

Freedom of Expression and the Press Agenda

JANUARY - APRIL 2021



PRAWO DO WYRAŻENIA
PŁATYFORM

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FROM THE EDITOR

As the Expression Interrupted platform, which has been operating as part of the Platform for Independent Journalism (P24) since 2017, we present our first periodic report with the aim of sharing the results of our efforts to track violations of freedom of expression and the press in Turkey with the general public more effectively.

This report covers the prominent developments concerning freedom of expression and the press in Turkey in the first four months of 2021. The information provided hereof is based on the extensive work carried out by the Expression Interrupted in monitoring trials and tracking open sources.

Although Turkey is among the leading countries in the world in terms of imprisoned journalists and trials against journalists, the pressure on the freedom of expression and the press is not limited to trials and prison sentences; physical attacks, statements from high-level politicians targeting journalists and advertising/ broadcast bans and penalties, along with judicial violations, bring about an exhaustive crackdown on freedom of the press or, in more general terms, freedom of expression. Nevertheless, it should be kept in mind that these violations are the result of the current political and legal environment and that it is due to the dominant trends in this realm that such violations have gained continuity and prevalence. The importance of tracking and reporting the violations, in its own right, notwithstanding, it will not be easy to identify the causes of violations, make informed estimates and determine the necessary steps to remedy the violations if such an effort is carried out without an analysis of the political and legal context.

In view of the above, we have adopted a comprehensive approach in this report, including not just statistics on the ongoing detentions and cases but also non-judicial repressive practices through selected examples. Therefore, in the following pages, we will discuss some of the key developments in the political and legal areas, to the extent that they have affected the freedom of expression and the press and in an effort to “see the big picture.”

The information provided in this report is limited to the data compiled as a result of monitoring trials and tracking open sources by the

Expression Interrupted team, and thus, cannot be expected to provide a comprehensive overview of all the relevant developments. This report was drawn up from an analytical perspective focusing on emblematic cases and developments, which we believe reflect the general trends in the field of freedom of expression and the press in Turkey. We hope that this report will contribute to the body of valuable work in this field and, more crucially, to a much-needed progress towards protection of the freedom of expression and the press in Turkey in line with the Constitution of the Republic of Turkey and the international conventions to which Turkey is a party.

PRESS FREEDOM ATMOSPHERE IN THE FIRST FOUR MONTHS OF 2021

"We will make 2021 a year of reforms. We will take the necessary steps with our nation to build a great and powerful Turkey. With the reforms we will implement in economy and law, we are determined to strengthen our country in employment and freedoms."

President Recep Tayyip Erdoğan, 2 January 2021

With plans for a new constitution and a newly announced human rights action plan, Turkey welcomed 2021 with renewed promises of reforms. Yet, the subsequent developments in the first months of the year shattered the expectations of any improvements in the field of human rights and democratic rights before they could emerge. Turkey's withdrawal from the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, or more commonly known as the Istanbul Convention, of which it was one of the first signatories, with an overnight presidential decree, or the appointment of Melih Bulu, who is affiliated with the ruling Justice and Development Party (AKP), as the president of Boğaziçi University, one of the country's most well-established higher education institutions, despite a fierce outcry from students and academics, underpinned the centralization of executive power in the hands of a single person in the presidential system, established through a referendum in 2017. That the Chief Public Prosecutor of the Supreme Court of Appeals has filed for a closure case against the pro-Kurdish Peoples' Democratic Party (HDP) -- though the indictment has been returned to the prosecutor's office for the present; that the parliament revoked the seat of the HDP lawmaker Ömer Faruk Gergerlioğlu, a tireless human rights defender, based solely on a peaceful social media post from years before, following which Gergerlioğlu was detained in the parliament and sent to prison in an eerily familiar manner reminiscent of the 1990s; that Öztürk Türkoğan, the co-chair of the Human Rights Association (İHD), one of the most prominent human rights organizations in the country, was arrested as part of police raids that also targeted members and local executives of the HDP marked the aggravating crackdown on the political opposition and human rights defenders. The ban on audio-visual recordings at demonstrations with a circular issued by

the Police General Directorate has further deepened concerns about the rule of law, human rights and press freedom.

In the field of freedom of the press, or in a broader sense, freedom of expression, the marked deterioration experienced especially after the failed coup attempt of 15 July 2016 and the subsequent State of Emergency continued throughout 2020. By 2021, the severe picture of freedom of expression and the press in Turkey was clearly demonstrated by international statistics: [Turkey ranked first](#) among the 47 Council of Europe (CoE) member states to have violated Article 10 of the European Convention on Human Rights (ECHR) that safeguards the freedom of expression the most with a total of 31 rights violation decisions against it in 2020, according to the statistics by the European Court of Human Rights (ECtHR). Reporters Without Borders (RSF) ranked Turkey 153rd among 180 countries in the [2021 World Press Freedom Index](#) published in April.

Turkey has the most violations of freedom of expression guaranteed under Article 10 of the European Convention on Human Rights in 2020, according to the statistics of the ECtHR. It ranks 153rd among 180 countries according to the 2021 World Press Freedom Index by RSF

In the first four months of 2021, the ECtHR found rights violations in a limited number of applications concerning pre-trial detention of Turkish journalists (Atilla Taş, Ahmet Altan, Murat Aksoy) while Turkey's failure to implement the ECtHR decisions in the applications lodged by Osman Kavala and Selahattin Demirtaş, which became final last year, continued in the period discussed in this report, despite urgent calls by the Council of Europe. The Constitutional Court, which has been in the spotlight in recent years due to growing political pressure and appointments to the court that affected the overall makeup of its member dynamics, rendered progressive decisions in a number of press freedom cases while it found no rights violations with regard to pre-trial detention of journalist Ercan Gün, who has been jailed since 2016.

As of the first months of 2021, the number of journalists in prison has fallen below 70 for the first time since 2016. Several journalists, including Ahmet Altan and former *Zaman* reporter Büşra Erdal, who both had been behind bars since September 2016, were released during this period. As of this writing, [the number of journalists in prison in Turkey](#), either in pre-trial detention or serving sentences, is 68, which amounted

to a combined total of 87 at the beginning of the year, according to the tracking and monitoring work carried out by the Expression Interrupted team. However, it may well be an over-optimistic interpretation to regard this decline as a sign that judicial pressure on journalists has been waning. Our data suggest that the decrease in numbers stem from the fact that many journalists have been released from prison at the sentence expiry date and only after long convictions nearing five years. It is significant in this context to note here that there has been no significant decline in the number of cases filed against journalists, despite the decreasing number of journalists in prison. According to data obtained as a result of our tracking and monitoring work, a total of 213 journalists appeared before the court in at least one case filed against them in January, February, March and April, during which the number of ongoing cases in which journalists stood trial as defendants was at least 107, while new cases were lodged against at least 16 journalists. Moreover, at least nine journalists were physically attacked.

In the first quadrimester of 2021, a total of 213 journalists appeared before the court in at least one case lodged against them. The number of cases where journalists were prosecuted was at least 107, while new cases were launched against at least 16 journalists. At least nine journalists were physically attacked

The reasoned judgment in the Özgür Gündem trial, in which four journalists were sentenced to a total of 21 years in prison, has turned out to be a revelatory document in terms of demonstrating the Turkish judiciary's current position on the Kurdish press, human rights advocacy, and rights-based journalism. The decision in question, which argued that a "genuine and national" understanding of human rights should be respected, stated that the defendants who were prosecuted and sentenced in the case were "observed to have hidden behind the veil of human rights and human rights advocacy."

The Radio and Television Supreme Council (RTÜK) and the Public Advertising Agency (BİK), which have become serious tools of pressure on the dissident press in recent years, have continued to issue penalties selectively in the first quadrimester of 2021. Evrensel and Yeni Asya newspapers have not received any public advertisements since September 2019 and January 2020, respectively, due to separate BİK decisions to suspend their right to publish advertisements. These two newspapers also face the prospect of permanently losing their licenses to run public ads.

