

# Freedom of Expression and the Press Agenda

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DARUASTI GRAJECHELIUM PLATFORUM!

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# FROM THE EDITOR

As the Expression Interrupted, operating within the Platform for Independent Journalism (P24) since 2017, we present the last Freedom of Expression and the Press Agenda report of 2021 on the developments regarding freedom of expression and the press in Turkey. This study covers the months of October, November and December.

This report aims to review the freedom of expression and the press agenda in Turkey from a comprehensive perspective. The trials remain by far the most widely used tool to restrict freedom of expression and the press in Turkey. Therefore, this report includes detailed and statistical information from the trials of journalists that took place in the three-month period, which also include lawsuits filed by journalists due to violations they experienced while performing their duties. However, the restrictions on freedom of expression and the press in Turkey is not limited to trials: restrictive legislation, as well as the policies and practices of government agencies and officials, set the overall legal and political framework in the field of freedom of expression and the press, and the public's right to know. In addition, the decisions of the Turkish Constitutional Court and the European Court of Human Rights (ECtHR) create relevant legal precedents, while the public bodies in charge of media regulation, such as the Radio and Television Supreme Council (RTÜK) and the Press Advertising Agency (BİK), can create financial pressure on media organizations through the use of penal policies, and force these outlets to align their editorial policies with certain political criteria. On the other hand, police violence and physical attacks by civilians against journalists are also a fixture of the media freedom environment in Turkey that have become more and more visible. This report seeks to cover all these topics in detail.

The information provided in this report is based on the extensive work carried out by the Expression Interrupted in monitoring trials and tracking open sources of information. More detailed information can be accessed on [our website](#). Similarly, the information provided

in this report is limited to the data obtained by the Expression Interrupted team through its trial and media monitoring work and, thus, cannot be expected to provide an exhaustive overview of all the relevant developments.

We hope that this report will contribute to the body of existing valuable work in this field and, more crucially, to a much-needed progress towards protection of freedom of expression and the press in Turkey, in line with the Constitution of the Republic of Turkey and the international human rights standards.

# PRESS FREEDOM ATMOSPHERE IN THE LAST QUARTER OF 2021

In the last quarter of 2021, the statements of government officials targeting social media raised concerns about freedom of expression and the press, while a number of important decisions delivered by the Council of State, the Turkish Constitutional Court and the European Court of Human Rights (ECtHR) in the same period represented significant gains for the protection of these freedoms.

The Council of State suspended the execution of the Press Card Regulation, ruling on an appeal against the latest amendments that made it difficult for journalists to obtain official press cards. It also rendered a similar decision concerning a circular issued by the General Directorate of Security, which was widely slammed for legitimizing police violence against journalists during news coverage. In a "pilot judgment," which concluded that court decisions blocking access to news reports violated basic freedoms, and as such, could set a precedent for similar cases, the Constitutional Court held that the relevant legal provision should be amended so as to eliminate further violations. In its *Vedat Şorli v. Turkey* judgment, the first judgment addressing the charge of "insulting the president," the ECtHR, on the other hand, found violations and noted that Article 299 of the Turkish Criminal Code should be amended. Of course, it remains to be seen to what extent these decisions will affect the ongoing repressive administrative and judicial practices on the ground.

Meanwhile, the statements of senior government officials on social media have raised concerns that restrictions would increase in the digital environment, which has become crucial in recent years as an outlet for independent news and critical opinions since the government holds a tight leash on nearly all conventional media organizations in Turkey. President Recep Tayyip Erdoğan stated that social media "has become one of the main sources of threat against today's democracy," while Fahrettin Altun, the Presidency's Director of Communications, accused social media platforms of "buttressing terrorist organizations."

The initiation of infringement proceedings against Turkey by the Committee of Ministers of the Council of Europe, which served formal notice on Turkey of its intention to refer to the ECtHR the question whether Turkey has failed to fulfill its obligation to abide by the final judgment of the Court in *Kavala v. Turkey* since there was no progress towards the execution of the ECtHR decision in the case of jailed businessperson Osman Kavala, was an indication that Turkey's international problems were deepening due to oppressive policies and rights violations. Turkey has thus become the second ever country against which the Committee of Ministers of the 47-nation Council of Europe has launched infringement proceedings; the procedure was first used against Azerbaijan in the case of political activist Ilgar Mammadov.

***In the last quarter of 2021, a total of 203 journalists appeared before a court in 98 trials, which means that on average almost 70 journalists stood trial in more than 30 cases each month***

In terms of judicial pressures on journalists, the decline in the number of imprisoned journalists in Turkey, either in pre-trial detention or serving sentences, appears to have decelerated. Many journalists, who had been behind bars since 2016, were released from prison upon completing their sentences since the beginning of the year; while the number of such releases have substantially decreased in the last three months and only one journalist was released from prison upon the completion of their sentence. Thus, the number of imprisoned journalists in Turkey have decreased from 87 at the beginning of the year to 58 as of the end of the year. The trials against members of the press, on the other hand, still continue unabated. As can be seen in detail in the relevant section below, there were 98 trials, where at least 203 journalists, including seven foreign nationals, appeared before a court in the last quarter of 2021. This means that an average of approximately 70 journalists stood trial in more than 30 cases each month in the last quarter of 2021.

At the trials that took place in the reporting period, 36 journalists were acquitted of all charges, while 18 journalists were sentenced to 24 years, 5 months and 9 days in prison and a judicial fine TL 22,600 in

total. 10 new lawsuits were filed against 17 journalists, while new criminal investigations were launched against 16 journalists. In addition, 13 journalists were arrested either during news coverage or as part of the investigations launched against them.

***18 journalists were sentenced to a total of 24 years, 5 months and 9 days in prison. New lawsuits were filed against 17 journalists. 13 journalists were arrested, and new criminal investigations were launched against 16 journalists***

On the other hand, lawsuits filed by journalists who have experienced violations were also heard in this period. The case filed by journalist and academic Mehmet Altan against the judges who refused to implement the Constitutional Court and the ECtHR judgments concerning his individual applications against detention got underway at the Supreme Court of Appeals. The first hearing in the criminal case filed by Yavuz Selim Demirağ, a columnist for *Yeniçağ* newspaper, against the perpetrators who assaulted him in front of his house in 2019 was held in Ankara 2.5 years after the attack. At the end of the hearing, the court accepted Demirağ's request to send the case file to a high criminal court. Interior Minister Süleyman Soylu was ordered to pay compensation in a case filed by journalist Müyesser Yıldız, while a lawsuit filed by Adnan Bilen due to procedural violations during his pre-trial detention was rejected by the relevant court.

The penalties issued by the Radio and Television Supreme Council (RTÜK), one of the most important instruments of the financial crackdown on the media, did not slow down in this period either. The data shared with the public regarding the 2021 activities of RTÜK fueled the criticism of politicization and discrimination against the council. According to data shared by RTÜK member İlhan Taşcı, all of the 71 fines imposed by RTÜK in 2021 were directed at critical TV stations.

In the three-month period, journalists also suffered from developments within the media sector. The disagreements between the editorial

teams and the administrations in *Cumhuriyet* newspaper and Gazete Duvar news portal resulted in the resignation and unemployment of dozens of journalists.

While the problem of violence experienced by journalists, especially during news coverage, continued during this period, the fact that a senior journalist was the perpetrator of one such attack sparked outrage. While conducting an interview with Gaziantep Metropolitan Municipality Mayor Fatma Şahin, Muharrem Sarıkaya, the Ankara representative of the Ciner Media Group, slapped Ahmet Demir, a reporter for İhlas News Agency (İHA), who was trying to fix sound problems. Following a barrage of criticism from journalist organizations, Sarıkaya issued a public apology and resigned from his post.

# LEGAL AND POLITICAL DEVELOPMENTS

## Council of State Judgments on Press Card Regulation and Police Circular

In the three-month period covered by this report, there were no changes in the legislation directly affecting freedom of expression and the press in Turkey. However, the Council of State rendered decisions to stop the execution of two recent regulations, which were broadly condemned for increasing the pressure on journalists.

First, the Council of State unanimously ruled to stop the execution of the General Directorate of Security circular, dated 27 April 2021, prohibiting all audiovisual recording during public demonstrations. The police circular had been the target of criticism from journalists and professional journalist organizations for being unconstitutional, legitimizing police violence against journalists, and causing a marked increase in such violence. In its judgment, the 10th Chamber of the Council of State noted, "It has been understood that the circular in question introduced rules and restrictions concerning freedom of communication and freedom of the press, which are among the fundamental rights and freedoms. As such, it fails to comply with the Constitution to introduce restrictions on fundamental rights and freedoms through a circular issued by the General Directorate of Security, which is part of the executive body and not the legislative body."

In the second decision that was widely welcome as a gain for press freedom in Turkey, the 10th Chamber of the Council of State suspended the execution of the Press Card Regulation. The decision was delivered in the lawsuit filed by the Journalists' Union of Turkey, the Journalists' Association of Turkey and the Photojournalists' Association of Turkey, demanding the annulment of the amendments to the Press Card Regulation, dated 20 May 2021, which made it difficult for journalists to obtain official press cards. In its decision, the Council of State noted that "the authority of the Directorate of Communications is limited to issuing press cards only; it does not hold the authority to determine to whom

the cards will be given and on what grounds a press card should be canceled; in accordance with Articles 13 and 26/4 of the Constitution, the authority to decide on such matters must be granted directly by law."

