During a police raid to the publishing house building on May 7, 2017 based on complaints accusing it of "terrorist publication", over 2000 books were seized. The publisher's appeals for the return of the books were inconclusive.

### **BOOKS CLASSIFIED AS "OBSCENE"**

During the period covered by this report, the Board for the Protection of Minors from Obscene Publications made many decisions to classify books as "obscene publication". Due to these decisions, many books had to be marked with the "subject to restrictions" stamp, and according to regulations, they could not be displayed in stores or on windows, could not be transported or sold out of a package, and could not be advertised. The fact that these decisions were immediately conveyed by the board to distributors and bookstores via email without any official notice to the publisher put the publishers in complicated conditions. Moreover, the fact that the administrative courts take a long time to consider the publishers' appeal for the reversal of these decisions and that filing an appeal does not warrant the suspension of sanctions cause a lot of rights violations for the publishers. With the statutory decree of July 9, 2018, the constitution of the Board was changed.

### ***Berserk 3 and Berserk 4***

Upon receiving notice from the Office of Legal Counsellor for the Ministry of Family and Social Policies, the Board for the Protection of Minors from Obscene Publications conducted an investigation on *Berserk 4* of the Berserk Series published



by Gerekli Şeyler Publishing. The Board concluded on July 10, 2017 that the book “would have a detrimental effect on the morals of minors”. The Board made the same decision for *Berserk 3* of the same series. The decision was directly sent to distributors and bookstores and the books were taken off the shelves.

The publisher filed two separate lawsuits at Ankara 11<sup>th</sup> Administrative Court for the reversal of the decisions. In the lawsuit regarding *Berserk 4*, the Court rejected the publisher’s appeal on June 29, 2018 upon consideration of negative expert opinion reports by academics which stated that the book is harmful to the development of children. At the time of the preparation of this report, the decision regarding *Berserk 3* was pending, as the expert opinion reports weren’t received by the Court.

### **Gözlük**

The Obscenity Board classified Koray Yerasüren’s young adult novel *Gözlük* published by Ephesus Publishing as “obscene publication”. After the Board’s decision was published in the Official Gazette on December 15, 2017, the publisher pulled the book off the market and republished it after changing the parts that were referred to in the Board’s decision.

### **Osmanlı’da Oğlancılık**

The Prosecutor’s Office started an investigation on Rıza Zelyut’s investigative book *Osmanlı’da Oğlancılık* published by Kaynak Publishing in 2016 upon complaint by a concerned citizen. The Prosecutor’s Office requested the opinion of the Obscenity Board and the Board classified the book as “obscene publication” on January 25, 2018. In its decision, the Board took “oğlancılık” to mean “homosexual relationship”. The decision included claims that the book “disregards the founding philosophy and values of the Ottoman Empire which was a grand state that ruled in four continents for 600 years,” that it attempts to “alienate the Turkish public from this part of history,” and that it attributes “aberrant forms of relationships to the entirety of the state and society”.

The publisher learned about the investigation only after it was mentioned in the decision of the Obscenity Board. When the lawyers of the publisher requested information from the Office of the Prosecutor, they learned that the book had been the subject of another investigation in 2017 that had resulted in a decision of non-prosecution. It is noteworthy that the judge who found no ground for prosecution during the first investigation sent the book to the Obscenity Board upon the second investigation. The second investigation also resulted in a decision of non-prosecution in 2018. The publisher filed a lawsuit for the reversal of the Obscenity Board’s decision at Ankara 11<sup>th</sup> Administrative Court on March 16, 2018. During the



trial, the three expert opinion reports requested by the Court described the book as “scientific work”. The Obscenity Board objected to the expert opinion reports. However, the Court did not find the objection justified and nullified the Board’s decision on November 14, 2018.

### **Observations regarding the Board in the Constitutional Court’s decision on *Yumuşak Makine***

A lawsuit was initiated for “obscenity” in 2011 against Sel Publishing’s book *Yumuşak Makine* (The Soft Machine) by William Burroughs based on the Obscenity Board’s decision. The publisher had submitted expert opinion report stating that the book is a “literary work” and cannot be tried for obscenity. However, during the final hearing on July 5, 2012, even though the publisher was expecting acquittal, due to the change in the law, the Court had made the decision to “defer the announcement of the verdict”. Sel Publishing took the Court’s decision to the Constitutional Court. The Constitutional Court’s decision on December 29, 2017, awarded 3,000 TL to the translator as compensation and sent the case back to the Board and the regional court for the reversal of the sentence. In the justification for the decision, there were important observations regarding the constitution of the Board:

“As seen in the case in point, it is understood that the Obscenity Board’s decisions have an important influence in lawsuits for obscenity. However, the evaluation of publications by a board of 11 members, most of whom are bureaucrats, without a preliminary examination by experts specially chosen based on the type of the work, leads to the classification of works as not having intellectual, social or artistic qualities when they need to be evaluated as such works. The decisions of the Board, which does not even have members who are pedagogs or sexual health experts, are made in a very imprecise manner using general and abstract wording, to determine whether a publication contains obscenity or not, pose danger in terms of freedom of expression and the press.”<sup>4</sup>

### **The Obscenity Board was incorporated into the Ministry of Labor, Social Services and Family**

The members of the Board were previously chosen by the Prime Ministry from people who had served as public officials for at least 15 years. The Board included 11 members chosen from the Ministry of Justice, the Ministry of the Interior, the Ministry of National Education, Youth and Sport, the Ministry of Health, the Ministry of Culture and Tourism, the Council of Higher Education, the Directorate of Religious Affairs, the Directorate General of Press and Information, the Ministry of Family and Social Policies. With the statutory decree 703 of July 9, 2018 the consti-

<sup>4</sup> <http://anayasa.gov.tr/icsayfalar/basin/kararlarailiskinbasinduyurulari/bireyselbasvuru/detay/149.html>

tution of the Board was changed and the Board is now made up of five unit chiefs of the Ministry chosen by the Minister of Labor, Social Services and Family, and its decisions are made with absolute majority vote.

## **REPRESSION IN BOOK FAIRS**

There has been repression of authors and publishers in book fairs in Kayseri, Tekirdağ, Isparta, Manisa, İstanbul, Urfa and Van.

### **Prevention of İhsan Eliaçık's participation in book fairs in Kayseri, Tekirdağ and Isparta**

Days before the beginning of the 2<sup>nd</sup> Kayseri Book Fair (14-21 October 2017) organized by Kayseri Municipality through a fair organization firm, the organizing firm requested that Tekin Publishing authors İbrahim Ö. Kaboğlu and R. İhsan Eliaçık not participate in the fair and not organize any events. Even though the Publisher offered to give up the conference hall that was requested to hold events with the authors and do book signing with the authors at its own stand, that was not enough and they were told that these two authors will not be accepted into the book fair. While İbrahim Kaboğlu canceled his participation in the fair, İhsan Eliaçık wanted to protest his exclusion from the book fair in his hometown of Kayseri. Eliaçık came to the fair grounds on October 21, 2017 around 2pm, and found a group of civilians in an obviously pre-designed fashion as well as a large team of police officers. The group verbally attacked the author. To protest this, Tekin Publishing and many other publishing houses closed their stand and left the book fair.

After this initial prevention, İhsan Eliaçık encountered further repression at book fairs one after another. Eliaçık was originally invited as guest author to the Trakya Book and Education Fair (October 25-29, 2017) in Tekirdağ, Çorlu. Two days before the beginning of the fair, it was learned that the sponsoring Development Agency canceled its contract with the organizing firm for this reason. The organizing firm announced on its website that "the claims on social media and some television channels that İhsan Eliaçık is the guest of honor at Trakya Book and Education Fair are completely false. The fair program is going to be reconsidered by Trakya Fair Center Administration." Tekin Publishing canceled its participation in the fair.

Tekin Publishing had also planned to participate in the 2<sup>nd</sup> Isparta Book Fair (2-11 March 2018) organized by Isparta Municipality. Even though the fair program was out long before and included Eliaçık's name and the fair poster had Eliaçık's photograph, on February 25, the organizing firm asked the publisher that Eliaçık not participate in the fair. After consulting with its writers Ataol Behramoğlu, İbrahim Kaboğlu, Enver Aysever, and Hanefi Avcı, the publisher decided to cancel its par-

ticipation in the fair. Levent Gültekin and Hanefi Avcı canceled their participation in support of Tekin Publishing's protest.

### **Prevention of Siyah Beyaz Publishing's participation in CNR fairs**

Siyah Beyaz Publishing released a press statement in which they declared that their participation in fairs organized by CNR Expo Fair Organizing was blocked by the firm. The press statement explained that during the fair in Mersin organized by CNR, fair officials came to the publisher's stand and asked them to remove the book *Dört Kitap İle Yarattığımız Tanrı* by İbrahim Ay. When the publisher refused to do so, the fair officials told them that they will not be accepted into future CNR fairs. As a consequence, it was found out that Siyah Beyaz Publishing's space in the layout plan of Istanbul CNR Book Fair was rented to another publisher.