LEGAL AND POLITICAL DEVELOPMENTS

Action Plan on Human Rights and Plans for a New Constitution

Everyone has the right to express and disseminate his/her thoughts and opinions by speech, in writing or in pictures or through other media, individually or collectively. This freedom includes the liberty of receiving or imparting information or ideas without interference by official authorities. (Constitution of Republic of Turkey, Article 26)

The press is free, and shall not be censored. (Constitution of Republic of Turkey, Article 28)

The press is free. This freedom includes the rights to acquire and disseminate information, and to criticize, interpret and create works. (Press Law, Article 3)

Although there have been no changes to the existing legislation covering freedom of the press in the first four months of 2021, the [Action Plan on Human Rights](#), which promises to bring various improvements in the area over a two-year period, was announced to the public on 2 March. In the press conference, Erdoğan stated that the ultimate aim of the Action Plan was to lay the groundwork for a new constitution. On 30 April, a [presidential circular](#) regarding the Action Plan was published in the Official Gazette, and thus, the Action Plan, the gradual implementation period of which is foreseen as the next two years, entered into force. In order to coordinate and monitor the workings of ministries and public institutions and organizations for the purposes of implementing the Action Plan effectively, the circular established the Action Plan on Human Rights Monitoring and Evaluation Board. Under the chairmanship of the President, the Board will be composed of the Justice Minister, the Minister of Family and Social Services, the Minister of Labor and Social Security, the Minister of Foreign Affairs, the Treasury and Finance Minister, the Interior Minister, and other government officials.

Among the pledges listed under the goal of “Increasing the Standards of the Freedoms of Expression and of the Press” in the section of the Action Plan devoted to freedom of expression and the press, the highlights are as follows:

- The relevant legislation will be reviewed in the light of international human rights standards in order to safeguard the freedom of expression at the widest extent
- Regular trainings will be organized for judges, prosecutors and law enforcement officers with a view to ensuring that an expression of thought not be subject to investigation if it does not exceed the limits of imparting information or is made for the purpose of criticism
- Measures necessary will be taken to eliminate the practice-related problems with regard to the limitation of a restriction of access only to the content concerned instead of blocking access to the whole of a website
- The time-limits prescribed for initiating proceedings in relation to offences committed via the press and media will be reconsidered in a bid to strengthen the legal foreseeability and the freedom of expression
- The practice-related regulatory framework that concerns the publication bans ordered by virtue of the Press Law will be reviewed in a manner that will strengthen the freedom of the press
- Awareness-raising activities will be conducted in an aim to promote and raise the standards of the freedom of the press
- Arrangements will be introduced to ensure that workers who are subject to the Press Labor Law can enjoy in full the rights prescribed by the labor legislation
- Legal remedies will be rendered available for rulings which become final once they are delivered in respect of offences committed via an expression of thought

The document also pledges various steps to address problematic issues like the rule of law, the right to fair trial and judicial independence, such as the prevention of transfer of judges without their consent, narrowing down the scope of catalog crimes and introducing a vertical objection procedure (to a higher court) to appeal the decisions of criminal judges of peace, who are infamous for frequent detention orders.

However, the Action Plan was widely criticized for its ambiguous language, failure to introduce any concrete steps to remedy the existing violations and not including input from non-governmental organizations (NGOs). Civil society representatives have expressed the opinion that the plan was more of an effort by the government to “look cute” to Europe than a genuine human rights strategy. You can find more detailed views on this topic in our article, titled *Human Rights Action Plan: “Makeup on a bedridden patient.”*

Perhaps more important than the content of the plan was the developments that took place right after the Action Plan was made public, which clearly undermined any reform promises. Just a few weeks after the Action Plan was announced, Turkey abruptly withdrew from the Istanbul Convention with a presidential decree; İHD Co-Chair Öztürk Türkođan was arrested during a police raid on his home; a lawsuit was filed for the closure of HDP; HDP lawmaker and a prominent human rights defender Ömer Faruk Gergerliođlu's [parliamentary immunity was revoked](#) upon a Supreme Court of Appeals judgment upholding a prison sentence he was given over a social media post he shared in 2016, following which he was detained and sent to prison; Odatv news portal's Ankara News Director Müyesser Yıldız and Tele1 TV Ankara Representative İsmail Dükel, who were prosecuted for their news reports on the operations of the Turkish Armed Forces in Libya, were [sentenced to prison](#) on the charges of “obtaining and disclosing information that should be kept confidential;” journalist Melis Alphan [appeared before the court](#) on the allegation of “making propaganda for a terrorist organization” for sharing on social media a photo taken at the Newroz celebrations in Diyarbakır in 2015.

In announcing the Action Plan, Erdoğan also detailed the pledge of a new constitution, adding that the ultimate aim of the plan was to draft “a new and civilian constitution.” Erdoğan argued that although the constitution has been amended on multiple occasions in recent years, it was still not purged of “its hesitant style with abundant exemptions that dominates the entirety [of the charter] in relation to freedoms.” However, the pledge of a new constitution also failed to create any prospects for reform, due to the lack of democratic and participatory processes necessary to draft a new constitution and the lack of any discernible change in government’s policies, which clearly contradict the discourse of reform. One of the most serious criticisms against the discourse of a new constitution was that the government had failed

to implement the relevant principles of the existing constitution and the law that protect fundamental rights and freedoms. Critics also pointed out that the government has shown no intention of reforming a number of controversial provisions already existing in the Turkish Penal Code (TCK) and Anti-Terror Law (TMK). You can find more detailed assessments on this issue in our article, titled *The debate on a new constitution: Turkey must respect the existing Constitution first*. There has been no legislative proposal submitted to the parliament or announced to the public for drafting a new constitution at the time of writing this report.

Social Media Law

Although it did not pass into law in the period discussed in this report, the sanctions that include advertisement bans and bandwidth restrictions against social media platforms that fail to appoint a local representative in Turkey as per the Law No. 7253 Amending the Law on the Regulation of Publications on the Internet and Suppression of Crimes Committed by Means of Such Publications, also known as “the social media law,” entered into force in the first four months of 2021.

In accordance with the law, an advertisement ban was imposed on social media platforms that failed to appoint a local representative in January. It was expected that the Internet bandwidth of such platforms would be halved in April. In March, Twitter, which, as of then, was one of the two remaining social media platforms that did not appoint a local representative, announced that it would name a legal representative to comply with the law. Shortly after, Twitter [assigned](#) an individual who resided in the USA as its legal representative in Turkey, according to an entry in the Turkish Trade Registry Gazette in April.

Finally, Pinterest announced on 9 April that it would appoint a legal representative in Turkey to comply with the law in question. Thus, in accordance with the social media law that entered into force on 1 October 2020, all the social media providers with more than one million daily users in Turkey have [announced](#) that they would appoint local representatives to readily respond to the demands of the government and individuals to block or remove content that is deemed offensive.

Other Legislation

Police circular on audio-visual recordings at demonstrations

The prohibition of audio-visual recordings at demonstrations with a circular issued by the Police General Directorate on 27 April 2021 was a significant development with regard to the practices of state institutions in the discussed period. The circular called for the prevention of citizens who film and record during demonstrations and for legal action to be taken against them if necessary. As a justification for the ban, the circular argued that sharing audio-visual recordings of citizens and police officers at demonstrations on social media was tantamount to “the violation of the right to privacy” and “unlawful processing of personal data.”

The circular has been slammed on the grounds of contravening the relevant provisions of the Turkish Constitution and the ECtHR that safeguard the freedom of assembly and prohibit ill-treatment. Legal experts and NGOs stressed that a circular that contradicted the Constitution, the ECtHR and the law could not be issued. It was also stated that the circular would lead to violations of press freedom since it failed to define or set up any exemptions for journalists.

Statements by Politicians and Political Pressure

In the first four months of 2021, mainstream media institutions remained under almost complete control of the government, while few dissenting media outlets and journalists were targeted by vilifying statements of officials of the ruling party and its allies, which have deepened concerns about the safety of journalists and increased censorship and self-censorship of dissenting and critical expression in a broader context.

