



# Think, think...

## Freedom of Expression Weekly Bulletin

(Issue 03/18, 19 January 2018)

### What happened last week?

\*\*\* State of Emergency was extended for another three months. Thus, the State of Emergency was extended for the sixth time since its declaration following the coup attempt.

\*\*\* Anti-ISIS Coalition, led by the United States, announced that they will establish a border protection force including Kurdish forces. This led to a new tension at the Syrian border. Following the military transfer at the border and the artillery fire at Afrin, President Erdoğan made continuous heavy remarks. Erdoğan stated that a military intervention will be made at Afrin and Manbij. The State Security Council meeting stated *“the establishment of a terrorist army will not be allowed.”*

\*\*\* The first concrete step was taken in regards to an alliance between the Justice and Development Party (AKP) and Nationalist Movement Party (MHP). The boards, consisting of MPs from both parties, made their first meeting and a “National Consensus Commission” was established.

\*\*\* Arrested journalists Mehmet Altan and Şahin Alpay were still not released, despite a Constitutional Court decree on violation. Government authorities accuse the Constitutional Court with ‘exceeding boundaries of authority’ and local courts do not apply the binding Supreme Court decree.

\*\*\* Republican People’s Party (CHP) MP Enis Berberoğlu was not released in the second hearing of the case at the Court of Appeals. Berberoğlu is arrested within the ‘National Intelligence Trucks’ Case. Berberoğlu was not brought to the hearing room since he protested against his transfer to the hearing room with handcuffs.

\*\*\* Die Welt Newspaper’s reporter Deniz Yücel, who is arrested for 11 months, indicated that he does not want to be involved in the arms trade between Germany and Turkey. *“If there is a dirty agreement, I’m not in,”* Yücel said. German Foreign Minister Sigmar Gabriel previously announced that “the German Government does not approve of many arms exportation” and that “the situation will remain this way until Yücel’s case is resolved.”

\*\*\* European Parliament Chairman Antonio Tajani used the expressions “unacceptable” and “illegitimate” regarding the Parliament membership of People’s Democratic Party (HDP) MP Leyla Zana being taken off.

\*\*\* Freedom House launched the 2018 Freedom in the World 2018 report, which handles political rights and freedoms all around the world. Turkey has regraded from “Partly Free” to “Not Free” category. **(Details below...)**

\*\*\* Human Rights Watch launched the ‘2018 World Report’ in which human rights applications in more than 90 countries were analysed. The 643-page report, launched for the 28th time by the organization, states: *“The new presidential system [in Turkey], which consolidates the incumbent’s hold on power, is a setback for human rights and the*

rule of law. It lacks sufficient checks and balances against abuse of executive power, greatly diminishing the powers of parliament, and consolidating presidential control over most judicial appointments.” **(Details below...)**

\*\*\* According to BiaNet’s “October-December 2017 BIA Media Monitoring Report”, 122 journalists and media workers entered the new year in prison and 520 face imprisonment sentences. **(Details below...)**

\*\*\* Academic Nuriye Gülmen and educator Semih Özakça are on a hunger strike for 317 days with a demand to get their jobs back after being dismissed with Statutory Decrees issued within the State of Emergency. The statement made by Ankara Medical Chamber indicated heavier health conditions of the hunger strikers, Gülmen is down to 33 kgs and Özakça is 45 kgs as well as an increase in speech problems, pain, balance and loss of sense.

\*\*\* 11 years have passed after journalist Hrant Dink’s death due to an armed attack on 19 January 2007. The curtain of mystery on the death of Dink in front of Agos Newspaper building, where he was the founder and Editor-In-Chief, is still not removed. “Hrant’s Friends” organized a commemoration at the location where Dink was killed, repeating their demand for justice since 11 years.

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## **Freedom House: Turkey regrades from ‘partly free’ to ‘not free’ category**

Freedom House launched the 2018 Freedom in the World 2018 report, which handles political rights and freedoms all around the world. The report states that democracy is being

attacked worldwide. Turkey has regraded from “Partly Free” to “Not Free” category. In the 18-year history of the report, Turkey was categorized under “Not Free” for the first time.

The report graded Turkey 6 points less than last year. Turkey has also been the country with the highest decline of points with 34 points within the last 10 years. The reason for the regression was explained as *“the serious consequences of the environment of heavy pressure applied by President Recep Tayyip Erdoğan against oppositional groups following the failed coup attempt in 2016.”* For the full report; <https://freedomhouse.org/report/freedom-world/freedom-world-2018>



## **HRW 2018 World Report: “Media, activists and oppositional views targeted in Turkey”**

Human Rights Watch launched the ‘2018 World Report’ in which human rights applications in more than 90 countries

were analysed.