### **Last minute repression in Manisa Book Fair by the Ministry of National Education**

Two days before the beginning of the 2<sup>nd</sup> Manisa Book Fair (28 September-7 October 2018) which was going to be mainly visited by students, the Provincial Directorate of National Education withdrew its support from the fair. According to the details of the incident that were leaked into the media, the Provincial Directorate canceled the organization of transporting students and teachers to the fair, canceled the planned shuttle buses, and sent Whatsapp messages to teachers and school principals ordering them to not take the students to the fair, thus effectively cutting the connections between the fair and the students.<sup>5</sup> It was claimed that the Whatsapp message sent to school principals by the Provincial Director of National Education pointed out the "concern that some fair participants might pursue other ends and that a one sided view of issues might be presented." Interference in the form of a WhatsApp message instead of official written letter met with disapproval. In its statement about the issue, SNS Fair Organizing explained that all necessary permissions for the fair was received, the fair program was prepared with the knowledge of the Governorate, the Metropolitan Municipality, the Chamber of Trade and Industry, and the Provincial Directorate of National Education, and the planning of transporting 35,000 students of the city to the fair was done together. One of the claims in the media was that the last-minute decision was taken with the order of the Governor of Manisa due to the expected participation of some authors in the fair.

### **Attack on Kırmızı Kedi Publishing stand at Istanbul Book Fair**

During the opening ceremony of 36<sup>th</sup> International Istanbul Book Fair, a group of 10 civilians attacked Kırmızı Kedi Publishing stand. The group targeted author Sabahattin Önkibar who was signing his books at the moment and verbally attacked

him by shouting, “why did you write this book?” The publisher employees at the stand were injured trying to stop the group. The General Manager of the publishing house Haluk Hepkon stated that their office was also attacked previously by people who threatened Önkibar. He demanded that careful investigation into these attacks be done and that the attackers receive due punishment. A lawsuit had been initiated concerning the attack at Ankara 14<sup>th</sup> Criminal Court of First Instance and the first hearing of the case is scheduled for February 4, 2019.

### **Prevention of Avesta’s participation in book fairs**

Avesta Publishing reported that after they were appointed a trustee by the government, they were not invited to several book fairs organized by local municipal administrations and their participation was blocked in some fairs. They stated that in 2018, despite persistent applications, they were not included in the program of Urfa Book Fair and Van Book Fair which are jointly organized by the municipality and the Governorate Office. They received no response to their applications and their participation was effectively blocked.<sup>5</sup>

## **CLOSED PUBLISHING HOUSES, TRUSTEES APPOINTED TO PRINTING PRESSES**

### **Evrensel Printing and Publishing’s application to the Constitutional Court**

The three magazines *Evrensel Kültür*, *Tiroj* and *Özgürlük Dünyası* were shut down by the statutory decree of October 29, 2016 and the trade registry of the owner firm Doğa Printing and Publishing was canceled, its commercial activity was terminated and its property was confiscated. The publishing branch of the firm, Evrensel Printing and Publishing was virtually shut down due to the fact that the trade registry of the legal entity that owned it was canceled even though there was no mention of Evrensel in the statutory decree. Because the statutory decree named the magazines instead of Doğa Printing and Publishing and because there was no mention of Evrensel Printing and Publishing among the list of magazines, all channels of objection that were available to other firms shut down through statutory decrees were closed to Evrensel Printing and Publishing. The application of the publisher to the Administrative Court on December 28, 2016 was rejected “without consideration”. The publisher appealed to the Regional Administrative Court on March 8, 2017, but around that time The State of Emergency Commission was founded by statutory decree 685. Because the Provisional Article 1 of the statutory decree stated that “in the cases under the jurisdiction of the Commission, for those

<sup>5</sup> <https://www.birgun.net/haber-detay/manisa-kitap-fuari-milli-egitim-mudurlugu-nun-engellemesiyle-basladi-231943.html>

<http://turkyaybir.org.tr/manisa-kitap-fuarina-okullarin-katiliminin-engellenmesi-hakkinda-basin-aciklamasi/>

who have previously applied to any court or initiated a lawsuit, the procedure and time limits determined in Article 7 will be applied,” the Regional Administrative Court referred the application file to the State of Emergency Commission. Because these application files were not automatically transferred to the Commission, each firm was asked to submit their application to the Commission themselves. On the other hand, the statutory decree explicitly stated that it only applies to the firms listed and when Evrensel representatives wanted to submit an application, they were told verbally that “only those applicants whose names are explicitly listed in the appendix to the statutory decree will be taken into consideration.” Because the case of the publishing house was excluded from this definition and it was unique, they did not submit an application to the Commission and it became obvious that the referral of the Regional Administrative Court was a misjudgment. The lawyers of the publisher filed an application to the Constitutional Court on July 27, 2017 as the sole remedy. The application is waiting for review. As domestic remedies have not been exhausted, Evrensel will not be able to apply to the European Court of Human Rights for a while to claim their rights.