The most dramatic example of the grave impact of political pressure on critical media outlets was the complete shutdown of Olay TV, a news channel available nationwide via cable and satellite, in February. The network had already halted its broadcast at the end of last December, merely 26 days after it was launched, reportedly under political pressure. Even though no statement that explicitly targeted the TV station concerned was documented, it was widely reported in the press that businessperson Cavit Çağlar, one of the two owners

of Olay TV and holder of the frequency rights of the channel, decided to step back due to political pressure. It was claimed that Çağlar had a falling out with his business partner due to the fact that Olay TV was the only TV channel that broadcast HDP's parliamentary group meeting in its entirety, and that Çağlar was threatened by the government with the confiscation of the companies under his name. On 15 February, it was announced to the employees of the station that the management had been blocked in its efforts to find new frequencies or acquire the ownership of an existing channel, due to which they had decided to cease all its operations. 180 employees of Olay TV were left unemployed in the process.

During the same period, Interior Minister Süleyman Soylu and the leader of the Nationalist Movement Party (MHP) Devlet Bahçeli, a coalition ally of President Erdoğan, made statements explicitly targeting press organizations and journalists for their reporting and comments. Interior Minister Süleyman Soylu targeted BirGün newspaper for its coverage of a corruption allegation involving the sacked Trade Minister Ruhsar Pekcan through his personal Twitter account on 30 April. The news published on BirGün, citing a report originally published on Odatv, claimed that Pekcan had renovated the apartment rented for her from the ministry's budget, which cost up to TL 380,000 that was covered by the ministry. "PKK's BirGün Newspaper, You are both lying and slandering," [Soylu said](#), quote-tweeting the newspaper's post on the report.

Devlet Bahçeli, who also made statements on his Twitter account, shared a series of posts criticizing the Republican People's Party (CHP) leader Kemal Kılıçdaroğlu's calls for a snap election. In his posts, Bahçeli also [targeted journalists](#) who commented on Kılıçdaroğlu's calls on TV, and accused six journalists (Necdet Saraç, Şaban Sevinç, Ali Haydar Fırat, Hakan Bayrakçı, Orhan Bursalı and Sevilay Yılman) of "acting as CHP's spokespeople," further describing them as "hitmen who lobby for elections." Bahçeli also implied that the journalists were affiliated with the Fethullah Gülen group, which the government has declared a terrorist organization, and said, "They are being played like puppets, even though it is a mystery whether they received the order for early elections from overseas or not," referring to Gülen, who resides in the United States. Bahçeli also targeted KRT, Habertürk and Halk TV [broadcasts](#), and [journalists](#) Deniz Zeyrek, İsmail Saymaz and İbrahim Uslu in his Twitter posts on 14 January.

THE JUDGMENTS OF ECtHR AND TURKISH SUPREME COURTS

ECtHR Judgments

Kavala and Demirtaş judgments that were not executed

Judgments issued by the ECtHR in the applications of Osman Kavala and Selahattin Demirtaş were not executed as of the first four months of the year even though they became final last year and have a binding effect. The ECtHR judgment in the application of Osman Kavala, which became final in May last year, ruled that Kavala's ongoing pre-trial detention had violated Article 5 (the right to liberty and security) and Article 18 (limitation on use of restrictions on rights). The Grand Chamber of the ECtHR, which took up the application lodged by Selahattin Demirtaş in December 2020, concluded that Article 5 (the right to liberty and security), Article 10 (freedom of expression), Article 18 (on the grounds that there was an ulterior political purpose behind his pre-trial detention) of the Convention and Article 3 of Protocol No. 1 to the Convention (the right to free elections) were violated.

The Committee of Ministers of the Council of Europe, which supervises the execution of judgments of the ECtHR, held its first meeting on the ECtHR decision on Kavala's application in September 2020 and called on Turkey for the immediate release of Kavala. The Committee of Ministers convened in September and December again, and at its next meeting, held on 9-11 March 2021, decided to resume its examination of the situation of Kavala, beyond the meetings specifically dedicated to the supervision of the execution of judgments, at the regular weekly meetings. In its interim resolution adopted after the regular meeting held on 14-15 April, the Committee of Ministers **noted** "their readiness to ensure the implementation of the judgment by actively considering using all the means at the disposal of the organization, if necessary."

At the meeting held on 9-11 March, the Committee of Ministers also examined the Selahattin Demirtaş judgment, which became final after the Grand Chamber decision in December 2020, for the first time. The Committee decided to resume its examination of

Demirtaş's case at its next regular meeting scheduled for June. As in the case of Kavala, Turkish authorities argue that Demirtaş's current detention is based on different charges and therefore is outside the scope of the ECtHR judgment. You can find our article prepared by Demirtaş's lawyers [here](#), which contains a detailed assessment of the new charges on the basis of which Demirtaş remains in detention.

New judgments: Atilla Taş, Murat Aksoy and Ahmet Altan

In the first quadrimester of 2021, the ECtHR announced its long-awaited judgments concerning three cases of journalists (Atilla Taş, Murat Aksoy and Ahmet Altan), finding violations of Article 10 (freedom of expression) and Article 5 (the right to liberty and security). However –unlike Kavala and Demirtaş decisions, but similar to the other cases of journalists it concluded last year– it held that there were no violations of Article 18, which would mean that there was an ulterior political purpose behind their detention, in all three applications.

In its decision concerning [the application lodged by Atilla Taş](#), announced on 19 January, the ECtHR concluded that pre-trial detention of Taş, who was prosecuted and jailed for 14 months on the grounds of his articles and columns published in the now-defunct Meydan newspaper and his social media posts as part of the case publicly known as “FETÖ media trial,” was not based on factual evidence giving rise to strong suspicion that he had committed a crime. The Court held that Turkey was to pay Taş EUR 12,275 in respect of non-pecuniary damages, and EUR 3,175 in respect of costs and expenses. The violation decision was taken unanimously.

In its decision concerning [the application lodged by Murat Aksoy](#), announced on 13 April, the ECtHR noted that there were no plausible grounds for suspecting Aksoy, who was jailed for more than a year, of having committed a crime. The Court held that Turkey was to pay Aksoy EUR 11,500 in respect of non-pecuniary damages and EUR 3,175 in respect of costs and expenses. The decision was taken by a majority, with Turkish judge Saadet Yüksel expressing a partly dissenting opinion. In her opinion, Yüksel said that the Constitutional Court had previously issued a decision finding that the pre-trial detention of Murat Aksoy amounted to rights violation.

On the same date, the ECtHR also [concluded](#) the application lodged by Ahmet Altan, which had been pending since January 2017, and

held that there had been violations of Article 5 and Article 10, similar to its decisions regarding the cases of Taş and Aksoy. The decision noted that there was no evidence to suggest that Altan's acts were part of a larger plot to overthrow the government, holding that the acts in question could not be regarded as capable of grounding a "reasonable suspicion" that Altan had committed the alleged crimes. Once again, the Turkish judge Saadet Yüksel disagreed with the majority decision regarding the violations of Article 5/1 and Article 10, but this time based her dissenting opinion on the merits of the case. Yüksel argued that it was reasonable for the domestic courts to conclude that there was "reasonable suspicion" that Altan may have committed the alleged crimes, and therefore the legal proceedings against him could be considered justified. On the other hand, judge Egidijus Kuris objected to the majority decision in its assessment that there were no violations of Article 18. Kuris argued that by the explicit finding of no violation of Article 18, the ECtHR's judgment justified repression, albeit unwillingly.

Finalized judgments

The ECtHR decisions concerning the applications by Murat Sabuncu and Others (Cumhuriyet newspaper trial) and Ahmet Şık dated November 2020, became final on 19 April 2021. In both cases, Turkey did not appeal the decisions, however the applicants requested the referral of the case to the Grand Chamber of the ECtHR for fresh consideration, arguing that there was an ulterior political purpose behind their pre-trial detention. The five-member Grand Chamber panel, which discussed the applications, [decided to reject](#) the requests to refer the cases to the Grand Chamber. Thus, the previous decisions in both cases became final.