## Political and Administrative Pressures

In the reporting period, the strident statements of senior government officials on social media have raised concerns that restrictions would increase in the digital environment, which has gained great importance in recent years as an outlet for independent news and critical opinions, in the period to come.

In 2020, a government-backed social media law came into force that imposed a number of obligations on social media platforms, such as the designation of local representatives in Turkey. But the government, which is not sufficiently satisfied with the results of the said law, is currently drafting a new law to "combat disinformation." Although its content has not yet been announced, the new law is expected to introduce sanctions against social media platforms, users and news portals.

In a video message to the International Strategic Communication Summit 2021 (Stratcom Summit '21), which was organized by the Presidency's Directorate of Communications on 11 December 2021, President Erdoğan reiterated the government's outlook on social media and digital journalism.

Stating that social media "has become one of the main sources of threat against today's democracy," Erdoğan said, "We see that lies, fabricated news and disinformation rapidly spread, especially due to increase in social media use. The developed democracies of the world, like ours, are on high alert in the face of rising digital fascism and the fake news frenzy."

Fahrettin Altun, the Presidency's Director of Communications, accused social media platforms of "buttressing terrorist organizations," while Mahir Ünal, the Deputy Chairman of the ruling Justice and

Development Party's (AKP) Parliamentary Group, described disinformation as "a form of terrorism" and said that "a new regulation regarding the law on fight against disinformation [was] inevitable."

While these statements of government officials served to reinforce the oppressive climate in the reporting period, journalists were also subjected to investigations launched upon the criminal complaints of politicians or state institutions. An investigation was launched against Sevilay Yılmaz, a columnist for *Habertürk* newspaper, upon a criminal complaint of Interior Minister Süleyman Soylu over two columns Yılmaz penned; another investigation was launched against journalists Begümhan Aydoğan and Barış Pehlivan upon the criminal complaint of the Gendarmerie General Command.

Four YouTubers who publish street interviews on the platform, Hasan Köksoy, Mehmet Koyuncu, Arif Kocabıyık and Turan Kural, were detained in police raids to their houses, reportedly on account of an investigation launched against them upon a criminal complaint of Mücahit Birinci, a member of AKP's Central Decision and Executive Board (MKYK).

The Banking Regulation and Supervision Agency (BDDK), on the other hand, filed criminal complaints against 26 individuals, including journalists Şeref Oğuz, Mustafa Sönmez, Alican Uludağ, Erk Acarer, Emin Çapa and Güldem Atabay, due to their "posts aimed at manipulating the foreign exchange movements through social media and other publications."

Also reported in the period covered by this report are accreditation bans. The reporters and camera operators for *Cumhuriyet* newspaper, FOX TV and ANKA News Agency were denied entry to Anıtkabir, Kemal Atatürk's mausoleum, in Ankara to cover the official ceremony held on account of the 29 October Republic Day due to the new media accreditation policy of the Presidency's Directorate of Communications.

It was reported that local journalists in the eastern province of Tunceli were warned by the governor's office against asking Justice Minister Abdülhamit Gül any questions about Gülistan Doku, a university student who went missing in the province on 5 January 2020, during the minister's then-upcoming visit to the city. Tunceli Journalists' Association President Ferit Demir stated that a local journalist was called by the governor's chief of staff, and when the journalist objected and said they would ask questions anyway, the minister's Tunceli program was closed to the press.

# JUDGMENTS OF ECtHR AND TURKISH SUPREME COURTS

## ECtHR Judgments

### ***Judgments awaiting execution: The infringement proceedings against Turkey***

There was no progress towards the execution of the ECtHR judgments in the cases of jailed businessperson Osman Kavala and jailed politician Selahattin Demirtaş, former co-chair of the Peoples' Democratic Party (HDP), throughout the reporting period. At its meeting held on 30 November-2 December 2021, the Committee of Ministers of the Council of Europe, which is responsible for supervising the enforcement of the ECtHR judgments, [commenced](#) “the infringement proceedings” under Article 46/4 of the European Convention on Human Rights (ECHR) against Turkey, which failed to implement the ECtHR decision to put an end to Osman Kavala's detention and secure his immediate release. Turkey thus became the second country in the history of the Council of Europe to be subjected to the infringement proceedings under Article 46/4 of the Convention, after Azerbaijan.

In this context, the Committee of Ministers served formal notice on Turkey of its intention, at its meeting on 2 February 2022, to refer to the ECtHR the question whether Turkey has failed to fulfill its obligation to abide by the final judgment of the Court, and asked Turkey to submit its view by 19 January 2022 at the latest. At the meeting, 35 out of 47 member countries of the Council of Europe voted to commence the infringement proceedings against Turkey.

The Committee of Ministers also [adopted](#) an interim resolution concerning the case of Selahattin Demirtaş, who has been imprisoned since November 2016, once again strongly urging Turkey to assure the immediate release of Demirtaş. The Committee decided to resume its examination of the case at its meeting in March 2022 at the latest.

## ***Ongoing trials and new judgments***

**ECtHR finds “insulting the president” sentence to be a violation:** In the reporting period, the ECtHR *issued* its much-anticipated judgment on Article 299 of Turkish Criminal Code (TCK), which criminalizes “insulting the president.” In the individual application lodged with the Court on behalf of Vedat Şorli, the ECtHR found that the applicant’s pre-trial detention for two months and two days, his eventual conviction that sentenced him to 11 months and 20 days in prison and the decision to suspend delivery of the sentence, which had subjected him to a 5-year probation period, on account of two posts he shared on Facebook in 2014 and 2016 amounted to a violation of Article 10 of the Convention, which safeguards freedom of expression. The judgment, which was on the same application that had been earlier found inadmissible by the Turkish Constitutional Court on the grounds that the applicant had failed to substantiate his claims, was delivered unanimously. You can find a detailed assessment of the judgment in our article titled *“First ECtHR judgment on “insulting the president”: Art. 299 must be revised,”* penned by human rights lawyer Benan Molu.

**Nazlı Ilıcak’s detention violated her right to liberty, freedom of expression:** The ECtHR *concluded* by majority that the pre-trial detention of journalist Nazlı Ilıcak, who had been arrested following the 15 July 2016 coup attempt, violated her right to liberty and security and freedom of expression, enshrined in Articles 5/1 and 10 of the Convention, respectively. Turkish Judge Saadet Yüksel expressed a partly dissenting opinion. Ilıcak’s individual application was lodged with the Court on 19 December 2016. The ECtHR held that there had been no plausible reason to suspect Ilıcak of committing the offenses of “membership in a terrorist organization” or “attempting to overthrow the government,” and that the impugned measures imposed on Ilıcak were based on mere suspicion. The Court held that Turkey was to pay Ilıcak EUR 16,000 in respect of non-pecuniary damage.

**Sentence given for social media posts violated freedom of expression:** The ECtHR *ruled* that the conviction of a Turkish

citizen named Yasin Özdemir following the failed coup attempt of 15 July 2016 on account of his social media posts in 2015 violated freedom of expression, enshrined in Article 10 of the Convention. Özdemir was sentenced to 7 months and 14 days in prison on the charge of “praising an offense and offender” as per Article 215 of TCK at his final hearing by a criminal court of first instance in the southwestern province of Isparta in November 2016. The sentence was deferred. The individual application subsequently lodged with the Constitutional Court on behalf of Özdemir was also rejected.

## Judgments of the Constitutional Court

The Turkish Constitutional Court issued a judgment that sets a precedent for similar cases in respect of access ban decisions, while finding no violations in the individual application of journalist Cemal Azmi Kalyoncu, who was imprisoned for 3 years and 10 months.

### Constitutional Court issues pilot judgment in access ban decisions:

In a landmark judgment, the Constitutional Court ruled against court decisions blocking access to online news content. The Court merged separate individual applications concerning a total of 129 URLs, including articles published on the news portals Gazete Duvar, Diken, Sol.org.tr, Artı Gerçek, tarımdanhaber, *BirGün* newspaper and a column by journalist Çiğdem Toker, published in *Cumhuriyet* newspaper, in a single file based on legal relevance regarding their subject matter. In its “[pilot judgment](#),” which sets a precedent for similar cases, the Constitutional Court held that access blocking decisions rendered by criminal judgeships of peace violated freedom of expression and freedom of the press, enshrined in Articles 26 and 28 of the Constitution, respectively, and the right to an effective remedy, safeguarded in Article 40. In its judgment, the court noted that Article 9 of Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications should be amended so as to eliminate further violations. “It has been concluded that the article in question does not contain fundamental safeguards for the protection of freedom of expression and the press, and hence, the violation arises directly from the law,” the court observed.

However, the fact that the Constitutional Court will not be reviewing individual applications with similar facts for one year until the Turkish Parliament introduces the relevant amendments to the provision in question, has attracted criticism. You can find comments and details on the subject in our [news report](#).

**The application of Cemal Azmi Kalyoncu:** The Constitutional Court [rejected](#) the individual application of journalist Cemal Azmi Kalyoncu, who was imprisoned for 3 years and 10 months as part of the trial publicly known as “FETÖ media case.” The court unanimously ruled that the claims in Kalyoncu’s application that his right to liberty and security and freedom of expression and the press had been violated due to his unlawful detention were inadmissible on the grounds that they were manifestly ill-founded. “Considering the scope and nature of the investigations related to the coup attempt or the FETÖ/PDY and the characteristics of the terrorist organization, it is obvious that such investigations are much more difficult and complex in comparison with other criminal investigations,” the top court noted.