### **The seizure of Gün Printing**

The newspaper *Özgürlükçü Demokrasi* and Gün Printing were raided by the police on March 28, 2018. The newspaper and the printing press were transferred to Saving Deposit Insurance Fund (TMSF) with a trustee appointed. An investigation was conducted about the printing press and 20 press employees were arrested on April 28, 2018. The books found in the press building were confiscated as criminal evidence; one of these books, a book of Kurdish grammar was recorded as an “alleged textbook prepared for children.” With the seizure of Gün Printing, Turkey’s only Kurdish newspaper *Welat* had to stop its printing. After trying to reach their readers by photocopying the newspaper for a while, financial constraints forced the newspaper to go online only. The digital publication of the newspaper online continued for a few weeks before it was shut down by the last statutory decree of July 8, 2018 before the end of the state of emergency.

## **THE BAN AND PREVENTION OF ACCESS TO BOOKS IN PRISONS**

During the period covered by this report, there has been increased news reporting prevention of the right to access books in prisons. We have seen reports in the letters of prisoners and the statements of lawyers about book restrictions, confiscation or return of mail in many of the prisons in Turkey. These reports have been covered in the media and in the reports of Human Rights Association (İHD) and Civil Society in the Penal System (CİSST).

There have been claims during this period that some books were not accepted into prisons by the prison administration even though there was no ban on the book, and the requests from detainees and convicts for these books were rejected without providing explanation. The official letter of the Ministry of Justice that was sent to all prisons dated November 25, 2016 and numbered 66708689-204.08.00-E.3260/135460 was used as justification for the refusal of some books into prisons. This official letter states that only educational publications will be delivered to detainees and convicts, publications in foreign languages will only be delivered after careful consideration of their contents, "written legislations such as the Constitution, Turkish Penal Code, the Code of Criminal Procedure, or the books that are not available in the prison library and the regulations such as statutory decrees that can be printed out from the Internet will be delivered to the detainees and convicts by the penal institutions on the condition that their cost will be deducted from the detainee or convict's safe-deposit account." Because some prison administrations interpreted this official letter freely, they started depriving prisoners of books as a method of correction. Moreover, during this period, there has been an increase in reports that fountain pens, ink, paper and necessary resources for research were not provided to detainees and convicts in prisons, thus effectively preventing their writing activity. The cases of book bans in prisons as reported in the media and reports during the period covered by this report can be summarized as follows:

Books that were not delivered to convicts: Fehim Taştekin's *Rojava Kürtlerin Zamanı* and Murat Türk's *Köprüdeki Düşman* at Silivri Prison. The books *Ben de Sana Onu Söyleyecektim* and *Alman İdeolojisi* at Diyarbakır Type D Prison. Books that were mailed to Enis Berberoğlu by women writers. HDP Chairperson Selahattin Demirtaş's bestselling short story book *Seher* which was brought by a transferred convict to Diyarbakır Prison. The global bestseller *Da Vinci Şifresi* by Dan Brown at Silivri Prison (due to the fact that the Silivri Prison administration confused its publisher "Altın Kitaplar" with "Altın Nesil" which is associated with FETO). The books *Karanlık Çökerken Umutsuzluğa Karşı İyimserlik*, *İktidar Seçkinleri*, *Robinson Crusoe*, *Küçük Prens*, *Ali Baba ve Kırk Haramiler*, *Peter Pan*, *Tom Sawyer*, and *Kanatların Gölgesinde Şengal Dile Gelirse* at Diyarbakır Prison. Prof. Arman Kırım's *Mor İneğin Akıllısı*, Honore de Balzac's world classic *Goriot Baba*, Hans Magnus Enzensberger's *Havana Duruşması*, Manuel Tiago's *Yarın Bizimdir Yoldaşlar*, John Steinbeck's *Martin Eden*, Nadiye Çobanoğlu's *Gerilla Tanya*, Che Guevera's *Savaş Anıları*, Ernst Peter Fischer's *Leipzig Duruşması*, and Fyodor Gladkov's *Çimento* at Tekirdağ Type T Closed Prison as well as confiscated books (battery in case of protest and the threat of "ending up like Engin Çeber"). Books that were sent from outside (the prison administration required prisoners to pay the administration for the purchase of books) at Tekirdağ