The 643-page report, launched for the 28th time by the organization, states: *“The new presidential system [in Turkey], which consolidates the incumbent’s hold on power, is a setback for human rights and the rule of law. It lacks sufficient checks and balances against abuse of executive power, greatly diminishing the powers of parliament, and consolidating presidential control over most judicial appointments.”* The Turkey section of the report, which indicates an increase on restrictions against the media, oppositional views and human rights advocates, involves the topics, *“torture and ill-treatment in custody, resumption of conflict and crackdown on Kurdish opposition, the role of Turkey as a key international factor due to hosting many refugees”* as well as *“the role of human rights in the relationship between Turkey and the EU.”* For the full report; <https://www.hrw.org/world-report/2018/country-chapters/turkey>



### **‘Ordinarized State of Emergency’: “More than 1000 articles amended”**

According to the report, *“Ordinarized State of Emergency/The Effect of Emergency Decrees on Legal Legislations”* prepared by Heinrich

Böll Stiftung Association Turkey Representative, more than 1000 Articles in total were amended with 30 Statutory Decrees issued within the State of Emergency.

In the 120-page report prepared by Ismet Akça, Süreyya Algül, Hülya Dinçer, Erhan Keleşoğlu and Barış Alp Özden, the micro and macro level changes aimed to be realized with emergency decrees on Turkey’s political, social and financial structures and relations were analyzed. The report states with such amendments, the political power used the emergency regime procedure to restructure political/legal/social institutions on various fields from national defense and domestic security to judicial personnel, from economic and social security to the administrative structure, as well as education and health. For the full report; [https://tr.boell.org/sites/default/files/ohal\\_rapor\\_web.pdf](https://tr.boell.org/sites/default/files/ohal_rapor_web.pdf)



### **520 journalists face 237 heavy life imprisonment and 3,762 years imprisonment in total**

According to BiaNet’s “October-December 2017 BIA Media Monitoring Report”, 122 journalists and media workers entered the new year in prison. 66 of the 122

journalists in prisons are pending trial, 31 of them are being investigated, 21 of them are convicts and four of them are awaiting a conclusion for their objection against their sentence.

Facing charges such as “organizing coup,” “attempting to overthrow the Constitutional order” and “aiding or collaborating with terrorist organizations,” the journalists in prison are on trial with claims of a total of 237 heavy life imprisonment sentences and imprisonment sentences for 3,672 years and six months due to the Anti-Terror Law (TMK) and the Turkish Penal Code (TCK). The journalists, who are on trial within the “coup” and illegal organization cases during the State of Emergency, which was recently extended for the fifth time, are being forced to wear uniforms in prison. In the three-month period, five journalists were sentenced to a total of deferred 1 year, 11 months and 10 days of imprisonment as well as 42 thousand TL of judicial fine in accordance with Article 299 of the Turkish Penal Code due to “insulting the President” with their articles, opinions and criticisms. One journalist was acquitted. New lawsuits were filed against six journalists due to “insulting the President” and the proceedings of 14 continue.

Article 299 of the Turkish Penal Code has started to be applied in August 2014, when Erdoğan was elected as the President of the Republic of Turkey, against all criticisms and complaints against Erdoğan. Since August 2014 until 1 January 2018, the article became the basis for a total of 35 people, 34 of them journalists, being sentenced to imprisonment sentences for a total of 42 years, 5 months and two days (with 18 years and 20 days deferred) as well as to 188,500 TL judicial fine. On the other hand, news and articles on 36 websites, eight caricatures, six books and three newspapers were censored. For the full report; <https://bianet.org/bianet/medya/193287-bia-medya-gozlem-ekim-kasim-aralik-2017-tam-metin>



## Release claim of Altan and Şahin denied at Supreme Court

The objections made at Istanbul 27th High Criminal Court and Istanbul 14th High Criminal Court for the release of arrested journalists Mehmet Altan and Şahin Alpay were denied, after the Constitutional

Court decree on a rights violation against their sentence.

Lawyers applied to Istanbul 26th High Criminal Court, where Altan is on trial, following the Constitutional Court decree and claimed the release of their client. The court denied the claim and decided for Altan to remain arrested. The lawyers then appealed for objection at Istanbul 27th High Criminal Court as the higher court. However, the court found the arrest verdict in accordance with the legal procedure due to the “quality and significance of the charge imposed against Altan, the current situation of evidence that points to heavy criminal suspect and the fact that the evidence was not completely gathered.” The objection made at Istanbul 14th High Criminal Court by Alpay’s lawyers, whose release claim was similarly denied by Istanbul 13th High Criminal Court, was also denied.