# JUDICIAL VIOLATIONS

## **Trials of Journalists in Numbers: Cases, Convictions and Acquittals**

The trials of journalists on various charges, mainly for crimes that fall within the Anti-Terror Law (TMK), continued unabated in the three-month period. According to data obtained as a result of monitoring trials and tracking open sources of information by the Expression Interrupted, a total of 111 hearings were held in 98 cases where journalists have been prosecuted throughout October, November and December. In these cases, at least 203 journalists stood trial. Seven of the journalists who stood trial in the reporting period (three executives of the French satirical magazine Charlie Hebdo and a caricaturist who were prosecuted on the charge of "insulting the president" and the Vice News team, Philip John Pendlebury, Jake Hanrahan and Mohammed İsmael Rasool whose trial is ongoing in Diyarbakır province) are foreign nationals.

A rough look at these figures reveal that approximately 70 journalists were prosecuted in more than 30 cases on average in the last quarter of 2021, similar to the numbers from the rest of the year.

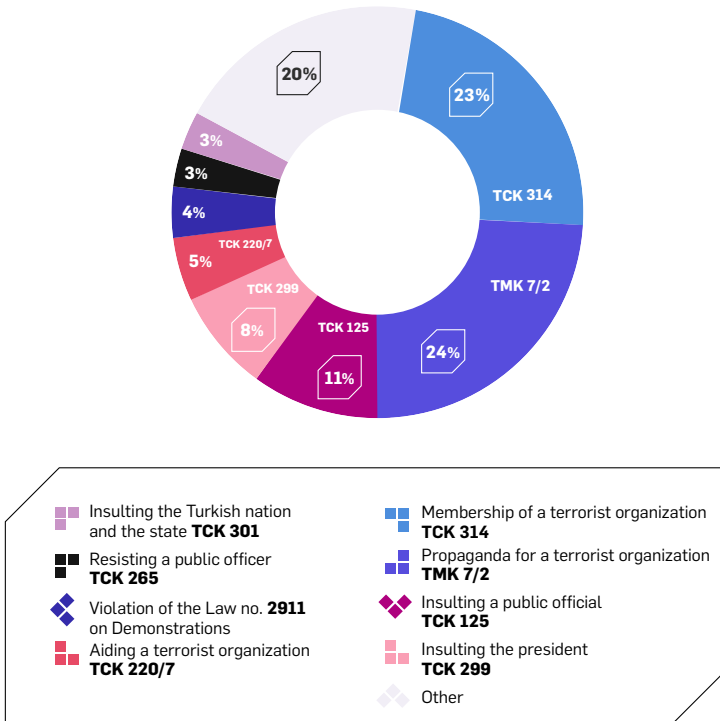
In the reporting period, a total of 26 trials were concluded. While 36 journalists were acquitted of all charges in these trials, 18 journalists were sentenced to a total of 24 years, 5 months and 9 days in prison and a judicial fine of TL 22,660. In most of the trials that ended with conviction, the sentences were either suspended or deferred. A compensation case filed against a journalist, on the other hand, was rejected by a competent court.

As in previous periods, journalists were mostly charged with terror-related crimes. According to data obtained as a result of monitoring trials and tracking open sources of information by the Expression Interrupted, the relevant articles of the TMK and the Turkish Criminal Code (TCK) which prescribe terror-related crimes were used at least 84 times in 98 trials that took place in the last quarter. Among these, the charges of "making propaganda for a terrorist organization" (TMK 7/2) and "membership in a terrorist organization" (TCK 314) were used 36 and

35 times, respectively, while “aiding a terrorist organization without being its member” (TCK 220/7) was used eight times, “marking those involved in fight against terrorism as targets” (TMK 6/1) was used three times and “printing or publishing the declarations or announcements of terrorist organizations” (TMK 6/2) was used at least two times.

Terror-related charges were closely followed by the charges of “insulting a public official” (TCK 125) and “insulting the president” (TCK 299), which were used 16 and 12 times, respectively. The other common charges were “violation of Law No. 2911 on Meetings and Demonstrations,” “preventing a public officer from performing their duty” (TCK 265), and “publicly denigrating Turkish Nation, the State of the Republic of Turkey, the Grand National Assembly of Turkey, the Government of the Republic of Turkey and the judicial bodies of the State” (TCK 301), which were used at least six, five and four times, respectively.

### Charges most commonly used in journalists' trials in October-December 2021



In the last quarter of 2021, a total of 10 new cases were brought against 17 journalists. In three of these cases, the first hearings were held in the reporting period. Meanwhile, one case file was merged with another ongoing case.

Also in the same period, five journalists appeared before a court not as a defendant but as a complainant due to violations they experienced as they were performing their duties.

Monthly statistics of cases against journalists are as follows:<sup>1</sup>

### **October 2021**

In October, a total of 32 hearings were held as part of 31 cases, in which at least 56 journalists stood trial. 24 of these cases were adjourned until future dates, while seven trials were concluded. In four of the trials that were concluded, a total of 10 journalists (Canan Coşkun, Can Uğur, Ali Açar, Roza Metina, Ruşen Takva, Ahmet Kanbal, Mehmet Şah Oruç, Rojda Aydın, Nurcan Yalçın, Halime Parlak) were acquitted of all charges, while three journalists (Doğan Ergün, Sinan Aygül, Vedat Örüç) were given imprisonment of 2 years, 6 months and 12 days and a judicial fine of TL 16,600 in total.

Of the acquitted journalists, Canan Coşkun, Can Uğur and Ali Açar stood trial on the charge of “marking those involved in fight against terrorism as targets” in İstanbul; Roza Metina and Ruşen Takva were prosecuted on the charge of “membership in a terrorist organization” in Diyarbakır and Van, respectively, and Ahmet Kanbal, Mehmet Şah Oruç, Rojda Aydın, Nurcan Yalçın and Halime Parlak were on trial on the charge of “violation of Law No. 2911 on Meetings and Demonstrations” in Mardin.

Of the journalists whose trials ended with a conviction verdict, İleri Haber editor-in-chief Doğan Ergün, who stood trial in İstanbul, was sentenced to 11 months and 20 days, and Vedat Örüç, who was

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<sup>1</sup> The discrepancy between the three-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 three-month period.

prosecuted in Kocaeli, was sentenced to 1 year 6 months and 22 days in prison. Bitlis News editor-in-chief Sinan Aygül, who was on trial in the eastern province of Bitlis, on the other hand, was imposed a judicial fine of TL 16,660.

### OCTOBER 2021

Journalists put on trial	<b>56</b>
Number of trials	<b>31</b>
Trials <b>adjourned</b>	<b>24</b>
Trials <b>concluded</b>	<b>7</b>
Trials <b>that ended with conviction verdict</b>	<b>3</b>
Trials <b>that ended with acquittal verdict</b>	<b>4</b>
Number of <b>new trials</b>	<b>1</b>

Out of the 31 trials that were held in October, journalists were mostly charged with “membership in a terrorist organization” (13 cases); “making propaganda for a terrorist organization” (nine cases); “insulting the president” (four cases) and “violating Law No. 2911” (three cases). In at least two cases, journalists were charged with “insulting a public official” and “aiding a terrorist organization without being its member.”

Also in October, at least one journalist case was concluded at a regional appeals court. The appellate court overturned a 3-year prison sentence given to journalist Çetin Kurşun, a former reporter for the since-shuttered *Azadiya Welat* newspaper, on the charge of “making propaganda for a terrorist organization,” and ordered a retrial on the charge of “membership in a terrorist organization.”

In October, two lawsuits filed by journalists who experienced violations due to their line of work were also held. The first hearing in the trial

of six individuals who assaulted Yavuz Selim Demirağ, a columnist for *Yeniçağ* newspaper, on 10 May 2019 was held in Ankara, approximately 2.5 years after the attack. The first hearing in the compensation case filed by academic and writer Mehmet Altan against the judges who refused to implement the Constitutional Court and the ECtHR judgments concerning his individual applications against detention was held at the 4th Civil Chamber of the Supreme Court of Appeals, where the case was filed since Orkun Dağ, one of the defendants, was later appointed a member of the Supreme Court of Appeals.

Also in October, a new criminal case was launched against four journalists. The case was filed against four journalists from *Cumhuriyet* newspaper (news coordinator Serkan Ozan, responsible managing editor Olcay Büyüktaş Akça, website responsible news director Ozan Yurtoğlu and reporter Hazal Ocak) on the charges of “insult” and “libel” on account of news articles published in the daily upon a complaint by President Recep Tayyip Erdoğan’s son, Bilal Erdoğan. The first hearing in the case was held in October.

## **November 2021**

In November, a total of 129 journalists were prosecuted in 41 trials. 12 of these cases were concluded, while 29 trials were postponed to future dates. In five of the concluded cases, six journalists (Ali Arslan Dadük, Can Bedros Çapar, Fatih Tezcan, Nurcan Yalçın, Perihan Kaya, Sinan Aygül) were handed down a prison sentence of 7 years and 12 days and a judicial fine of TL 1,500 in total. In six of the concluded cases, a total of seven journalists (Ayşe Kara, Dilgeç Ruvanas, Dindar Karataş, Fatih Gönül, Kadri Esen, Oktay Candemir, Yakup Önal) were acquitted of all charges. One case filed against a journalist (Işık Kansu) was dismissed.