2<sup>nd</sup> Type 2 Prison. Books that were brought by the relatives of convicts at Antalya Type L Prison as well as Firat Can's two books, *Umuda Bir Ülke and Mavi Ülke* which he wrote in prison. Adil Okay's book *Arkası Yarın* (for "obscenity") which was sent to author Haydar Demir at Bafra Type T Closed Prison. The Turkish Dictionary, Victor Hugo's *Sefiller*, and Ottoman History that were brought by a transferred convict to Siverek Prison. Books in German and English sent to a German convict who does not speak Turkish at Elazığ Prison. Books needed by CHP Caucus member and former Istanbul representative for the Parliament, Eren Erdem for the preparation of his defense at Silivri Prison. The book titled *Diren Sol Yanım* (for "being written in the style of socialist literature") at Van High Security Prison. Books and magazines brought by family members, visitors and lawyers at Kırıkkale Type F Prison. Books and magazines brought by family members, sent in the mail, brought by transferred prisoners as well as Kurdish-Turkish dictionaries at Tokat Type T Prison. (It is also reported that some book requests were rejected with the explanation that they could be bought at the prison cafeteria when in fact they weren't available there). Books and other publications that were previously allowed at Bolu Type F Prison. Some books and publications at Elazığ 1<sup>st</sup> Type F Prison. Books and other publications that were found "contrary" at Düzce T Type T Prison. Various books at Menemen/İzmir Type R Closed Prison. All books that do not carry the "inspected" stamp of another prison at Düzce Prison. *Mahpus Hakları El Kitabı* (Handbook of Prisoners' Rights) published by Civil Society in the Penal System (CİSST) in collaboration with Human Rights Equality Institution of Turkey and European Union at Denizli Type T Prison.

Books confiscated in the rooms, prisoners battered for protesting: It was reported that all the books of political prisoners were confiscated at İzmir Kırıklar 1<sup>st</sup> Type F Closed Prison. At İzmir Şakran Women's Prison the prisoners protested the fact that they couldn't get books for a couple of months. It has been reported by lawyers that all books were collected from the cells at Tekirdağ 1<sup>st</sup> Type F Prison, and that the books of the resident and transferred prisoners were confiscated for the purpose of "inventory and control" but they were not returned at Kırıkkale Type F Prison.

Non-delivery of books in Kurdish: It has been stated by lawyers that the administrations of prisons do not deliver books or other publications written in Kurdish language without inspection to detainees and convicts, and that they demand "translation fee" from the detainees and convicts as a prerequisite for inspection. An application was submitted to Elazığ 1<sup>st</sup> High Security Prison on this issue.

Reports of restrictions on the number of books allowed in each cell: Elazığ 1<sup>st</sup> High Security Prison (7 books), Van High Security Prison, Kırıkkale Type F Prison, Bolu



Type F Prison (5 books, 5 magazines), Kayseri/Bünyan 2<sup>nd</sup> Type T Prison (5 books), Silivri 2<sup>nd</sup> (7 books, 3 magazines), 6<sup>th</sup> (delayed delivery) and 9<sup>th</sup> Prisons, Düzce Type T Prison (10 books).

Not allowing the use of the library: Elaziğ 1<sup>st</sup> Type F Prison.

### **Important decision from the Office of the Judge of Execution on books that are not banned**

In 2016, the prayer book and vocational textbook brought by his wife was not delivered to convict A.C. at Kocaeli Type T Prison. In its justification, the prison administration stated that “it is not possible to inspect all the printed materials, books and magazines that are brought by visitors or sent in the mail to those convicted of FETO/PDY crimes, the potential coded messages cannot be spotted, so books and magazines will not be delivered to those convicted of such crimes.” The Office of Kocaeli Judge of Execution accepted the convict’s objection and nullified the prison’s decision for this practice. The Office of the Judge of Execution stated in their decision that “the convict has the right to make use of periodical and non-periodical publications by paying for its cost on the condition that these publications are not banned by courts. In cases when the laws define a right, there is no legal basis for the restriction of such a right by prison administration.”