Constitutional Court Judgments

During the reporting period, the appointment of prosecutor İrfan Fidan as a member of the Constitutional Court exacerbated the concerns about political interference in the court. İrfan Fidan, who had prepared the indictments in many controversial high-profile cases in relation to the Gezi Park protests of 2013, Syria trucks case, Osman Kavala and the attempted coup of 15 July 2016, was elected as a member of the Supreme Court of Appeals by the

General Assembly of Council of Judges and Prosecutors (HSK) on 27 November 2020, while acting as the Chief Public Prosecutor of İstanbul. Shortly after he was appointed to the Supreme Court of Appeals, on 17 December, Fidan was nominated by the Grand General Assembly of the Supreme Court of Appeals for membership of the Constitutional Court, which was vacated by the retirement of Burhan Üstün. On 23 January, the decision of President Erdoğan that appointed Fidan as a member of the Constitutional Court among the three candidates nominated by the Supreme Court of Appeals was published in the Official Gazette.

The Constitutional Court has also been the target of criticism for some of its decisions that contradict the case law of the ECtHR, and in some cases, even its own case law. Although the ECtHR recognizes the Constitutional Court as an effective legal remedy in Turkey, the Court contradicted the ECtHR with regard to its judgments in the cases of Osman Kavala, Ahmet Altan and Selahattin Demirtaş. While the ECtHR found rights violations in all the aforementioned cases, the Constitutional Court rejected the said applications with respect to rights violations, which was in clear contradiction with its own decisions issued with regard to other similar applications as well. You can find a detailed assessment on this issue in our article, titled *The impasse of the Constitutional Court: The cases of Demirtaş, Kavala and Altan*.

In the midst of these controversies, the Constitutional Court decided on various applications with respect to the freedom of expression and the press. Some of these decisions are as follows:

The application of Osman Palçık: The First Section of the Constitutional Court **decided** that the freedom of expression of Osman Palçık, a local columnist in the province of Antalya, was violated in the case where he was imposed a punitive fine of TL 7,000 on the charge of “defamation” over his remarks on social media about Mustafa Gül, the former Mayor of Kemer district.

The application of Beyza Kural: The Constitutional Court **ruled** that the arrest of Bianet reporter Beyza Kural, handcuffed from behind, while she was covering a demonstration in November 2015 had violated the freedom of expression and the press and the prohibition of treatment incompatible with human dignity. The Court held that Kural was to be paid TL 15,000 in respect of non-pecuniary damages. In its decision, the court explicitly stressed the fact that Beyza Kural did not hold an

official press card, thus establishing that holding an official press card, which is currently issued by the Presidency, should not be considered a prerequisite to qualify as a member of the press.

The application of Hakan Aygün: The court **concluded** that the arrest of journalist Hakan Aygün on the grounds of his social media posts critical of the government's handling of the COVID-19 pandemic had violated his right to personal liberty and security as guaranteed under Article 19 of the Constitution.

The application of Korkusuz newspaper: One of the prominent decisions of the Constitutional Court during this period was regarding **the application lodged by Estetik Yayıncılık Inc.**, the publisher of Korkusuz newspaper. The application concerned the advertisement ban imposed on the paper by the Public Advertising Agency (BİK) due to its failure to publish a refutation with regard to an article published in 2015, despite a court decision to that effect. Holding that the ad ban by the BİK constituted a violation of freedom of expression and the press, the Court made the following assessment regarding the sanction of ad ban imposed by the BİK: "It should be taken into consideration that the authority of the BİK to intervene in the form of cutting off public announcements and advertisements is a regulation aimed at increasing the ethical standards of the press and not intended as a tool of sanctions. It is of vital importance for the freedom of the press that (...) BİK regards the aforementioned form of intervention as a means of last resort."

The application of Ercan Gün: The Court **rejected** the application filed on behalf of journalist Ercan Gün, who has been in pre-trial detention on the charge of "membership in FETÖ" since August 2016. The court decided that the arrest of Gün did not violate his right to personal liberty and safety and right to freedom of expression and the press, stating that "there [was] plausible evidence to suspect that the applicant may have committed an offense."

Supreme Court of Appeals Judgments

Altans case: During the reporting period, the 16th Criminal Chamber of the Supreme Court of Appeals decided to overturn the rulings by the trial court for the second time in the case, in which novelist and journalist Ahmet Altan; academic and journalist Mehmet Altan;

journalist Nazlı Ilıcak; Fevzi Yazıcı, art director of the since-shuttered Zaman newspaper; Yakup Şimşek, brand marketing director of the Zaman newspaper, and Şükrü Tuğrul Özşengül, former Police Academy lecturer, had been prosecuted.

In its decision issued one day after the announcement of the ECtHR judgment concerning the application of Ahmet Altan, on 14 April, the Supreme Court of Appeals overturned the convictions of [Ahmet Altan](#), who had been in pre-trial detention since September 2016, and [Nazlı Ilıcak](#), who was released pending trial in November 2019, and ordered the immediate release of Altan, while rejecting the appeals against a previous decision of acquittal of [Mehmet Altan](#), made by the Presidency and several members of the parliament in their capacity as intervenors. The Supreme Court upheld the convictions of Fevzi Yazıcı, Yakup Şimşek and Şükrü Tuğrul Özşengül, who are all in prison to date, on the charge of “membership in a terrorist organization.” In its decision concerning Ahmet Altan and Nazlı Ilıcak, the Supreme Court cited the “designation of excess penalty (...) on insufficient grounds and without regard to the need to apply a reasonable reduction, proportional to the amount prescribed by the law and compatible with the law, the conscience and the scope of the case file” and the trial court’s reliance on Article 58/9 under TCK, which regulates the provisions of repeat offending, in sentencing the defendants as the grounds for the reversal decision.

In July 2019, the Supreme Court of Appeals overturned the verdict rendered by the trial court that had sentenced the defendants to aggravated life imprisonment on the charge of “attempting to overthrow the constitutional order,” holding that Ahmet Altan and Nazlı Ilıcak should have been prosecuted on the charge of “aiding a terrorist organization without being its member;” Yazıcı, Şimşek and Özşengül should have been prosecuted on the charge of “membership in a terrorist organization;” and Mehmet Altan should have been acquitted of the charges against him. In the retrial of the case following the decision of reversal, Altan, Ilıcak, Yazıcı and Şimşek, Özşengül were sentenced to 10 years and 6 months, 8 years and 9 months, 11 years and 3 months each and 12 years in prison, respectively.

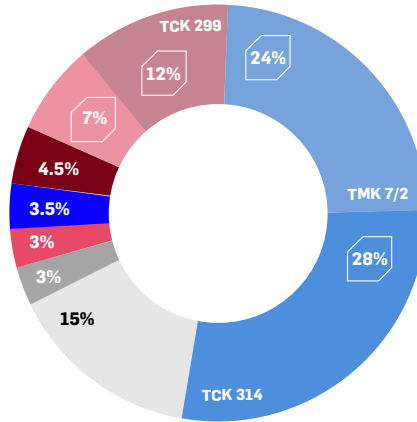
Büyükada trial: In the same period, the Office of the General Prosecutor of the Supreme Court of Appeals issued their judicial opinion concerning the appeal requests of human rights defenders Taner Kılıç, Özlem Dalkıran, İdil Eser and Günal Kurşun, who were

prosecuted and sentenced as part of the case known to the public as "Büyükkada trial." The opinion calls for the reversal of the sentences handed down to Dalkıran, Eser and Kurşun due to the lack of plausible evidence, and the upholding of the conviction of Taner Kılıç, Honorary Chair of Amnesty Turkey. In case the Supreme Court of Appeals decides in accordance with the judicial opinion, Taner Kılıç will need to return to prison to serve the remainder of the 6-years-and-3-months sentence he was given in the first trial.