Of the acquitted journalists, Ayşe Kara was on trial on the charge of “membership in a terrorist organization” in Diyarbakır; former Dicle News Agency (DİHA) and *Azadiya Welat* newspaper

reporters Dilgeş Ruvanas and Kadri Esen were prosecuted on the charges of “making propaganda for a terrorist organization” and “marking public officers as targets” as part of the same case in Şırnak; Mezopotamya News Agency reporter Dindar Karataş stood trial on the charge of “membership in a terrorist organization” in Erzurum; former DİHA reporters Oktay Candemir and Fatih Gönül were on trial on the charge of “membership in a terrorist organization” in separate cases that were held in Van and Ankara, respectively, and local journalist Yakup Önal was charged with “illegally disseminating or giving to another person someone’s personal data” in Tekirdağ. A compensation case filed in Ankara against *Cumhuriyet* newspaper and Işık Kansu, a columnist for the daily, demanding TL 2 million, on the other hand, was rejected.

Of the journalists whose trials ended with a conviction verdict, local journalists Ali Arslan Dadük and Can Bedros Çapar, based in the southeastern province of Hatay, were sentenced to 10 months each in prison on the charge of “violating Law No. 2911”; journalist Fatih Tezcan was sentenced to 1 year and 6 months on the charge of “publicly insulting the memory of Atatürk” (İstanbul); journalist Nurcan Yalçın was handed down a total prison sentence of 3 years, 7 months and 22 days -- 2 years and 1 month for “aiding a terrorist organization while not being its member” and 1 year, 6 months and 22 days for “making propaganda for a terrorist organization” (Diyarbakır) and Perihan Kaya was sentenced to 1 year and 20 days on the charge of “insulting the president” (Diyarbakır). Journalist Sinan Aygül who was prosecuted in Bitlis province, on the other hand, was sentenced to a judicial fine of TL 1,500. In 2015, Aygül was handed down the aforementioned sentence for “insult by means of the press,” but the announcement of the sentence was deferred. The competent court announced the previously deferred verdict and sentenced Aygül to a judicial fine on the grounds that a sentence Aygül had been given in another case was recently upheld and became final, violating the terms of his probation.

**NOVEMBER 2021**

Journalists put on trial	<b>129</b>
Number of trials	<b>41</b>
Trials <b>adjourned</b>	<b>29</b>
Trials <b>concluded</b>	<b>12</b>
Trials <b>that ended with conviction verdict</b>	<b>5</b>
Trials <b>that ended with acquittal verdict</b>	<b>6</b>
Trials <b>that were rejected by court</b>	<b>1</b>
Number of <b>new trials</b>	<b>5</b>

Out of the 41 trials that were held in November, journalists were charged with “membership in a terrorist organization” in 14 cases; “insulting a public official” in six cases; “insulting the president” in four cases; and “violating Law No. 2911,” “violating Article 301 of the TCK” and “preventing a police officer from performing their duty” in three cases each.

In two journalist trials that were overseen by appellate courts in November, the courts ruled against the journalists. A regional court of justice upheld the prison sentence of 10 years and 6 months given to *Evrensel* daily columnist Yusuf Karataş on the charge of “membership in a terrorist organization,” while another regional court of justice overturned the acquittal judgment rendered in the trial of journalist Selda Manduz on the charge of “making propaganda for a terrorist organization.” According to the decision, Manduz will face a retrial on the same charge.

In November, lawsuits filed by journalists who experienced violations due to their professional work (Müyesser Yıldız, Adnan Bilen) were also held. In the compensation case filed by Müyesser Yıldız against the Interior Minister Süleyman Soylu, the court ruled that Soylu was to pay Yıldız TL 1 in compensation. The lawsuit filed by Adnan Bilen due to procedural violations during his pre-trial detention, on the other hand, was rejected by the court.

Also in November, five new cases were brought against six journalists (Sibel Hürtaş, Uğur Dündar, Enes Sezgin, Sena Dolar, Nazan Sala). A lawsuit was filed against journalist Sibel Hürtaş, who was violently detained in Ankara on 3 July 2020 as she was covering a demonstration held by the heads of bar associations from across the country in protest against the government's draft law for the establishment of multiple bar associations, on the charge of "preventing public officers from performing their duties" upon a criminal complaint by the police officers involved. The first hearing in the trial was held in November, and the court adjourned the case until April 2022.

A compensation case was launched against seasoned journalist Uğur Dündar over an article he penned upon a complaint by Sezgin Baran Korkmaz, a Turkish businessperson currently detained in Austria on charges of conspiring to commit wire fraud and money laundering. A criminal case was filed against *Azadiya Welat* newspaper reporter Velat Öztekin over two social media posts he shared in 2015 and 2016 on the charge of "insulting the president." The first hearing in the trial is scheduled to take place in January in Diyarbakır.

A criminal case was launched against Mezopotamya News Agency reporter Muhammet Enes Sezgin and Jin News reporter Sena Dolar on the charge of "violating Law No. 2911 on Meetings and Demonstrations" for their coverage of a press statement. The first hearing of the case will be held in March 2022. Also, a criminal case was filed against journalist Nazan Sala over her employment at the since-shuttered ROJ TV on the charge of "membership in a terrorist organization." The case was later merged with an ongoing trial against Sala and four other journalists over their news coverage of the allegations of torture against two villagers in Van province by soldiers.

## **December 2021**

In December, a total of 67 journalists were prosecuted in 36 trials. 20 of these trials were postponed to future dates, while seven cases were concluded. In five of the trials that ended with a conviction verdict, nine journalists (Eray Sargin, Enver Aysever, Gülşen Koçuk, Kemal Demir,

Mahir Kanaat, Metin Yoksus, Ömer Çelik, Tunca Öğreten, Zeynep Altıok Akatlı) were given a prison sentence of 14 years, 10 months and 15 days and a judicial fine of TL 4,500 in total. In four of the concluded cases, a total of 19 journalists (Mehmet Aslan, Kemal Karagöz, Derya Okatan, Elif Aydoğmuş, Sevdıye Ergürbüz, Reyhan Hacıođlu, Burcu Özkara, Kemal Bozkurt, Önder Elaldı, Ender Öndeş, Sinan Balık, Davut Uçar, Fırat Yeşılçınar, Zeki Erden, Dođan Güzel, Özgür Paksoy, Mesut Kaynar, Gökhan Çetin ve Gülfem Karataş) were acquitted of all charges.

Of the journalists whose trials ended with a conviction verdict, *BirGün* columnist Zeynep Altıok was sentenced to 11 months in prison on the charge of “insulting the president” (İzmir); Jin News editor Gülşen Koçuk was given a prison sentence of 1 year 10 months and 15 days on the charge of “making propaganda for a terrorist organization” (Diyarbakır); Kemal Demir, a camera operator for the now-defunct TV 10, was handed down a prison sentence of 3 years and 9 months on the charge of “aiding a terrorist organization without being its member” (İstanbul), and journalists Tunca Öğreten, Mahir Kanaat, Ömer Çelik, Eray Sargin and Metin Yoksus, who were prosecuted as part of a trial publicly known as the “RedHack trial,” was sentenced to 1 year and 8 months each in prison on the charge of “illegally obtaining personal data” (İstanbul). Journalist Enver Aysever, on the other hand, was sentenced to a judicial fine of TL 4,500 on the charge of “inciting the public to hatred and hostility” (İstanbul).

## DECEMBER 2021

Journalists put on trial	<b>67</b>
Number of trials	<b>36</b>
Trials <b>adjourned</b>	<b>29</b>
Trials <b>concluded</b>	<b>7</b>
Trials <b>that ended with conviction verdict</b>	<b>5</b>
Trials <b>that ended with acquittal verdict</b>	<b>4</b>
Number of <b>new trials</b>	<b>4</b>

All 19 journalists who were acquitted stood trial in İstanbul. Mezopotamya News Agency reporter Mehmet Aslan was charged with "membership in a terrorist organization;" now-defunct TV 10 staffer Kemal Karagöz was charged with "aiding a terrorist organization without being its member," along with the camera operator Kemal Göz, who was convicted; Derya Okatan, former responsible managing editor of ETHA, was charged with "illegally obtaining personal data" and "making propaganda for a terrorist organization" in the RedHack trial. Former *Özgür Gündem* staffers Elif Aydoğmuş, Sevdije Ergürbüz, Reyhan Hacıoğlu, Burcu Özkara, Kemal Bozkurt, Önder Elaldı, Ender Öndeş, Sinan Balık, Davut Uçar, Fırat Yeşilçınar, Zeki Erden and Doğan Güzel; former DİHA reporters Özgür Paksoy and Mesut Kaynar and former İMC TV reporters Gülfem Karataş and Gökhan Çetin were charged with "resisting police officers" and "insulting a public official" in the trial concerning the 2016 police raid on *Özgür Gündem* newspaper.

Out of the 36 trials that were held in December, journalists were mostly charged with "making propaganda for a terrorist organization" (13 cases), "membership in a terrorist organization" (eight cases), "insulting a public official" (nine cases), "insulting the president" (four cases) and "aiding a terrorist organization without being its member" (four cases).