### **The Constitutional Court’s precedent-setting decision**

Zeki Bayhan had filed a complaint at the Office of Ankara Batı Judge of Execution in 2015 when some of his books were not delivered to him by the education committee of the prison at Ankara Sincan Prison. The Office of the Judge of Execution rejected his objection, stating in justification that there were “quotes” from banned publications in his books. Upon this, Bayhan filed an appeal to the Constitutional Court. In its decision on March 22, 2018, the Constitutional Court stated that “When a written document sent to convicted applicants is not delivered to them, it constitutes an interference in their freedom to get information and opinion, and therefore, an interference in their freedom of expression.” The Constitutional Court decided to send the case back to “the Office of Ankara Batı Judge of Execution for retrial to remedy the consequences of the violation of freedom of expression.”



## **CENSORSHIP AT THE MINISTRY OF NATIONAL EDUCATION**

### **The Ministry of National Education’s central inspection system through “intihal.net”**

Based on the protocol signed between the Ministry of National Education’s Turkish Education Board and Firat University, it has been decided that the contents of textbooks will be inspected using the “local and national software” intihal.net created by Asos Education and Informatics Consultancy which is affiliated with Firat University. According to the statement of the President of Turkish Education Board, Alpaslan Durmuş, the software “will notify the user of the publications of people whose cooperation or affiliation with FETO or other terrorist organizations is proven as well as of the commonly used words or subliminal messages of terrorist organizations.” In addition, the software allows the user to “enter the name of any person expelled through statutory decrees, or the names of those whose connection with terrorist organizations is proven to see if these names are found among the contributors of any book.” Durmuş also stated that between August 29, 2016 and June 2017, 1522 books were inspected, 32,900 corrections were made, 422 of which were connected to FETO/PDY, and as a result of the inspection, 189 books and 73 contributors were removed from the system.

### **Textbook that talked about the Freedom of Press was recalled**

The 7<sup>th</sup> grade Self Study Book for Social Studies prepared by Fatma Çakır was recalled through a message sent by school principals to teachers based on some statements found in the “Freedom of Press” section of the unit “Communication and Human Relations”. The section contained the following statements: “In a country, one single party gains control of the government, and after a while, they become uncomfortable with all the press reports of corruption in their government. Taking advantage of their power to change the Constitution, they put clauses restricting the freedom of press in the Constitution and censor the news that is reported without their permission. Knowing that there is no more coverage of corruption in the news, some ill-intentioned people engage in even more corruption, which eventually drags the country into economic crisis and chaos.”

## **REGRESSION IN THE FREEDOM OF PRESS**

As the limits of freedom of expression are narrowed down in Turkey, the biggest blow is sustained by the freedom of press. According to BIA Media Observation Reports, for the Turkish press, 2017 was a year of detentions, attacks, threats, media blackouts, and fines. 85 journalists were detained. While the number of journalists tried for violations of The Turkish Criminal Code and the Anti-terror Law was 220 in the first three months of 2017, this number reached 520 by January 1, 2018. The

journalists were being tried for 237 counts of aggravated life imprisonment, and a total of 3,672 years of prison time. As of October 1, 2018 at least 304 journalists or media representatives were being tried for such violations of the Turkish Criminal Code and the Anti-terror Law clauses as “plotting military coup”, “doing propaganda of illegal organizations”, “membership to illegal organizations”, “insulting state institutions”, “libel” or “insulting the President” for 46 counts of aggravated life imprisonment, 1 life imprisonment, a total of 3,023 years and 10 months of prison time, 30,000 TL of judicial fine and 3,540,000 TL of immaterial compensation. According to BIA data, there were 123 journalists and media employees (1 November 2018), and according to the Turkish Journalists Union data, 145 of them (8 November 2018) were in prison at the time of the preparation of this report.

### **Cumhuriyet newspaper trials**

As part of the investigation for terrorism charges started against the former administrative body of *Cumhuriyet* newspaper on August 18, 2016, 12 journalists had been arrested. Among the arrested suspects, there was Turhan Günay who is a long-time literary figure, Editorial Director of *Cumhuriyet* Book Supplement, and the director of *Cumhuriyet* Books. The 436-page bill of indictment was revealed on April 4, 2017 for 19 suspects. The bill of indictment included such claims as that the newspaper was justifying the terrorist actions of PKK terrorist organization and that FETO/PDY organization used *Cumhuriyet* newspaper to service information and documents. Therefore the journalists should be tried for prison sentences from 7.5 to 49 years. Tweets, phone calls to people who used the smart phone app bylock, and allegations from news or opinion articles in other publications were used as evidence.