JUDICIAL VIOLATIONS

Trials of Journalists in Numbers: Cases, Sentences and Acquittals

The trials continued to be one of the most severe restrictions on the use of freedom of expression and the press in the first quadrimester of 2021. A total of 213 journalists were prosecuted in 107 cases filed against them in the first four months of 2021, according to data obtained as a result of monitoring trials and tracking open sources by the Expression Interrupted. 20 journalists, including Müyesser Yıldız, Hakan Aygün, İsmail Dükel, Eren Keskin, İnan Kızılkaya and Alican Uludağ, were convicted and sentenced to a total of 57 years and 10 months in prison. The journalists who were prosecuted were mostly charged with “membership of an armed terrorist organization” (TCK 314), “making propaganda for a terrorist organization” (TMK 7/2), “insulting the president” (TCK 299), “insulting a public official” (TCK 125) and “inciting the public to hatred and enmity” or “publicly degrading a section of the public” (TCK 216).



■ Incitement to hatred and enmity or degrading **TCK 216**

◆ Exposing identities of those involved in combating terror **TMK 6/1**

■ Aiding a terrorist organization without being its member **TCK 220/7**

■ Compensation ■ Other

■ Membership of a terrorist organization **TCK 314**

■ Propaganda for a terrorist organization **TMK 7/2**

■ Insulting the president **TCK 299**

■ Insulting a public official **TCK 125**

In the same period, 12 new court cases were brought against at least 16 journalists. The first hearings in some of these cases were also held in the same period.

Monthly statistics of cases against journalists are as follows¹:

JANUARY 2021

Journalists put on trial	51
Number of trials	33
Trials adjourned	23
Trials concluded	10
Trials that ended with conviction verdict	5
Trials that ended with acquittal verdict	5
Number of new trials	4

In January, a total of 51 journalists were prosecuted in 33 separate cases. 22 cases were adjourned to future dates. 10 cases were concluded.

In five of the cases that were concluded, five journalists (Özgür Boğatekin, Ayten Akgün, Osman Çalık, Nahide Aslan and Zeynel Abidin Bulut) were sentenced to a total of 12 years 4 months and 12 days in prison on the charges of "membership in a terrorist organization," "making propaganda for a terrorist organization" and "insulting the president." Eight journalists (Hacı Yusuf Topaloğlu, Sefer Selvi, İdris Yılmaz, Faik Bulut, Serdar Altan, Gülsün Altan, Kadir Cesur, Sibel Eres) were acquitted in five cases; a case against two journalists (Hazal Ocak, Alev Coşkun) was dismissed.

¹ The discrepancy between the four-month statistics and the monthly statistics may stem from the fact that a journalist was prosecuted in more than one case; more than one journalist was prosecuted in a case, and more than one hearing of a case took place in the four-month period.

During the trials in January, journalists were mostly charged with “membership in a terrorist organization” (seven cases), making propaganda for a terrorist organization” (seven cases), “insulting the president” (five cases) and “inciting the public to hatred and animosity” or “publicly degrading a section of the public” (three cases).

In January, new lawsuits were filed against four journalists, including journalist Cem Bahtiyar, who was charged with “insulting the president” over his social media posts; Mezopotamya Agency Responsible Editor Ferhat Çelik, who was prosecuted on account of a news report, titled “Insects are put in the food of prisoners in Bayburt” (“Bayburt'ta tutukluların yemeklerine böcek konuluyor”), dispatched by the news agency on 4 October 2018; journalist Melis Alphan, who was charged with “making propaganda for a terrorist organization” for sharing a photo taken during the 2015 Newroz festivities in Diyarbakır on her social media account; and Sözcü newspaper columnist Yılmaz Özdil, who was charged with “publicly degrading Turkish Nation, the State of the Republic of Turkey, Turkish Grand National Assembly, the Government of the Republic of Turkey and the judicial bodies of the State” under TCK 301/1 over writing the last three letters of “TBMM,” the abbreviation for Turkish Grand National Assembly, in minuscule in a column, published on 4 July 2020.

FEBRUARY 2021

Journalists put on trial	68
Number of trials	37
Trials adjourned	29
Trials concluded	8
Trials that ended with conviction verdict	4
Trials that ended with acquittal verdict	4
Number of new trials	4

In February, a total of 68 journalists were prosecuted in 37 cases. 29 cases were adjourned. Eight cases were concluded. In the eight cases that were concluded, four journalists (Banu Güven, Hatice Kamer, Hakkı Boltan and Ferhat Çelik) were acquitted, while seven journalists were sentenced to a combined total of 25 years and 8 months in prison, and to pay TL 10,000 in compensation.

Eren Keskin, Zana (Bilir) Kaya, İnan Kızılkaya and Kemal Sancılı, the former editors of Özgür Gündem newspaper whose files were separated from the main case, were convicted on the charges of "membership in an armed terrorist organization" and "making propaganda for a terrorist organization." Keskin, Kızılkaya and Sancılı were sentenced to 6 years and 3 months each in prison on the charge of "membership in an armed terrorist organization," while Kaya was sentenced to 2 years and 1 month in prison on the charge of "making propaganda for a terrorist organization." Mezopotamya News Agency reporter İdris Sayılğan was sentenced to 4 years in prison on the charge of "systematically making propaganda for a terrorist organization," while journalist Alican Uludağ was handed down a prison sentence of 10 months on the charge of "exposing identity of officials who were involved in combating terrorism." The sentence against Uludağ was then deferred. Journalist Erk Acarer, on the other hand, was sentenced to pay TL 10,000 in compensation in a case launched upon a complaint by pro-government defense consultancy company SADAT.

During the trials in February, journalists were mostly charged with "membership in a terrorist organization" (15 cases), "making propaganda for a terrorist organization" (10 cases), "insulting a public official" (four cases) and "insulting the president" (three cases). Three cases sought compensation from the journalists.

In February, four new cases were filed against a total of eight journalists. An indictment against Mezopotamya News Agency reporters Adnan Bilen and Cemil Uğur, JinNews reporter Şehriban Abi and journalist Nazan Sala, who were jailed pending trial on account of their coverage of the allegations concerning two villagers who were arrested and tortured by soldiers in the province of Van, along with Mezopotamya News Agency reporter Zeynep Durgut, who was arrested and released pending trial as part of the same investigation, on the charges of "membership in a terrorist organization" and "making propaganda for a terrorist organization" was accepted

by the competent court. The first hearing in the trial was held in February. Furthermore, new lawsuits were filed against Yeni Yaşam newspaper worker İbrahim Karakaş, who was jailed pending trial, on the charge of "membership in a terrorist organization;" Mezopotamya News Agency reporter Mehmet Aslan, who is held in pre-trial detention on the charge of "membership in a terrorist organization;" and Evrensel newspaper Responsible Editor Görkem Kınacı on the charge of "inciting the public to hatred and animosity."

MARCH 2021

Journalists put on trial	107
Number of trials	40
Trials adjourned	27
Trials concluded	12
Trials suspended	1
Trials that ended with conviction verdict	7
Trials that ended with acquittal verdict	5
Number of new trials	1

In March, a total of 107 journalists were prosecuted in 40 cases, 27 of which were adjourned to future dates, one of which was suspended to seek permission from the Justice Ministry to continue proceedings under TCK 301, and 12 of which were concluded.

In five of the 12 cases that were concluded, a total of six journalists (Fatih Portakal, Oktay Candemir, Seyhan Avcı, Necdet Önemli, Barış Barıştrın, Arif Aslan) were acquitted of the charges leveled against them, while 10 journalists who stood trial in seven cases were sentenced to a total of 18 years 11 months and 18 days in prison (Mustafa Gökkuş, Müyesser Yıldız, İsmail Dökel, Süleyman Acar, Serpil Ünal, Songül Yücel, Hakan Aygün and Perihan Kaya), and to pay TL 14,080 in compensation (Ali Ergin Demirhan and Nagehan Alçı). In the case where journalists Sibel Hürtaş and Hayri Demir

were prosecuted over their reporting and social media posts about Turkey's military operations to Afrin, Syria, the competent court decided to request permission from the Justice Ministry to continue proceedings under TCK 301/1, on the grounds that the defendants' actions were likely to constitute the crime as prescribed in the article in question, and therefore to suspend the hearings for the time being.