Also in December, three lawsuits filed by two journalists who experienced violations due to their line of work were held. The first hearing in the compensation case filed by academic and journalist Mehmet Altan against the then-judges of the İstanbul 26th High Criminal Court and the İstanbul 27th High Criminal Court who refused to implement the Constitutional Court and the ECtHR judgments concerning his individual applications was held at the İstanbul 40th High Criminal Court. At the end of the hearing, the court ruled that it had no jurisdiction over the case, and sent the case file to the 4th Civil Chamber of the Supreme Court of Appeals. The trial of judge Orkun Dağ, one of the four judges sued by Altan who was later appointed a member of the Supreme Court of Appeals, also resumed at the 4th Civil Chamber of the Supreme Court of Appeals in December. The court adjourned the trial until January 2022. The third hearing in the

trial of three police officers who violently detained former Bianet reporter Beyza Kural during news coverage in 2015 on the charge of “violation of the freedom to work or labor,” which was launched after the Constitutional Court held in January 2021 that police violence against Kural had violated her freedom of expression, was also held in December. The police officers did not attend the hearing. The case was adjourned until March 2022.

Also in December, four new cases were brought against eight journalists (Hasan Cemal, Doğan Ergün, İzel Sezer, Alev Coşkun, Hazal Ocak, Soner Yalçın, Denizhan Erkoç, Evrim Kepenek). T24 columnist Hasan Cemal was charged with “insulting the president” over his social media posts in 2016 and 2020. The first hearing in the trial will take place in April.

A criminal lawsuit was filed against Doğan Ergün and İzel Sezer, the former and current chief editors of the news portal İleri Haber, respectively, over news reports on allegations of bribery involving President Recep Tayyip Erdoğan’s former lawyer. The first hearing in the trial in which the two journalists are charged with “insult,” “illegally disclosing information obtained through recording private conversations between individuals” and “libel” was held in December. The court adjourned the trial until March 2022.

A compensation case for a symbolic amount of 3 Turkish kuruş was filed against Alev Coşkun, Cumhuriyet Foundation President and a columnist for *Cumhuriyet* newspaper, and journalist Hazal Ocak by the Demirören Media Group over a news article on the loans the parent company took from Ziraat Bank, a public bank, in order to finance its purchases in media, national lottery and energy sectors. Demirören also filed separate lawsuits against Odatv (Soner Yalçın) and Medya Radar (Denizhan Erkoç) news portals, which published similar reports based on Ocak’s story. Two weeks later, Demirören filed another lawsuit against Coşkun and Ocak on the charge of “falsifying confidential business information” over a news report on the same subject. The court decided to merge the two cases.

Lastly, an investigation was launched against Bianet editor Evrim

Kepek on the charge of “insult” over two news reports upon the criminal complaint filed by Refik Y., who was arrested for allegedly abusing his child and was later released under judicial control measures.

## Investigations and Arrests

In the reporting period, a total of 13 journalists, including two foreign nationals, and a newspaper distributor (Muhammet Enes Sezgin, Mahmut Altıntaş, Emrullah Acar, Gözde Meydan, Öznur Değer, Hazar Dost, Mimar Kaya, Ertürk Yılmaz, Nebiye Arı, Yağmur Kaya, Hilal Işık, Özgür Ali Ağaoğlu, Syrian journalist Majed Shamaa, Israeli journalist Ali Mograbi) were taken into custody. Nine journalists were detained while they were covering a story, while four journalists were taken into custody as part of the investigations launched against them.

The police raided two journalists' (Hikmet Tunç, Burak Şefkat) houses in the absence of an official arrest warrant.

Mezopotamya News Agency reporters **Muhammet Enes Sezgin** and **Mahmut Altıntaş** were taken into custody while covering a protest in İstanbul's İstiklal Street on 16 October. The two journalists were released later that evening after giving their statements at the Beyoğlu District Police Department. In a similar fashion, **Gözde Meydan**, the Kocaeli representative of *Evensel* newspaper, and **Öznur Değer**, a reporter for Jin News, were detained during news coverage. Meydan was taken into custody while covering a protest in Kocaeli province on 23 November against the recent meltdown of the Turkish lira, while Değer was briefly detained as she was covering a protest against the government's economic policy. Gazete Duvar reporter **Mimar Kaya** was taken into custody while filming a right of way dispute between a special operations police officer and a shuttle driver in the southeastern province of Hakkari on 5 December 2021. Journalists **Nebiye Arı**, **Yağmur Kaya** and **Hilal Işık** were taken into custody in Ankara on 12 December 2021 while covering the police intervention against a group of university students who wanted to stage a protest in Ankara against high rents and insufficient accommodation in state-run dormitories.

Israeli journalist **Ali Mograbi** was taken into custody in İstanbul during a live broadcast as he was reporting on the arrest of an Israeli couple for “espionage” on 15 November 2021. Mograbi was released after all photos on his device were deleted by the police.

Syrian journalist **Majed Shamaa** was taken into custody on the charge of “incitement to hatred and hostility” based on a criminal complaint against him concerning a satirical video he shot on the viral “banana eaters” videos on social media, which were made in response to a Turkish citizen who claimed in a street interview that only Syrians in Turkey could afford bananas due to economic hardship. Shamaa was released after giving his statement at the prosecutor’s office, and was sent to the Gaziantep Deportation Center on 4 November 2021. Shamaa, who was taken into custody in İstanbul on 30 October 2021, was eventually released from the deportation center on 8 November.

Mezopotamya News Agency reporter **Emrullah Acar** and Etkin News Agency (ETHA) reporter **Ertürk Yılmaz** were detained during police raids on their houses as part of the investigations launched against them. Yılmaz was released the same day, while Acar, who was detained in the southeastern province of Şanlıurfa, was released by a local court after spending five days in custody.

Halk TV reporter **Hazar Dost**, on the other hand, was taken into custody at the airport in Antalya province, where he went to cover a story, due to an arrest warrant issued based on an investigation launched against him.

**Özgür Ali Ağaoğlu**, a Van-based newspaper distributor, was taken to a police station by the police without justification on 5 December 2021, while distributing papers in Van’s İpekyolu district. Police seized 200 copies of *Yeni Yaşam* and *Xwebûn* newspapers, which Ağaoğlu was distributing.

In the reporting period, journalists **Hikmet Tunç** and **Burak Şefkat**’s houses were raided by the police and gendarmerie in the absence of a warrant of arrest. Jin News reporter Hikmet Tunç’s house in Van’s

Edremit district was raided on the grounds of a “weapon and bomb call,” while Burak Şefkat’s house in the southern province of Mersin was raided shortly before he was scheduled to broadcast news on social media. During the raid, police called Şefkat, who was in Adana province at the time, on the phone, and told him to go to the nearest police station. Şefkat went to a local police station, where he was kept waiting for nearly three hours, before he was told that there was no warrant of arrest or apprehension against him, and that he needed to go to a police station in Mersin’s Tarsus district. The next day, Şefkat reported to a police station in Tarsus, where he was told to go to the Tarsus District Police Department. He eventually gave his statement there.

Also in the reporting period, four YouTubers who conduct street interviews were taken into custody. **Hasan Köksoy**, an Antalya-based individual who broadcasts street interviews on his YouTube channel “Kendine Muhabir”; **Arif Kocabıyık** and **Turan Kural**, two YouTubers who broadcast street interviews on their channel “İlave TV,” and **Mehmet Koyuncu**, another YouTuber who broadcasts street interviews on his channel “Sade Vatandaş” were detained during dawn raids on their houses in December. Reportedly, four YouTubers were taken into custody as part of an investigation launched against them upon a criminal complaint by Mücahit Birinci, a member of AKP’s Central Decision and Executive Board. Of the four, Hasan Köksoy had been previously detained due to a street interview he made and jailed pending trial, alone with the interviewee, before he was released pending trial following an appeal against his detention.

In the last quarter of 2021, a total of 11 new investigations were filed against at least 16 journalists (Hasan Cemal, İdris Yayla, Fırat Fıstık, Begümhan Aydoğan, Oktay Candemir, Barış Pehlivan, Pınar Gayıp, Ferhat Çelik, Ender İmrek, Sevilay Yılman, Mustafa Sönmez, Alican Uludağ, Erk Acarer, Emin Çapa, Güldem Atabay, Şeref Oğuz). One of these investigations turned into a lawsuit in the same period, while another investigation was dismissed. Also dismissed were two investigations launched in previous periods.

- An investigation was launched against T24 columnist **Hasan Cemal** on the charge of “insulting the president” over three social media posts, two of which were retweets, Cemal shared in 2016 and 2020. The indictment was accepted by a local court in İstanbul, and hence, turned into a lawsuit in December.
- An investigation was launched against journalist **İdris Yayla** on the allegation of “inciting the public to hatred and hostility” over a video posted on the YouTube channel of local news portal Jiyan Haber with former Batman Municipality Co-Mayor Mehmet Demir, who was dismissed from his post and replaced by a government-appointed trustee.
- An investigation was launched against Gerçek Gündem reporter **Fırat Fıstık** on the allegations of “illegally obtaining and disseminating personal data,” “disturbing an individual’s peace” and “libel” for his news report, which revealed that Boğaziçi University’s newly appointed rector Prof. Naci İnci had reported the students who participated in protests held on the campus to the police.
- An investigation was launched against Tele 1 TV news presenter **Begüm Aydoğan** over a recent broadcast in which allegations that members of the religious cult Menzil were gaining influence in the Gendarmerie Coast Guard Academy were discussed.
- An investigation was launched against journalist **Oktay Candemir** on the allegations of “libel” and “disturbing an individual’s peace” over a social media post in which he commented on *Habertürk* columnist Çetiner Çetin being on the executive board of the football club Vanspor. The investigation was later dismissed.
- An investigation was launched against journalist **Barış Pehlivan** over an article entitled “Menzil’in şok mangası” (“The shock troop of Menzil”) published in *Cumhuriyet* daily upon the criminal complaint of the Gendarmerie General Command.
- An investigation was launched against Etkin News Agency (ETHA) editor **Pınar Gayip** on the allegation of “marking those involved in

the fight against terrorism as a target" over a social media post and a news article she penned about specialist sergeant Musa Orhan, who is currently on trial for sexual assault.