The first hearing was scheduled for July 24, 2017, months after the the bill of indictment was prepared, and all the suspects were kept in prison till the first hearing. Akın Atalay was kept in prison till the last hearing (541 days). During the final hearing on April 25, 2018, former Chairman of the Exexutive Board of *Cumhuriyet*, Akın Atalay was sentenced to 7 years, 3 months and 15 days in prison for “aiding illegal organizations”, former President of *Cumhuriyet* Foundation Orhan Erinç was sentenced to 6 years and 3 months in prison, the former Editorial Director of the newspaper Murat Sabuncu was sentenced to 7 years and 6 months in prison, Kadri Gürsel to 2 years and 6 months, reader representative Güray Öz to 3 years and 9 months, Musa Kart to 3 years and 9 months, Aydın Engin to 7 years and 6 months, Hikmet Çetinkaya to 6 years and 3 months, Ahmet Şık to 7 years and 6 months, Mustafa Kemal Güngör, Hakan Kara and Önder Çelik to 3 years and 9 months, Ahmet Kemal Aydoğdu to 10 years, Emre İper to 3 years, 1 month and 15 days, Bülent Utku to 4 years and 6 months in prison. Turhan Günay, Bülent Yener and Günseli Özaltay were acquitted while the cases of Can Dündar and İlhan Tanır were separated.

## REPORTS OF INTERNATIONAL RIGHTS ORGANIZATIONS

The regression of the freedom of expression in Turkey since 2017 has been on the agenda of many international journalism and rights organizations and it was covered in their annual reports. In 2018 World Press Freedom Index prepared by Reporters without Borders (RSF), Turkey went two places down to 157<sup>th</sup> out of 180 countries.

In its Freedom in the World 2017 report, Freedom House investigated the condition of freedom in 195 countries and 14 regions in 2016 and determined that 87 countries were “Free”, 59 countries were “Partly Free” and 49 countries were “Not Free”. For the 2017 report, Turkey received a score of 38 out of 100, losing 15 points from the year before. It was placed in the “Partly Free” countries category and it was one of the countries that lost the most points compared to the year before. In the 2018 Freedom in the World report, Turkey lost 6 more points and became the country with the highest loss of score with a loss of 34 points in the last 10 years. In the 2018 report, 88 countries were categorized as (45%) “Free” while 58 countries (30%) were categorized as “Partly Free”. In this report, Turkey fell from the “Partly Free” category to “Not Free” category which included 49 countries.

In the section for Turkey of Human Rights Watch-HRW 2018 World Report, it was stated that in the aftermath of the referendum for constitutional change on April 16, the restrictions on the media, the opposition, and the human rights activists increased, that the journalists were put on trial and imprisoned for doing their job, that newspapers and television channels lost their independence and they broadcasted things in line with and in support of the government’s political position.

In the report titled “Moribund Freedom of Expression in Turkey: Violations of the rights of Writers, Publishers, and Academics during the State of Emergency” prepared by Prof. Yaman Akdeniz and Assist. Prof. Kerem Altıparmak for English PEN, the increasing rights violations against writers, publishers and academics following the July 15, 2016 military coup attempt were analyzed. The report stated that the statutory decrees included sanctions not related to the State of Emergency and individuals and institutions were implicated without concrete evidence or explanation, and that due to the nature of their professions, writers and academics turned into more visible targets than anybody else. The report also stated that the crisis in freedom of expression in Turkey came hand in hand with the crisis in the justice system at the constitutional level which is a result of the violation of the principle of separation of powers, and that the problem of the freedom of expression can only be resolved with a solution to the crisis in the judicial system. The report also shared information regarding the 30 publishing houses that were shut down and the 80 writers who were tried during the state of emergency.

## INTERNET FREEDOM

The pressures against the sharing of one's opinions on the Internet in accordance with freedom of expression have increased. Many posts on social media platforms, which could be considered an exercise of freedom of speech, have become a reason for arrest. The ban against Wikipedia, the biggest encyclopedia of the world, which had started on April 29, 2017, was still in effect when this report was being drafted.

Access restrictions and bans on dissenting online news portals have become more systematic. One of the most striking instances was the restriction against [sendika.org](http://sendika.org). The Information and Communication Technologies Authority (ICTA) implemented its first restriction against [sendika.org](http://sendika.org) on July 25, 2017 after the elections on June 7, 2015 and the Suruç Massacre, and the total number of restrictions against the website had reached 62 as this report was being drafted. Those who posted on the website were accused of being members of terrorist organizations. After the 49<sup>th</sup> access restriction, the website applied for Guinness World Record for the title of "the most frequently blocked yet on-the-air news website".<sup>6</sup> As this report was being drafted, the website was waiting for the Constitutional Court to give its verdict concerning the 61<sup>st</sup> ban.