The most common charges in the trials in March were: "membership in a terrorist organization" (16 cases), "making propaganda for a terrorist organization" (12 cases), "insulting the president" (seven cases), "insulting a public official" (five cases), "targeting officials who participated in anti-terror operations" (three cases) and "publicly degrading Turkish Nation, the State of the Republic of Turkey, the organs and institutions of the State" (three cases).

At least one new lawsuit was filed in March. The trial in the case filed against journalist Oktay Candemir on the charge of "making propaganda for a terrorist organization," citing videos and pictures found in digital materials that had been confiscated during a raid in April 2019, and his social media posts in 2014 and 2015 as evidence, will be held at the Van 5th High Criminal Court.

APRIL 2021

Journalists put on trial	52
Number of trials	21
Trials adjourned	16
Trials concluded	5
Trials that ended with conviction verdict	1
Trials that ended with acquittal verdict	4
Number of new trials	3

In April, a total of 52 journalists appeared before the court in 21 separate cases, 16 of which were adjourned to future dates, and five of which were concluded. A total of five journalists (Selda Manduz, İdris Sayılğan, Naci Kaya, Özgür Boğatekin and İnci Aydın) were acquitted of the charges leveled against them in four cases, while Erol Mütercimler was sentenced to 10 months in prison on the charge of “publicly degrading a section of the public on grounds of social class, race, religion, sect, gender or regional differences.” Announcement of the sentence was then deferred.

The charges concerning terrorism and insult were at the forefront of the trials conducted in April, as well. The charge of “making propaganda for a terrorist organization” was used in seven cases, while the charge of “membership in a terrorist organization” was brought against the defendants in six cases; the charge of “insulting a public official” was laid down in three cases; and the charges of “insulting the president,” “libel” and “aiding a terrorist organization without being its member” were pressed two times each.

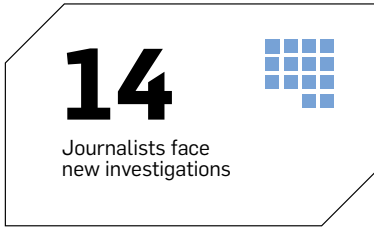
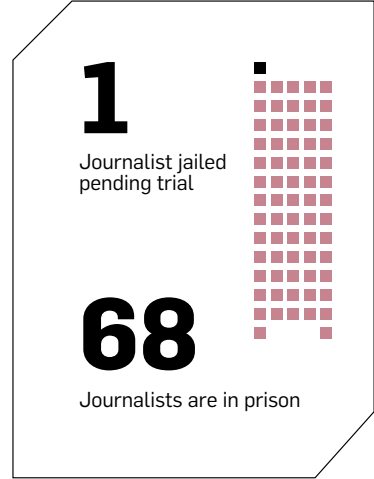
20 journalists have been convicted and sentenced to a total of 57 years and 10 months in prison in the first four months of 2021

In April, new cases were filed against at least three journalists, including Mezopotamya News Agency reporter Mehmet Aslan, who was jailed pending trial, on the charge of “membership in a terrorist organization;” Cihan Ölmez, a former Dicle News Agency reporter, on the charge of “making propaganda for a terrorist organization” over his remarks regarding the military curfews in the Southeast in 2014 and 2015; and Eren Tutel, a sports editor for BirGün newspaper, on the charge of “insulting a public official” over his coverage of the Turkish Wushu Federation (TWF).

Investigations, Arrests and Pre-Trial Detentions

In addition to the lawsuits, several journalists were investigated and imprisoned pending trial. In the first four months of 2021, at least one journalist (Mezopotamya News Agency reporter Mehmet Aslan) was imprisoned pending trial. The number of journalists in prison, either in pre-trial detention or serving sentences, dropped from 87 at the beginning of the year to 68 by the end of April 2021. However, the majority of the releases from prison were due to the sentence expiry

date following lengthy imprisonments. At least 12 of the journalists on Expression Interrupted's list of imprisoned journalists who were or were discovered to have been released from prison were released after spending at least four years behind bars (Abdullah Özyurt, Ahmet Altan, Büşra Erdal, Enis Öznük, Ersin Demirci, Erdal Şen, Mehmet Kuru, Muhammet Sait Kuloğlu, Murat Dağdeviren, Mutlu Çölgeçen, Nuri Yeşil and Ömer Oruç).



According to data compiled using information available in open sources by Expression Interrupted, at least 20 journalists were arrested at least once in the first four months of 2021. (JinNews reporters Habibe Eren and Öznur Değer, freelance journalist Eylül Deniz Yaşar, Etkin News Agency reporter Pınar Gayıp, Evrensel columnist Ayşen Şahin, Korkusuz newspaper columnist Ahmet Takan, Özgür Gelecek reporter Taylan Öztaş, Mezopotamya News Agency reporter Rojin Altay, Gazete Alinteri reporter Zarife Çamalan, Ozan Acidere, a photojournalist and student of the Journalism Department at

the Ege University; Enver Aysever, Yağmur Kaya, İnan Kızılkaya, Kemal Sancılı, JinNews reporter Beritan Canözer, Mücadele Birliği newspaper reporter Serpil Ünal, Kızıl Bayrak reporter Kardelen Yoğungan, Mezopotamya News Agency reporter Muhammed Enes Sezgin, JinNews reporter Sena Dolar and ArtıTV cameraperson Bilal Meyveci). While the vast majority of the detentions took place as a result of police intervention during news coverage, some of them occurred as part of criminal investigations.

In the same period, new investigations were launched against at least 14 journalists. Journalists Pelin Ünker, Can Ataklı, Barış Pehlivan, Barış Terkoğlu, Öykü Serter, Dicle Müftüoğlu, Ruşen Takva, İnan Kızılkaya, Kemal Sancılı, Ferhat Çelik, Alican Uludağ, Enver Aysever, Yılmaz Özdiil and Mustafa Hoş gave their statements in at least one investigation launched against them.

Highlights from Trials

In view of the limited scope of this report, it is not feasible to describe all the occurrences, in their entirety, during at least 107 trials and many more hearings held in the last four months. Some of the highlights in the trials conducted during the said period are as follows:

Call for “national” human rights in the reasoned judgment of the Özgür Gündem trial: The İstanbul 23rd High Criminal Court issued its reasoned judgment concerning the imprisonment sentence handed down in February against Eren Keskin, Zana (Bilir) Kaya, İnan Kızılkaya and Kemal Sancılı, whose files were separated from the “Özgür Gündem main trial,” where former editors, columnists and editorial advisory board members of the now-defunct Özgür Gündem newspaper stood trial. Prominent in terms of exposing the judiciary’s current point of view on the Kurdish issue, the Kurdish press, freedom of the press, and human rights advocacy, the decision argued that a “genuine and national understanding of human rights” that centered on the interests of the state rather than an understanding of the universal human rights standards should be observed.

The reasoned judgment, which argued that the defendants “attempted to disrupt the public security by means of human rights and human rights advocacy, and attempted to be the voice of and hence, in their own way, justify the actions of a terrorist organization that has

staged bloody acts to that end," included the following statements: "It is necessary to discuss and observe a genuine and national understanding and concept of human rights, which respect the human dignity and integrity at least as much as the universal values, which secure the existence of the Turkish state forever, as defined in our constitution, and which, in doing so, will prevent our citizens from worrying about the security of themselves, as Turkish citizens, and of the state. This concept will only be possible through the experience, knowledge and perspective formed over the years thanks to our national traditions, customs and fraternity rather than the human rights concept, behind which organizations and states that threaten our unitary structure and our security have been hiding and taking cover."

You can access the full text of the reasoned judgment in writing –in Turkish– [here](#), and our report on the subject [here](#).