- The Kahramanmaraş Chief Public Prosecutor's Office launched an investigation against the Mezopotamya News Agency for a news report it dispatched on 24 September 2020, titled "Türkoğlu Cezaevi'nde içme suyu kirli akıyor" ("Drinking-water runs dirty in Türkoğlu Prison"), concerning the alleged rights violations in the Türkoğlu No. 1 L Type Closed Prison. The agency's managing editor **Ferhat Çelik** was called in for questioning as part of the investigation, which was initiated upon a criminal complaint by the prison warden.
- An investigation was launched against *Evrensel* newspaper columnist **Ender İmrek** on the allegations of "insulting the president" and "inciting the public to hatred and hostility" over a news article he penned, titled "Türkiye yanıyor, Saray izliyor" ("Turkey is burning, while the Palace is watching").
- An investigation was launched against **Sevilay Yılman**, a columnist for *Habertürk*, on the charges of "insulting a public official" and "libel" for her comments on mob boss Sedat Peker's allegations in his YouTube videos in two articles she penned, upon a complaint by the Interior Minister Süleyman Soylu.
- The Banking Regulation and Supervision Agency (BDDK) filed a criminal complaint against 26 individuals, including journalists **Şeref Oğuz, Mustafa Sönmez, Alican Uludağ, Erk Acarer, Emin Çapa** and **Güldem Atabay**, for "their social media posts and broadcasts intended to manipulate foreign exchange movements" as per Article 74 of the Banking Law.
- Also in the reporting period, an investigation launched in July against Mezopotamya News Agency reporter **Berna Kişin** on the allegation of "publicly inciting hatred and hostility" over her news report, titled "Saldırıya uğrayan Kürt aileye polis baskısı" ("Police pressure the Kurdish family who was attacked"), and her social media posts was dismissed. Also dismissed was an investigation launched against

**Ferhat Çelik**, the responsible managing editor for Mezopotamya News Agency, on the allegation of “publicly inciting hatred and hostility” over a news report, titled “Jandarma Kürtçe mevlidi kesti” (“Gendarmerie interrupts mawlid in Kurdish”).

**13**



Journalists arrested

**1**



Journalists released from prison



**58**

Journalists are in prison

**16**



Journalists face new investigations

**20**



Incidents of physical attacks/removals/ threats against journalists

## Pre-Trial Detentions and Releases

The year-long decrease in the number of journalists behind bars in Turkey lost pace in the last quarter of 2021. The number of imprisoned journalists in Turkey, either in pre-trial detention or serving sentences, which was 87 at the beginning of 2021, went down to 59 as of the end of September, since many journalists were released from prison after they completed the execution of their sentences.

In the reporting period, the number went down to 58 after another journalist was released from prison upon completing his sentence.

Hamza Günerigök, a former presenter for the state-run broadcaster TRT, was released from prison in October upon completing a sentence of 6 years and 3 months he had been given on the charge of “membership in a terrorist organization.” Günerigök was dismissed from his post at the TRT under a statutory decree and was jailed pending trial in January 2017 as part of the “FETÖ/PDY” investigation, carried out by the Ankara Chief Public Prosecutor’s Office. In February 2019, the Ankara 22nd High Criminal Court, which oversaw the “TRT FETÖ trial,” sentenced Günerigök to 6 years and 3 months in prison.

In the reporting period, a YouTuber who conducts street interviews was briefly imprisoned. Hasan Köksoy, who broadcasts street interviews on his YouTube channel “Kendine Muhabir,” was jailed pending trial due to a recent street interview he made. Köksoy was released pending trial five days later upon an appeal against his detention.

## Highlights from Trials

Some of the highlights from the trials held in October, November and December are as follows:

### Prison sentences for journalists in the “RedHack trial” despite the ECtHR

**judgment:** The “RedHack trial,” in which journalists Ömer Çelik, Metin Yokus, Tunca Öğreten, Eray Sargin, Derya Okatan and Mahir Kanaat were prosecuted for their coverage of President Recep Tayyip Erdoğan’s son-in-law and former Minister Berat Albayrak’s e-mails leaked by Redhack, **concluded** at an İstanbul court. The hearing marked the 14th in the case. At the end of the hearing, the court acquitted Derya Okatan of all charges, while sentencing Öğreten, Yokus, Çelik, Sargin and Kanaat to 1 year and 8 months each in prison for “illegally obtaining personal data.” The court suspended the sentences imposed on all five journalists. As part of the case, six journalists had been arrested on 26 December 2016; Okatan, Yokus and Sargin were released pending trial on 17 January 2017, while Öğreten, Kanaat and Çelik were kept in police custody for 24

days, following which they were jailed pending trial for nearly a year. The conviction verdict in the case, which got underway in October 2017, came despite a May 2021 ECtHR judgment as regards the individual applications lodged with the Court on behalf of Öğreten and Kanaat, which found rights violations. Stating that the pre-trial detention of the applicants without concrete evidence could not be considered lawful, the ECtHR had ordered Turkey to pay a total of EUR 38,250 in compensation.

**Journalists arrested during Özgür Gündem raid acquitted:** The trial of journalists who were violently arrested during a police raid on the since-shuttered *Özgür Gündem* newspaper's İstanbul office in August 2016 on the charges of "preventing police officers from performing their duties" and "insulting a public official" was **concluded** at an İstanbul court. At the end of the final hearing of the case, which got underway in February 2018, the court acquitted all 18 defendants, including 16 journalists, of all charges. During the 2016 raid, a total of 22 individuals, including 20 journalists, were arrested; in the ensuing criminal proceedings, the files of four journalists, who resided abroad, were separated. At the final hearing, former *Özgür Gündem* staffers Elif Aydoğmuş, Sevdiye Ergürebüz, Reyhan Hacıoğlu, Burcu Özkara, Kemal Bozkurt, Önder Elaldı, Ender Öndeş, Sinan Balık, Davut Uçar, Fırat Yeşilçınar, Zeki Erden and Doğan Güzel; former DİHA reporters Özgür Paksoy and Mesut Kaynar; former İMC TV reporters Gülfem Karataş and Gökhan Çetin; as well as Doğu Publishing House staff member Hüseyin Gündüz and Yılmaz Bozkurt from the İstanbul Medical Chamber were acquitted of all charges.

**Journalists Canan Coşkun, Can Uğur and Ali Açar acquitted:** The trial in which journalists Canan Coşkun, Can Uğur and Ali Açar were prosecuted for their news coverage of the investigation into the death of 14-year-old Berkin Elvan after being hit on the head by a tear gas canister fired by the police during the Gezi Park protests of 2013 **ended** with the acquittal of three journalists of all charges. As part of the case, the prosecutor's office had claimed that the news articles penned by the journalists, which contained the initials and a blurred image of the officer who allegedly fired the tear gas canister, served to "mark him as a target for terrorist organizations." The court ruled

for the acquittal of three journalists on the grounds that the alleged offense was not prescribed in the law.

### **Case against judges who refused to implement top court judgments gets underway:**

The compensation cases filed by academic and writer Mehmet Altan against the judges who refused to implement the Constitutional Court and the ECtHR judgments concerning his individual applications got underway. The Constitutional Court and the ECtHR rendered their judgments concerning the individual applications lodged on behalf of Altan, who had been arrested in September 2016, finding rights violations, in January 2018 and March 2018, respectively. The judges of the İstanbul 26th High Criminal Court, which was overseeing the "Altan's case" at the time, and the İstanbul 27th High Criminal Court, the next court of first instance, dismissed Altan's repeated requests for his release pending trial as per the Constitutional Court and ECtHR judgments. The first hearing in the trial of defendant judges Seval Alaçam, Kemal Selçuk Yalçın and Mehmet Akif Ayaz was held at the İstanbul 40th High Criminal Court, while the case against judge Orkun Dağ, who was recently appointed a member of the Supreme Court of Appeals, **got underway** at the 4th Civil Chamber of the Supreme Court of Appeals. In the former, the court ruled that it had no jurisdiction over the case, and **sent** the case file to the 4th Civil Chamber of the Supreme Court of Appeals. The trial of the four judges will be overseen by the 4th Civil Chamber of the Supreme Court of Appeals.

### **Case against assailants who attacked journalist Demirağ sent to high criminal court:**

The first hearing in the trial of six individuals who assaulted Yavuz Selim Demirağ, a columnist for *Yeniçağ* newspaper, on 11 May 2019 on the charges of "intentional injury by using a weapon, threat and insult" was held in Ankara, approximately 2.5 years after the attack. A total of 22 lawyers asked to join the case to represent the assailants. A lawyer representing Demirağ stated that the assailants should have been charged with attempted murder, and hence, the court should render a decision of non-jurisdiction, and the case file should be sent to a high criminal court. The presiding judge accepted the lawyer's request and ruled to send the case file to a high criminal court.