Constitutional Court’s General Assembly issued release for arrested writers Şahin Alpay and Mehmet Altan and a verdict of violation for Turhan Günay’s sentence. The decrees were published on the Official Gazette today (19 January 2017). Lawyer Engin Cinmen

stated that the court must immediately issue a release for the writers, saying, *“it is otherwise impossible for the court to bear the weight of this responsibility.”* In case the release verdict is not abided, a High Criminal Court will have issued a decision to not abide by the highest judicial authority, Constitutional Court decrees for the first time; which will lead to a desperate judicial chaos. Cinmen stated that in case Constitutional Court decrees are not abided by, it will be certain that the Constitutional Court is not an effective domestic remedy. *“If that turns out to be the case, the European Court of Human Rights may accept applications without a prerequisite for application at Constitutional Court,”* said Cinmen.



## Release claims of arrests denied in Cumhuriyet Case

The Constitutional Court issued a verdict of right violation against the arrest of Cumhuriyet Book Supplement Editor-In-Chief Turhan Günay, a defendant in the Cumhuriyet Case. The other

defendants' claims of release following the Constitutional Court decree on Günay were denied.

Istanbul 27th High Criminal Court claimed that the rights violation decree issued by the Constitutional Court has no effect on the arrested Editor-In-Chief Murat Sabuncu, Chief Executive Officer Akın Atalay and reporter Ahmet Şık. The release claim of the defendants' lawyers stated, *“Their arrest warrants are the same, the indictment against them is the same, the charges imposed and the contents of the evidence is the same.”*

Istanbul 27th High Criminal Court claimed that *“there is no binding provision that a verdict of violation on an individual case has absolute and objective effects on other individual applications;”* asserting that decisions made as a result of individual applications will only be effective for the individual applicant.



## Five Özgür Gündem Chief Editors sentenced to 9 year 9 months imprisonment

Journalists Ayşe Düzkan and Ragıp Duran as well as writers Mehmet Ali Çelebi and Hüseyin Bektaş were convicted together with former

Özgür Gündem Co-Editor-In-Chief Hüseyin Akyol due to *“illegal organization propaganda.”* The journalists were convicted due to participating in the Substitute Editing-In-Chief campaign for Özgür Gündem Daily, which was previously shut down with the Statutory Decree No. 675 within the State of Emergency.

Istanbul 13th High Criminal Court increased the 2-year imprisonment sentence against Akyol to 3 years and nine months of imprisonment due to the crime having been committed consequently, through press. The court increased the 1-year imprisonment sentences against the other four journalists to 1 year and six months of imprisonment due to the crime having been committed through press. The five defendants were sentenced to a total of 9 years and nine months of imprisonment. The sentences were not abated or deferred due to “their attitude during the hearings and their insufficient exhibition of regret.”



## **Investigation against Kaftancıoğlu after election as CHP Istanbul Provincial Chairwoman**

An investigation was started against Canan Kaftancıoğlu due to “making illegal organization propaganda” and “insulting the President” with her social media posts. Kaftancıoğlu was

elected the Provincial Chairwoman at the Republican People’s Party (CHP) Istanbul 36th Ordinary Provincial Congress on January 12th, Saturday.

Following the election of Kaftancıoğlu as Chairwoman, she was targeted due to her commemoration of those who lost their lives in the Armenian Genocide and Berkin Elvan, who lost his life due to the tear gas shell shot by the police during the Gezi Park protests; as well as due to her Twitter posts reacting against the custodies of People’s Democratic Party (HDP) MPs and soldiers being lynched during the coup attempt. Immediately after the targeting campaign, Istanbul Chief Public Prosecutor’s Office started an investigation against Kaftancıoğlu with the allegation of “making PKK and DHKP-C propaganda.”

In the weekly group meeting of the Justice and Development Party (AKP), President Recep Tayyip Erdoğan targeted Canan Kaftancıoğlu, who was recently elected as the Republican People’s Party (CHP) Istanbul Provincial Chairwoman. Erdoğan showed tweets written by Kaftancıoğlu in previous years and the meeting participants booed the tweets. *“She is humiliating our history by saying ‘Armenian genocide.’ She is attacking security forces and blames the government for those who died by writing, ‘the government is not a killer, but a serial killer...’ This individual is understood to have personally been involved everywhere around the provocations during the Gezi Park protests, while saying, ‘To Taksim, take your mother as well.’”* stated Erdoğan.