Retrial of former Zaman columnists and editor begins: The retrial in the case, in which the former columnists of the since-shuttered Zaman newspaper were convicted of "membership in a terrorist organization," began on 16 April. In the first trial of the case, columnists Şahin Alpay, Mümtazer Türköne and Ali Bulaç had been sentenced to prison, while editor Mehmet Özdemir had been acquitted. The Supreme Court of Appeals had overturned the judgments in September 2020, holding that Alpay, Türköne and Bulaç should have been prosecuted on the charge of "aiding a terrorist organization without being its member," and that Özdemir should have been prosecuted on the charge of "membership in a terrorist organization," while upholding the prison sentences handed down on columnist Ahmet Turan Alkan, the paper's Ankara representative Mustafa Ünal and editor İbrahim Karayeğen on the charge of "membership in a terrorist organization," and the acquittal decisions about Lale Sariıbrahimoğlu, Nuriye Akman, İhsan Dağı and Orhan Kemal Cengiz.

The İstanbul 13th High Criminal Court, which oversees the retrial, decided to comply with the Supreme Court of Appeals' reversal judgment. In its interim decision, the court ruled to issue an arrest warrant for Mehmet Özdemir, who did not attend the hearing, and hear Hüseyin Gülerce, Binnaz Toprak, Ümit Erol and Zekeriya Tüzen as witnesses in the next hearing, which was then scheduled for 9 September 2021.

Ahmet Altan released after Supreme Court overturns his conviction:

Novelist and journalist Ahmet Altan was [released](#) from prison due to the second reversal decision issued by the Supreme Court of Appeals in his case, after spending almost five years in prison, on 14 April. Altan was sentenced to 10 years and 6 months in prison on the charge of “aiding a terrorist organization without being its member” after the Supreme Court of Appeals overturned an initial judgment by the trial court that had sentenced the novelist to aggravated life imprisonment on the charge of “attempting to overthrow the constitutional order” over his remarks in a TV program, some of his articles, and for being the editor-in-chief of the since-shuttered Taraf newspaper.

The decision of reversal and release came one day after the ECtHR found rights violations in Altan's application. The ECtHR issued its judgment concerning the application of Ahmet Altan, to which it had decided to give priority treatment four years ago, holding that detention of Ahmet Altan violated his right to liberty and security and freedom of expression. You can access the ECtHR judgment [here](#), and our report on the subject [here](#).

Prison sentence for Müyesser Yıldız and İsmail Dükel: The trial of Odatv Ankara News Director Müyesser Yıldız and TELE1 TV Ankara Representative İsmail Dükel, who were prosecuted for reporting on Turkey's military operations in Libya and their contacts with a non-commissioned officer who allegedly leaked confidential information regarding the said operations [resulted](#) in a prison sentence for the journalists on 8 March.

The Ankara 26th High Criminal Court sentenced Yıldız to a total of 3 years 7 months and 10 days in prison; 1 year 1 month and 10 days on the charge of “obtaining information that must be kept confidential” under TCK 334 and 2 years and 6 months on the charge of “disclosing information that must be kept confidential;” and Dükel to 1 year and 15 days in prison on the charge of “disclosing information that must be kept confidential” under TCK 336. Yıldız had been jailed pending trial for five months in the case, and released pending trial at the first hearing held in November 2020.

Melis Alphan put on trial over a photo she shared 6 years ago:

Journalist Melis Alphan [appeared before the court](#) in the trial where she is charged with “making propaganda for a terrorist organization”

(under TMK 7/2) over sharing a photo that was taken at a sanctioned Newroz rally in the province of Diyarbakır, which “shows flags of certain Kurdish organizations and [the PKK leader] Abdullah Öcalan posters.”

In her defense statement, Alphan asserted, “A 6-year-post was dug up after ripping my social media accounts to shreds, taken out of its context and brought into the present. And it is alleged that I made propaganda for a terrorist organization based on that...I find it hard to believe that my freedom is being taken away because I shared a photo on Instagram. Neither conscience nor law nor reason can explain this.”

Four journalists who reported on torture allegations in Van released pending trial: The first hearing in the trial of Mezopotamya News Agency reporters Adnan Bilen and Cemil Uğur, JinNews reporter Şehriban Abi, and freelance journalist Nazan Sala who were detained for their coverage of the allegations that two persons who were arrested by soldiers were tortured and thrown off a helicopter in the Çatak district of the province of Van, along with Mezopotamya reporter Zeynep Durgut who was briefly arrested as part of the case, on the charge of “membership in a terrorist organization” was held in Van on 2 March. At the end of the first hearing, the court released the four journalists, who had been jailed pending trial for six months, pending trial, under a ban on traveling abroad.

The harsh and controversial security measures taken during the hearing were striking. Under orders from the presiding judge, only four journalists were allowed in the courtroom to follow the hearing. The presiding judge ordered for the seizure of all electronic devices of the journalists in the courtroom and for the doors to the courtroom to be locked, therefore not allowing anyone, not even lawyers, to enter the courtroom during the hearing. You can read more on the hearing [here](#).

Prison sentence for Hakan Aygün over his critical social media post: The trial of journalist Hakan Aygün who had been arrested and released pending trial after spending one month in prison over his social media posts that allegedly criticized the nationwide fundraising efforts spearheaded by President Erdoğan to ease the financial effect of the COVID-19 pandemic last year [ended](#) in conviction. Announcing its decision at the end of the hearing held on

16 March, the competent court sentenced Aygün to 7 months and 15 days in prison on the charge of “publicly degrading the religious values of a section of the public” as per TCK 216/3, and deferred the sentence.

Demands for justice remain strong in the Dink murder case: The trial of 76 defendants concerning the 2007 killing of journalist Hrant Dink, the founder and former editor-in-chief of the bilingual Turkish-Armenian weekly newspaper Agos, concluded on 26 March, after more than 100 hearings. Holding that the assassination was carried out “in line with the purposes of the FETÖ,” the trial court handed down various sentences to journalist Ercan Gün, and the police and gendarmerie officials of the time.

However, the court’s decision failed to satisfy the demands for justice of the Dink family and the trial observers who have followed the case for years. Condemning the court’s decision on account of the failure of the officials to conduct in-depth and effective investigation and prosecution, the Dink family appealed the judgment on 1 April 2021. “It is not possible for a trial that fails to address the entire mechanism [behind the murder] to convince us or the general public,” the family said in a statement. You can read our detailed article on the subject [here](#).

ATTACKS ON JOURNALISTS

Political pressure and statements by high-level officials targeting journalists in the first four months of 2021 have increased the concerns about the safety of members of the press. There have been numerous physical attacks on journalists, while dozens of journalists have been subjected to police violence during news coverage. One of those journalists, documentary filmmaker and journalist Kazım Kızıl was shot in the face by a plastic bullet fired by police while he was covering a demonstration held in Kadıköy to protest the appointment of Melih Bulu as the president of Boğaziçi University.

According to [Bianet](#), 18 journalists were assaulted in 2020, and 139 journalists were assaulted in the last five years in Turkey. The number of journalists who were attacked in the first four months of 2021 was at least nine, including radio presenter Hazım Özsu, who lost his life as a result of a physical attack. The attacks on journalists in the reporting period were as follows:

- **9 January:** İzzet Tinmaz, İlk Havadis newspaper publisher and Anadolu'nun Sesi news coordinator, was bludgeoned by two persons who blocked his car as he was on his way to cover a story (Aksaray)
- **13 January:** Kıymet Sarıyıldız and Murat Uçkaç, reporters for Hedef newspaper and İhlas News Agency, respectively, were battered as they were taking pictures of an individual arrested for trafficking drugs by the friends of the accused in the courthouse (Aydın)
- **14 January:** KRT TV presenter Afşin Hatipoğlu was assaulted by unidentified masked persons in front of his house. The attack took place hours after the MHP leader Devlet Bahçeli slammed the broadcasts by KRT, Habertürk and Halk TV [in a post](#) shared on his official Twitter account (Ankara)
- **15 January:** The Ankara bureau chief of Yeniçağ newspaper, Orhan Uğuroğlu, was bludgeoned by four persons while leaving his house in an early-hours assault. Uğuroğlu suffered an arm injury (Ankara)
- **23 January:** Ali Osman Ertaş, Fındıklı district reporter for Nabız newspaper and a member of the Progressive Journalists Association

Rize Branch, was assaulted and threatened by workers of a company that allegedly purchased illicit gravel in the region (Rize)

- **4 February:** Osman Gd, who prepares and presents a program called "City and Life" ("Kent ve Yařam") on KRT TV, was assaulted as he was leaving his office. Taken to hospital with a head injury, Gd needed stitches (İstanbul)
- **16 February:** Journalist Ferruh Varanoęlu was assaulted by an unidentified individual. Varanoęlu was shot in the foot (Bursa)
- **8 March:** Journalist Levent Gltekin was attacked by many persons in front of the Halk TV headquarters in İstanbul's Bakırky district on his way to film the program he presented with Murat Sabuncu on Halk TV (İstanbul)
- **15 March:** Local radio presenter Hazım zsu was assaulted by a listener who said he did not like the former's remarks on air. zsu died at the scene (Bursa)

PENALTIES BY RTÜK AND BİK

Radio and Television Supreme Council and Press Advertising Agency, which have been frequently condemned in recent years for acting as a “censorship tool” of the government against dissenting media outlets, issued numerous penalties against critical TV stations and newspapers in the first four months of 2021.