**Interior Minister to pay compensation to journalist:** Interior Minister Süleyman Soylu was ordered to pay compensation in a case filed by journalist Müyesser Yıldız over his statements about the media professional. Müyesser Yıldız was targeted by the Interior Minister following a social media post she shared regarding a military operation in the Çemçe region of Kars province in May 2020. Addressing Yıldız, Soylu said on social media, “I am not sad because of your love for PKK, but because you are doing business with these rascals wearing state shirts,” upon which Yıldız filed a criminal complaint against Soylu, but three days later, she was detained and sent to prison, where she stayed for five months, on the charge of “political and military espionage.” At the end of the hearing, the court ruled that the Interior Minister was to pay Yıldız TL 1 in compensation, as per her initial demand.

**Sibel Hürtaş appears before a court upon criminal complaint by police:** A lawsuit was filed against journalist Sibel Hürtaş on the charge of “preventing public officers from performing their duties,” which carries a penalty of imprisonment for a term of six months to three years, upon a criminal complaint by police officers who detained the journalist in Ankara on 3 July 2020 as she was covering a protest held by the heads of bar associations from across the country against the government’s draft law for the establishment of multiple bar associations. Previously, Hürtaş’s criminal complaint against the officers was dismissed. The **first hearing** in the case was held in November, and the case was adjourned until April 2022. In her defense statement, Hürtaş stated that she had been subjected to torture and ill-treatment in police custody, and that she had received a medical report for temporary incapacity to work.

**Charlie Hebdo editors on trial for “insulting the president:”** The first hearing in the trial where three executives of the French satirical magazine Charlie Hebdo, Julien Serignac, Gérard Biard and Laurent Sourisseau, and cartoonist Alice Petit are charged with “insulting the president” over a caricature published on the front cover of the weekly’s 28 October 2020 issue was held in Ankara. At the end of the hearing, the court decided that President Erdoğan should join the

case, considering the possibility of him being harmed by the alleged offense. Ruling to wait for the response to letters rogatory issued by the Justice Ministry to obtain the defendants' statements, the court adjourned the case until 1 June 2022.

**Retrial of novelist Aslı Erdoğan begins:** The first hearing in the retrial of novelist Aslı Erdoğan, which was ordered by a regional court of appeals that overturned the trial court's decision to drop the charge of "making propaganda for a terrorist organization" against Erdoğan in the "Özgür Gündem main trial," [got underway](#) in İstanbul. Observers were not allowed in the courtroom due to Covid-19 measures. Erdoğan, who resides abroad, did not attend the hearing. In the Özgür Gündem trial, the charge of "making propaganda for a terrorist organization" against Erdoğan was dropped due to statute of limitations, and she was acquitted of the other charges. However, a regional court of appeals overturned the trial court's decision to drop the charge on the grounds that the four-month statute of limitations prescribed in the Press Law would not be applicable in Erdoğan's case, given that the articles she stood trial for were also published online.

**Retrial resumes in the "FETÖ media" case:** The third hearing in the retrial of journalists Ahmet Memiş, Ali Akkuş, Cemal Azmi Kalyoncu, Gökçe Fırat Çulhaoğlu, Ünal Tanık, Yakup Çetin, Yetkin Yıldız and musician-turned-columnist Atilla Taş, whose convictions were overturned in 2020 as part of the case publicly known as "FETÖ media trial," was [held](#) on 26 October. At the end of the hearing, the court lifted the judicial control measures imposed on all defendants except Atilla Taş, for whose prosecution on the charge of "publicly degrading the institutions and organs of the state" as per Article 301 of TCK the Justice Ministry's approval was still pending at the time. The next hearing is scheduled for February 2022.

# ATTACKS AND INTERVENTIONS AGAINST JOURNALISTS

According to data compiled from open sources of information by the Expression Interrupted, there were 20 cases of physical attacks, threats and/or interventions against journalists in various provinces of Turkey in October, November and December. In 13 of these cases, the perpetrator was reported as police officers or soldiers, while at least five attacks or threats were carried out by civilians. In two cases, journalists were prevented from performing their duties by public officials.

The physical attacks, threats or interventions against journalists reported in the period covered by this report are as follows:

- **3 October:** Doğrusu Haber reporter Büşra Taşkıran and Jin News reporter Öznur Değer were prevented by the police while conducting street interviews with citizens. The police checked the criminal record of both reporters, during which an interview Değer was carrying out at the time was interrupted. The journalists were reportedly told they needed to have official press cards to carry out street interviews. (Ankara)
- **5 October:** Mezopotamya News Agency reporter Zeynep Durgut was attacked by TIR drivers while filming the transportation of trees, which were reportedly cut down by soldiers and village guards, out of the southeastern province of Şırnak by TIRs. The drivers threatened Durgut to delete the video and images on her device. (Şırnak)
- **5 October:** Dokuz8 Haber editor Fatoş Erdoğan was battered by the police while covering the detention of Boğaziçi University students. (İstanbul)
- **7 October:** Journalists were prevented from performing their duties by the police while they were covering the police intervention against Boğaziçi University students who were protesting the detention of

two fellow students. The police surrounded the journalists with their shields, kept the members of the press under a blockade for a long time and did not let them approach the students. During the intervention, Halk TV reporter Erdinç Yılmaz was severely battered, while the police seized Artı Gerçek TV reporter Yağmur Kaya's press card. (İstanbul)

- **10 Ekim:** ANKA News Agency reporter Tamer Arda Erşin was threatened by a police officer, who said, "I will divide you into quarters," while covering a commemoration that was to be held in front of the Ankara Railway Station on the anniversary of the 10 October 2015 bomb attacks in Ankara. (Ankara)
- **19 October:** FOX TV reporter Beril Özcan was prevented from filming at a local bazaar in İstanbul's Fikirtepe district by the workers of the İstanbul Metropolitan Municipality (İBB). The İBB officials defended the practice, saying that when filming in places run by İBB, the municipality had to be informed in advance as part of the safety rules, and that the procedure had been in practice for years. (İstanbul)
- **28 October:** Habertürk TV reporter Kübra Demir stated that while covering the demonstration of taxi drivers held in protest against a new taxi project introduced by the İstanbul Metropolitan Municipality, a taxi driver came at her and threatened her. (İstanbul)
- **29 October:** The reporters and camera operators for *Cumhuriyet* newspaper, FOX TV and ANKA News Agency were prevented from covering the ceremony held in Anıtkabir, Atatürk's mausoleum, on account of the 29 October Republic Day due to the new accreditation policy implemented by the Presidency's Directorate of Communications. (Ankara)
- **29 October:** Journalist Burhan Karaduman was attacked by a group of people while covering the 29 October Republic Day celebrations in the eastern province of Malatya. Karaduman suffered blows to his face, back, head and legs, and was hospitalized. Three out of five suspects apprehended following the attack were detained. (Malatya)

- **6 November:** The Adana Branch of the Journalists' Union of Turkey (TGS) announced that Murat Yıldız, the deputy head of the branch, was threatened over the phone. Yıldız was reportedly threatened in a call to his personal phone in the name of Çukurova Mayor Soner Çetin. (Adana)
- **8 November:** Journalists were prevented from filming and taking pictures at a demonstration held in front of Ankara University in protest against the Council of Higher Education on the anniversary of its establishment. (Ankara)
- **15 November:** Toplumsal news portal reporter Umut Taştan was attacked by the police while covering a demonstration held in İstanbul's Taksim Square for inmate Ali Osman Köse, a cancer patient. "Even though I have repeatedly stated that I was a journalist, they forced me down and I was kept there, with I don't know how many officers on top of me," Taştan said, "I was released after the protesters were arrested." (İstanbul)
- **17 November:** Dokuz8 Haber editor Esra Tokat was blocked by the police prior to a press statement that was to be held in front of the courthouse by the Ankara University Veterinary School students. Tokat was prevented from filming the event on the grounds that she did not hold a press card. (Ankara)
- **18 November:** Six journalists were prevented by the police while covering a press statement by the Ankara Branch of the Chamber of Architects concerning the planned renewal of the Kurtuluş Park. (Ankara)
- **22 November:** Journalist Özcan Saraç, owner of a local news website based in Konya's Ereğli district, was attacked by the Nationalist Movement Party's (MHP) Ereğli District Deputy Head Hasan Yazar while walking on the street. In a statement, Saraç said that Yazar threatened to kill him after punching him. (Konya)
- **23 November:** Jin News reporter Derya Ren and Mezopotamya

News Agency reporter Eylem Akdağ were blocked by soldiers and the police while covering a protest in the Lice district of Diyarbakır. Ren's neck was reportedly squeezed with a camera strap she was wearing at the time, and her camera was later confiscated. Soldiers also pushed Akdağ with a gun and seized her camera. (Diyarbakır)

- **25 November:** Artı TV reporter Bilal Meyveci was injured due to tear gas and rubber bullets fired by the police at close range, when covering a march held on the International Day for the Elimination of Violence Against Women. His camera and other equipment was also damaged. (İstanbul)
- **1 December:** The police attempted to delete the images taken by journalists who were covering the trial of an individual named Ömer Faruk Ayvaz, who was prosecuted for violence against women, in front of the courtroom in Ankara. The elder brother of the defendant threatened lawyers, journalists and those who wanted to attend the hearing in front of the courtroom. (Ankara)
- **7 December:** Journalists were barred by the police from covering the latest hearing of the "Kobani case," in which 108 people including the former co-chairs of the HDP and members of its Central Executive Board stood trial at the Sincan Prison Campus in Ankara. (Ankara)
- **14 December:** Cihan Berk, the Tunceli correspondent for PİRHA, was blocked by police officers from conducting an interview with a local individual in the Nazimiye district. The officers told Berk that he needed to get permission from local authorities to shoot videos in the region. (Tunceli)
- **16 December:** Halk TV reporter Mevsim Altay and camera operator Haydar Öztürk were removed from the Ministry of Labor and Social Security after taking a picture of the empty room where the minimum wage committee was supposed to convene. (Ankara)

# PENALTIES BY RTÜK AND BİK

In the reporting period, media regulation bodies RTÜK and the Press Advertising Agency (BİK), broadly denounced for acting as “the government’s bludgeon over the media,” continued to be the target of criticisms. In a legislative proposal, Deputy Bülent Tezcan of the main opposition Republican People’s Party (CHP) demanded that the authority of the BİK to issue sanctions should be abolished, along with all penalties imposed by the institution and their ramifications since 2018, when Turkey formally transitioned to a presidential system. As the justification for the proposal, Tezcan cited the transformation of the BİK, which was established with a mission to ensure the fair distribution of official announcements and advertisements in national and local newspapers, into an institution that seeks to put pressure on newspapers publishing critical news articles about the government through heavy economic sanctions.