## **Demirtaş acquitted of ‘insult’ charge**

People’s Democratic Party (HDP) Co-Chair Selahattin Demirtaş, who is arrested pending trial for 14 months, stood trial in the hearing room at

Sincan Prison in two different cases against him in Ankara.

Demirtaş was acquitted of the charges of “insult” against him in the case at Ankara 19th Criminal Court of First Instance regarding his expressions, asserting that the Deputy Chairman of Justice and Development Party (AKP) Süleyman Soylu “has established a 3500-people fraud team for HDP to remain below the election threshold.” The next hearing of the proceeding at Ankara 25th Criminal Court of First Instance due to “denigrating the government and state of the Republic of Turkey” with the statement he made following the October 10 Massacre was scheduled to 18 April 2018.

Demirtaş was transferred from Edirne Type-F Prison to Sincan Prison pending trial at Ankara 10th Criminal Court of First Instance and 25th Criminal Court of First Instance. Before the hearings of Demirtaş, Ankara Governorate banned all meetings, demonstrations, press statements and activities alike. The decision stated that such activities have the potential to endanger general health, general morality or the protection of the rights and freedoms of others as well as the prevention of crimes, protecting public order and may pose as possible targets by terrorist organizations.



## **Imprisonment sentence against HDP Hakkari MP Selma Irmak**

Arrested People’s Democratic Party (HDP) Hakkari MP Selma Irmak was sentenced to 1 year of imprisonment in the case she was on trial at Diyarbakır 9th Criminal Court of

First Instance due to “public denigration of the government of the Republic of Turkey.” A lawsuit has been filed against Irmak due to accusing the government of the Republic of Turkey with “atrocities” in a speech she gave at a TV show in November 2015 via phone call.

The court did not abate the sentence due to the “personality and past of the defendant and her attitude during the proceeding” and did not defer the sentence due to the lack of opinion that Irmak will not commit another crime again and that she hasn’t exhibited regret.

**WIKIPEDIA**  
*The Free Encyclopedia*



## **Wikipedia: “We removed content disturbing Turkey”**

Wikimedia Foundation’s Chairwoman Katherine Maher, which also embodies Wikipedia, stated that the articles disturbing

official authorities and leading to the access ban against the website in Turkey were changed. However, the website can still not be accessed in Turkey.

Expressing that they are uninformed on why the access ban still continues, Maher stated, *“The Turkish Wikipedia contains about 300 thousand articles. We hope that our users continue to create content and this number finds millions. However, if the website is banned to access, our writers who will provide such content will be prevented from doing so. We are looking forward to the day when Wikipedia, one of the largest information sources in Turkish, will be opened to access once again.”* Wikipedia was banned to access on April 29th.



## **ECtHR convicts Turkey of violation of freedom of expression**

In the application made by Yeni Evrensel newspapers at the European Court of Human Rights, Turkey was convicted of violating freedom of expression. The two journalists, who were sentenced to stay of broadcast and judicial fine due to the article they published on Yeni Evrensel’s killed reporter Metin Göktepe, will receive a moral indemnity of 5000 Euros in total from Turkey.

Göktepe was killed on 8 January 1996 after being taken into custody while tracking news information. Yeni Evrensel Newspaper then published an article with the headline, “I must certainly watch this guys” on the first anniversary of Göktepe’s death, involving information on the police officers beating Göktepe to death. The newspaper then faced the charge of “publicizing identities of public officers who took part in the fight against terrorism” in accordance with Article 6/1 of the Anti-Terror Law; Istanbul State Security Court No. 3 sentenced the newspaper to a week-long temporary broadcast ban. The newspaper’s Managing Director Ali Karataş and owner Fevzi Saygılı were further sentenced to judicial fines.

## **THIS WEEK ON THE MUSEUM OF CRIMES OF THOUGHT**





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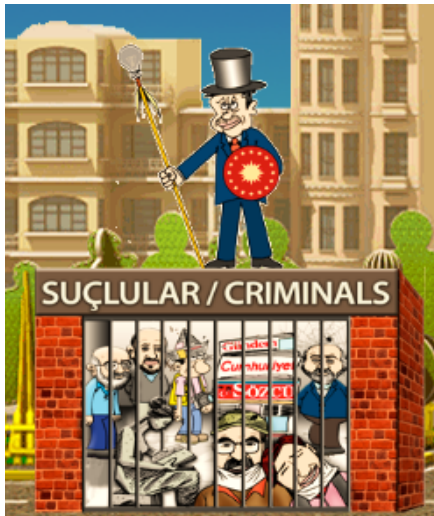


### State of emergency

Turkey regressed to "Not Free" category from "Partly Free" category on Freedom House's Freedom in the World 2018 report. It is the first time in 18 years of the publication that Turkey has been categorized as such.