Penalties by RTÜK

In his [2020 report](#), published at the end of last year, RTÜK member İlhan Taşçı outlined the political inclination behind the RTÜK penalties. According to Taşçı's report, in 2020, the media watchdog issued a total of TL 400,000 in administrative fines to TV channels purported to be affiliated with the government (A Haber, Kanal 7, TV NET, ATV, Ülke TV and TGRT Haber), while channels that broadcast critical opinions (Halk TV, FOX TV, KRT, TELE1 and Habertürk TV) were fined TL 10,000,000, which is exactly 25 times of that amount.

With the continuation of this trend in 2020 in the first four months of 2021, TV stations such as Halk TV, TELE1, KRT, and FOX TV became the targets of RTÜK penalties in this period as well. While RTÜK issued numerous administrative fines in this period, it did not resort to other sanctions such as a total blackout order or the suspension of programs. [Some examples](#) of the RTÜK penalties in the reporting period include:

- Halk TV was imposed an administrative fine due to the remarks uttered in a program, that said, “Turkish Police Force excessively yearns over a certain political party. In view of this, I am aware that children and young people who act in opposition to the government have faced excessively harsh reactions.” The statement by the RTÜK read, “the Supreme Council (...) has found that Turkish Police Force, tasked with suppressing the Boğaziçi provocations, has been [unjustly] accused.”
- KRT was imposed an administrative fine due to the remarks uttered during the evening news anchored by Zafer Arapkirli, that said, “For some reason, our security forces, which are supposed to be the people's police, are being used as the militants of the government.”

- Habertürk TV was imposed an administrative fine on the grounds that the remarks of former CHP lawmaker Berhan Şimşek who said “The governor is a militant; the district governor is a militant; the judges are militants,” during the broadcast of a show amounted to “degrading the persons and institutions involved.”
- TELE1 was imposed an administrative fine on the grounds that the remarks politician Rifat Serdaroğlu who referred to President Recep Tayyip Erdoğan as a “dictator” in a program he attended as a guest were “beyond the limits of criticism.”
- FOX TV was imposed an administrative fine on the grounds of a news story that covered the claims of a milk producer who said that they have not received the agricultural support for 2020 in the evening news. The statement by the RTÜK argued that the watchdog had found out that the claims of the said milk producer did not reflect the truth.

Upon Halk TV's objection to a sanction in the form of a total blackout order handed down by RTÜK, the Council's response sent in writing to the relevant court in 2020 [included](#) the following statements: “In a situation where the media can lead to the collapse of the government, dominate economic decisions, to put it bluntly, in a situation where the media is so important that it can bring anyone it wants to power and overthrow anyone it doesn't want, it will never be possible to talk about the freedom of each and every guest to say whatever they want through the media.”

Bans by BİK: Advertising Embargo on Evrensel and Yeni Asya

As with the RTÜK decisions, it can be observed that BİK decisions avoid introducing sanctions against pro-government newspapers, and that the vast majority of the penalties are imposed on dissenting newspapers. Media ombudsman Faruk Bildirici [stated](#) that in 2020, BİK imposed a total of 803 public ad bans, 88 percent of which was handed down on the dissenting BirGün, Sözcü, Cumhuriyet, Korkusuz and Evrensel newspapers.

In the first four months of 2021, BİK continued to cut off public announcements and advertisements of dissenting newspapers, while, at the same time, retaining its decisions to suspend the

right of Evrensel and Yeni Asya newspapers to publish public advertisements in effect.

Evrensel and Yeni Asya newspapers are prohibited from receiving public announcements and advertisements on accounts of “bulk-buying,” and the allegation of a “violation of the General Communiqué related to the Electronic Bookkeeping Obligations,” respectively, since September 2019 and 28 January 2020. In a [news report](#) published in January, Evrensel announced that it was imposed a total of 93 days of advertising ban since September 2019, when the initial ban to suspend their right to publish public ads came into effect, on account of various news content. Evrensel received a 5-day advertising ban in March, hence totaling it up to 98 days of advertising ban as of the end of April 2021, which means that the newspaper will not be able to publish public announcements and advertisements for 98 days due to the current penalties, even if the suspension of their right to publish public ads is reversed.

On 9 March, Yeni Asya newspaper [announced](#) that it had filed a lawsuit against the advertising ban imposed by the BİK, adding that its previous appeals to the agency seeking the reversal of the advertising ban did not yield any results.

These two newspapers also face the imminent threat of permanently losing their advertising licenses because, according to the relevant regulation of the Public Advertising Agency, “The newspapers which fail to reinstate the right to publish [public ads] in six months from the date of notification of the suspension of their rights (...) will lose their right to publish public announcements and advertisements.” This measure is currently suspended due to the COVID-19 pandemic.

According to CHP lawmaker Utku Çakırözer, who closely monitors the issue of RTÜK and BİK penalties, BİK’s ad bans on newspapers “obstruct the public’s right to know, while also threatening freedom of the press.” Çakırözer argues that it is unethical for an organization like BİK, which is authorized to distribute public announcements and advertisements, which are, in turn, an essential source of income for newspapers, to examine news content.

Notwithstanding, it can be seen that news content is precisely the reason for most of the advertising penalties, considering the decisions imposed by BİK in the last four months. Among the newspapers that

received penalties in the said period, Evrensel and BirGün stand out. Some examples are as follows:

- Evrensel was **imposed** a 3-day advertising ban due to a complaint by Fahrettin Altun, the Presidency's Director of Communications, who was mentioned in a news story, titled "Cumhuriyet [workers] summoned to give statement because of the unlicensed villa" ("Cumhuriyet [çalışanları] kaçak villa nedeniyle ifadeye çağrıldı"), published on 1 May 2020 (12 January)
- BirGün was **imposed** a 2-day advertising ban due to a news report, titled "Turkish Wushu Federation's Velioğlu had been imprisoned for his ties to Hezbollah: The sports structure of reactionarism" (Wushu Federasyonu'nun sorumlusu Velioğlu, Hizbullah'tan hapis yatmış: Gericiliğin spor yapılanması") (11 March)
- Evrensel was **imposed** a 5-day advertising ban on account of using the word "attack" ("saldırı") in the headline of a news report about large number of arrests during protests against the appointment of Melih Bulu as the president of Boğaziçi University (31 March)

The aforementioned BİK penalties took place despite the Constitutional Court's ruling that considered the public advertising ban a violation of "freedom of expression and the press." As was stated in the relevant section above, the Constitutional Court issued its decision concerning the advertising ban imposed on Korkusuz newspaper by BİK on 13 January, finding rights violations. In its decision, the Constitutional Court stated, "The anxiety of being subjected to such financial sanctions has a disruptive effect on individuals, as a result of which, and under such influence, one might avoid future statements of thought or carrying out press activities." "With regard to the complaints brought before BİK (...) it is of vital importance for freedom of the press that the agency applies the balancing criteria very strictly and considers the aforementioned form of intervention as a means of last resort," the court's decision read.

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