The regression in Internet freedom was also noted in international reports. In the "Internet Freedom Report" published by Freedom House in 2018, Turkey was included in the "Not Free" category along with such countries as China, Russia, Iran, and Saudi Arabia. Turkey's record on Internet freedom has been deteriorating since 2014 and it was on a par with Venezuela in 2018 with a total score of 66.

The part focusing on Turkey in Reuters Institute's 2018 Digital News Report presented very important findings about the use of Internet and associated safety concerns. According to the report, 70% of Turkey's population can access the Internet. Internet users' overall trust for news sources is on the fall, and the rate of trust is 38%. The level of trust that Internet users have for the sources that they themselves use is 43%. 30% of Internet users prefer Whatsapp to discuss news content, and state that they do so because of "the safety concerns they experience when giving political messages". 45% of Internet users are concerned that people posting political criticisms on online platforms after the coup attempt would be arrested. The report also remarks that giving the authority of licensing to RTUK, 5 out of 9 members of which are appointed by the government, might in the long run bring more control on the news content and more fines for dissenting online news platforms. Additionally, the report mentions that the relatively smaller digital brands

<sup>6</sup>[http://www.cumhuriyet.com.tr/haber/turkiye/774914/49\\_kez\\_kapatilan\\_sendika.org\\_\\_Guinness\\_Rekorlari\\_na\\_basvurdu.html](http://www.cumhuriyet.com.tr/haber/turkiye/774914/49_kez_kapatilan_sendika.org__Guinness_Rekorlari_na_basvurdu.html)

outside of the mainstream media can function only to a very limited extent, and they can only reach the most educated living in urban areas. Since these brands cannot develop sustainable models, they cannot employ experienced journalists full-time either.

The transparency reports of social media platforms testify to the increasing number of official demands for restricting access to data and news content. According to Facebook's Transparency Report, public institutions in Turkey demanded 893 data associated with 1079 users between January and June 2018. Facebook provided the data 79.8% of the time for urgent demands and 73.2% for legal inquiries. 1106 data were restricted upon the demands from public institutions, while 528 data were restricted in response to private reports of insult. Data restrictions were implemented in accordance with the Internet law number 5651 on the basis of articles about "violation of personal rights", "violation of the privacy of personal information", and "insulting Atatürk". The public institutions that demanded these restrictions were the Information and Communication Technologies Authority, courts, the Ministry of Health, the Ministry of Customs and Trade, the Association of Access Providers. Between July and December 2017, the number of restriction demands from public institutions and private reports of insult were 657 and 3175 respectively.<sup>7</sup>

According to Google's Transparency Report, out of a total of 1174 demands for content removal from Turkey, 907 came for legal institutions, and 267 from administrative institutions. Of all demands, 50% were made on the grounds of "defamation", 28% on the grounds of "privacy and safety", 10% on the grounds of "obscenity/nudity", and 6% on the grounds of "national security". A total of 4953 items were asked to be removed. 63% of administrative demands and 22% of legal demands were met.<sup>8</sup> According to Twitter's Transparency Report, 530 information demands for a total of 2583 users were sent to Twitter. None of these demands were met. The information demands increased by 75%, while the rate of partial restriction decreased by 18%.<sup>9</sup>

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<sup>7</sup> <https://transparency.facebook.com/content-restrictions/country/TR>

<sup>8</sup> <https://transparencyreport.google.com/?hl=tr>

<sup>9</sup> <https://transparency.twitter.com/tr/countries/tr.html>

**CONCLUSION**

We have observed that during this period, defending the freedom of expression and publishing, producing and disseminating controversial and creative expressions have become more and more difficult for publishers, which inevitably results in a lack of courage in choice of publications. In the lawsuits initiated against publishing houses and writers that claimed that their books violated the Turkish Criminal Code or the Anti-terror Law, serious errors have been observed both in principle and in procedure. We think it is necessary to emphasize one more time the need for the remedy of these errors which are detailed in this report. It should not be forgotten that freedom to publish enables the communication and circulation of ideas, thus informing the individual and the society. The expression of opinions with any available means, including the ones contrary to the majority, the possibility of finding sympathizers for the expressed opinions, and the possibility of convincing the authorities for the realization of those opinions are the required elements of pluralistic democracies. For this reason, freedom of expression and freedom to publish are of crucial importance for the functioning of democracy.





Bandrol Uygulamasına İlişkin Usul ve Esaslar Hakkında Yönetmelik'in 5. Maddesinin 2. Fıkrası çerçevesinde bandrol taşıması zorunlu değildir.