An investigation was launched against Dr. Canan Kaftancıoğlu who has been elected CHP Istanbul Chair last Friday on the charges of "insulting the President" and "terrorist organization propaganda", as President Erdoğan continues to target her. Kaftancıoğlu stated that she will file lawsuits against the insults and slanders.

Heinrich Böll Stiftung Turkey prepared a report on state of emergency in Turkey, indicating that with 30 statutory decrees published under the state of emergency 1000 articles in total have been re-regulated.



### Freedom of Expression

Özgür Gündem substitute editors Ragıp Duran and Ayşe Düzkan, daily's writers Mehmet Ali Çelebi, Hüseyin Bektaş and former editor Hüseyin Aykol have been convicted to prison sentences (1 year 6 months to 3 years 9 months) on the charges of "terrorist organization propaganda". The court has not suspended the journalists' sentences.

Imprisoned CHP MP Enis Berberoğlu's second hearing at Court of Appeals took place, there is yet again no decision for his release.

Based on Constitutional Court's ruling, jailed journos continue to demand release, yet to no avail. Şahin Alpay's second demand for release was rejected. Imprisoned Cumhuriyet staff has demanded release following the ruling for the daily's previously imprisoned books magazine editor Turhan Günay, the demand was also rejected.



### TRIALS OF FREEDOM OF EXPRESSION

- The case of 24 people who were taken into custody while protesting the April 16 referendum results in Izmir, including Kamera Sokak collective founder, director, photographer, documentary maker and video activist Kazım Kızıllı, was held at

Izmir 33rd Criminal Court of First Instance on January 15th. We could not obtain the results of the hearing.

- The verdict of reversal issued by the 2nd Penal Department of Istanbul Regional Court against the 25-year imprisonment sentence against Republican People's Party (CHP) MP Enis Berberoğlu was resent by the local court due to being "against the law and procedure." The hearing was held on January 16th. The court issued Berberoğlu to remain arrested due to "obtaining confidential information concerning the state with the purpose of political and military espionage." The next hearing was postponed to 13 February 2018.
- The case against Evrensel Newspaper writer Yusuf Karataş, who remained arrested for two months within the Democratic Society Congress (DTK) investigation and was released on September 22nd, was held at Diyarbakır 9th High Criminal Court on January 17th. Sending a letter to the court, Diyarbakır Security Directorate stated that the audio surveillance records were deleted. The court issued the ban on travelling abroad as well as the judicial control against Karataş to remain. The case was postponed to May 30th for deficiencies in the file to be fulfilled.
- The case filed against Izmir Gediz University Sociology Department Head Prof. Dr. İftar Gözaydın due to "armed terrorist organization membership" was held at Istanbul 27th High Criminal Court on January 17th. The university was shut down after July 15th. The next hearing will be held on January 31st at 15:30.
- Cases continue against Peace Academics. Four academics from Istanbul Technical University, two from Yıldız Technical University, three from Marmara University and one from Özyeğin University stood trial on January 18th at Istanbul 35th High Criminal Court. The next hearings against the academics were scheduled to June 28th, July 12th and September 18th.
- A lawsuit was filed against Ertuğrul Mavioğlu and Öyan Demirel, the two directors of the documentary, "Bakur," which was screened in Batman during the Resolution Process; as well as against Batman Municipality Yılmaz Güney Cinema's manager Dicle Anter due to screening the movie. Charged with "illegal organization propaganda," the defendants stood trial on January 18th at Batman 2nd High Criminal Court. We could not obtain the results of the hearing.

### **Trials Next Week**

- In the first hearing of the case against Sözcü Newspaper's owner and employees due to "managing an armed terrorist organization," "making armed terrorist organization propaganda" and "willfully aiding and abetting an armed terrorist organization while not being involved in the hierarchical structure within," the only arrested defendant Gökmen Ulu was released. The next hearing will be held on January 23rd at Istanbul 37th High Criminal Court.
- In the case regarding the publication of visuals of National Intelligence Trucks, a claim of imprisonment was made against defendants Can Dünder and Erdem Gül from 7.5 years to 15 years due to "willfully aiding and abetting a terrorist organization while not being involved in the hierarchical structure of the organization." The next hearing will be held on January 24th at 14th High Criminal Court.
- A lawsuit was filed against Özgürlükçü Demokrasi Newspaper workers Serkan and Özkan Erdoğan due to "illegal organization membership" and "making illegal organization propaganda" after their arrest on July 28 and 29. The first hearing of

the two journalists will be held on January 25th at Mersin 8th High Criminal Court.