In the last quarter of 2021, while there were no new penalties issued by the BİK, the previous BİK decisions concerning the suspension of the right of *Evrensel* and *Yeni Asya* newspapers to publish public announcements and advertisements since September 2019 and January 2020, respectively, continued to be in effect.

RTÜK, on the other hand, continued to attract criticisms of politicization and censorship in this period, due both to its 2021 data becoming public and the new sanctions it imposed. According to data [announced](#) by RTÜK member İlhan Taşçı, who was elected as a member from the quota allocated for the main opposition party CHP, RTÜK imposed a total of 71 fines on TV stations between 1 January-24 December 2021. According to the figures revealed by Taşçı, based on a review of the RTÜK decisions concerning the news programs, all the fines were imposed on critical TV stations and no pro-government channel was imposed a fine. Accordingly, RTÜK imposed 23 fines on Halk TV; 21 fines on Tele 1; 15 fines on FOX TV; eight fines on KRT TV and four fines on Habertürk TV. The total amount of the fines issued in this period amounted to TL 21.5

million. In contrast, no penalties were issued on pro-government TV stations despite approximately 100,000 viewer complaints.

A similar picture emerges when the penalties issued against TV stations classified under the general broadcast category are examined, although it is not as striking as the one that emerges in terms of the news programs. According to a [news article](#) published in the reporting period, RTÜK imposed a total of 35 administrative fines on the TV stations under the general broadcast category in 2021, which amounted to TL 24,5 million in total. FOX TV, generally perceived to be a government critic, was imposed administrative fines totaling TL 12,7 million, approximately 52 per cent of all administrative fines. RTÜK also imposed fines for TL 4,1 million on TV 8; TL 3,5 million on Kanal D; TL 3,2 million on Show TV and TL 786,000 on Star TV. Pro-government ATV, which also falls under the same category and is among the TV stations that take the lead in most viewer complaints, was not imposed any fines.

The RTÜK penalties reported in the last three months of 2021 are as follows:

- In its meeting on 27 October 2021, RTÜK issued three penalties on Halk TV, meaning a total of TL 215,619 administrative fine was imposed on the TV station in one meeting. First, RTÜK imposed [an administrative fine](#) on Halk TV on the grounds that the remarks uttered in the TV program “Perdenin Önü Arkası,” aired on 15 October 2021, concerning the pro-government Turkish Youth Foundation (TÜGVA) “likened TÜGVA, a lawful foundation, to the terrorist organization FETÖ,” that “the expressions used were incompatible with the understanding of public responsibility” and “no attention was paid to ensure that such remarks be honest, and not harmful against individuals and institutions.”
- In its meeting on 27 October, RTÜK also imposed [an administrative fine](#) on Halk TV for TV programs “Açıkça” and “Sözüm Var,” which were aired in July. In the said programs, RTÜK and BİK were criticized, and it was stated that these institutions put pressure on

the media in Turkey. RTÜK member İlhan Taşçı [announced](#) that his proposal at the meeting that RTÜK President Ebubekir Şahin, who is also a member of BİK's General Assembly, should not attend the meeting due to "conflict of interest" was rejected.

- In the same meeting, RTÜK [imposed](#) another administrative fine on Halk TV on account of the program titled "Kayda Geçsin," aired on 19 October 2021, which included the rumors that the recent raids on the warehouses of paper collectors was related to the fact that First Lady Emine Erdoğan were to enter the waste paper sector. In the decision, it was stated that the program in question violated the principle of "not broadcasting news that can be investigated without investigation or ensuring its accuracy."
- Another [administrative fine](#) imposed at the meeting on 27 October was against Tele 1. RTÜK imposed the fine due to comments made on a statement of İsmail Kahraman, Deputy Chair of the Presidency's High Advisory Board and former Parliament Speaker, during the program "18 Dakika," aired on 6 October 2021.
- In the same meeting, Kudüs TV was imposed an [administrative fine](#) due to televised criticism of İlham Aliyev, President of Azerbaijan. In the decision, it was stated that the remarks such as "Azerbaijan administration is just like the Saddam administration" in the TV program "Üçüncü Göz," aired on 8 October 2021, were "incompatible with the understanding of public responsibility."
- In its meeting on 17 November, the Supreme Council discussed the complaints made by CHP İzmir Deputy Özcan Purçu and the Federation of Romani Associations that the TV series "Üç Kuruş," broadcast on Show TV, humiliated the Romani citizens. RTÜK [imposed](#) an administrative fine on Show TV on the grounds of the series' depiction of violence and abuse of women and children.
- In its meeting on 17 November, the Supreme Council discussed the statements "Especially on 29 October, I always dress in all black. I mean I am ashamed of celebrating the day when the caliphate

was abolished and there were attempts to wash away Islam... And I condemn those who say they are Muslims and celebrate this day," and remarks about the Gallipoli Campaign and the 1999 Marmara earthquake in the dialogues between the program presenter and the guests of the TV program "Sorarım," aired on 29 October 2021. RTÜK [suspended](#) the broadcasting of the said program for three episodes and imposed an administrative fine on FM TV on the grounds of "acting contrary to the existence and independence of the Republic of Turkey and to the principles and reforms of Kemal Atatürk."

- In its meeting on 24 November, RTÜK imposed an administrative fine on Kafa Radyo due to the program "Nihat'la Sivrisinek," where radio presenter Nihat Sırdar commented on the donations collected by the government during the Covid-19 pandemic. RTÜK member Onur Konuralp, who was elected as a member from the quota of CHP, [announced](#) the decision on social media, and said that RTÜK held that the remarks "It is not clear where the donations have gone," uttered almost three months ago by Sırdar, were in breach of the principle of objectivity/accuracy.
- In its meeting on 15 December, RTÜK [decided](#) that the digital platform Exxen should remove the 44th episode of the program "Konuşanlar" from its catalog. Previously, RTÜK President Ebubekir Şahin had announced that they launched an investigation into the program in question over including "certain dialogues incompatible with the Turkish family life and morality." In the same meeting, the Supreme Council also decided that Netflix should remove the movie "Ortaya Karışık İlişkiler" ("Donde caben dos") from its catalog in Turkey on the grounds that it was "contrary to the spiritual values of the society and public morality."
- In the same meeting, RTÜK imposed [administrative fines](#) totaling TL 210,000 on Tele 1 and Halk TV. Tele 1 was fined for airing CHP Group Deputy Chairman Engin Altay's criticism of President Erdoğan while Halk TV was fined for televised criticisms of coalition ally Nationalist Movement Party's (MHP) Chairman Devlet Bahçeli and the President of Religious Affairs Ali Erbaş.

- In its meeting on 29 December, RTÜK imposed separate [administrative fines](#) on Halk TV, FOX TV and Tele 1. The Supreme Council imposed a fine on Halk TV upon a complaint from former Minister of Treasury and Finance Berat Albayrak due to journalist Barış Terkoğlu reading excerpts from an incriminating inspector report. FOX TV was issued a fine because of the critical coverage of a statement on electricity prices by the Energy Market Regulatory Authority (EPDK) during the channel's prime time news program. Tele 1 was imposed a fine due to the remarks of Türker Ertürk, a retired admiral, during the TV program "Demokrasi Arenası," hosted by Uğur Dündar.

In addition, RTÜK [launched an investigation](#) into the remarks of Başak Demirtaş, the wife of jailed Kurdish politician Selahattin Demirtaş, who attended a TV program broadcast on FOX TV on 6 October 2021 as a guest.

On the other hand, an appeal against a previous RTÜK decision was found justified in a local court in the reporting period. The Ankara Regional Administrative Court stopped the execution of a decision in July ordering Halk TV to suspend the broadcasting of a program for three episodes. RTÜK had issued the order and an administrative fine on Halk TV on the grounds that former CHP Deputy Hilmi Yarayıcı's singing of a Grup Yorum song titled "Cemo" constituted "making propaganda for a terrorist organization." The judgment, delivered unanimously by the Ankara Regional Administrative Court, said: "Even though Halk TV was imposed a sanction on the grounds that the folk song Cemo supported terrorism, since it was understood that the lyrics were not openly praising terrorism, and due to the lack of data in the case file showing that the song was used for terrorist propaganda, the court has unanimously decided to accept the appeal of Halk TV."

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