

BİA MEDIA MONITORING / 2019 JULY-AUGUST-SEPTEMBER

As President and ruling Justice and Development Party (AKP) Chair Recep Tayyip Erdoğan and his government have undermined Turkey's accession process to the European Union (EU) with authoritarian moves and, thereby, have got weaker, they have remembered "judicial reform". Opposition parties, rights defenders, journalism and freedom of expression organizations and independent legists, namely everyone, think that so long as judicial independence is not achieved on the level of Council of Judges and Prosecutors (HSK), it will be nothing, but a cosmetic change hiding the harsh reality about arbitrary arrests and trials.

BİA Media Monitoring Report for July-August-September 2019 has shown that in this three-month period, journalists faced prison sentences or were sentenced to prison on a series of charges such as "targeting Constitutional order", "membership of / propagandizing for a terrorist organization", "insulting the President" and "defaming state institutions" as per the Turkish Penal Code (TCK), Anti-Terror Law (TMK), Law on Capital Market, Law on Banking and Law on Protecting Atatürk.

This report has also indicated that at least 13 media workers were detained in protests against appointment of trustees to Peoples' Democratic Party (HDP) municipalities, three journalists were attacked and wounded (two in an armed attack, one with police violence) and access to at least 577 online news articles was blocked by orders of Penal Courts of Peace.

You can find the following chapters in the BİA Media Monitoring Report: "killed journalists", "imprisoned journalists", "assaults, threats", "impunity", "investigations and court cases", "criminal cases and lawsuits for damages on insult-related charges", "bans, closures, seizures", "reporting", Constitutional Court", "ECtHR", "Radio and Television Supreme Council (RTÜK)", and "journalists left unemployed".

Financial journalism targeted

Having targeted journalism which reported on allegations of corruption, the government and the judiciary are now directly targeting financial journalism: Two Bloomberg reporters, journalists Mustafa Sönmez, Merdan Yanardağ, Sedef Kabaş and freelance journalist Orhan Kalkan have been each facing 5 years in prison for "bringing the economy into disrepute".

Journalist Cengiz Erdiñç has been given a deferred prison sentence of 10 months and a judicial fine of 16 thousand 660 Turkish Lira (TRY) for allegedly "harming the reputation" of Ziraat Bank in his article entitled "Financial Blackholes" (Finansal Kara Delikler).

Some lawsuits filed against daily *Cumhuriyet* and *Evrensel* for criticizing the economy have been referred to the Commercial Courts of First Instance, which prioritize the brands rather than freedom of press.

The Article no. 299 of the TCK, which started to be implemented for criticisms and allegations about Justice and Development Party (AKP) Chair Recep Tayyip Erdoğan since August 2014, when he was elected President, became the basis of prison sentences, deferred prison sentences or judicial fines given to at least 60 journalists until October 1, 2019.

This three-month period also saw a few favorable developments: The Constitutional Court took a stance in favor of freedom of press and freedom of expression in symbolically important issues such as police violence in Gezi Park protests, general broadcast and publication bans, censorship imposed on a news report about Hacı Lokman Birlik published on daily *BirGün* and *Academics for Peace*. The Court of Cassation also ruled for the release of former daily *Cumhuriyet* executives and workers, who had been behind bars as convicts in *Kandıra Prison* for 4 months.

No reform without judicial independence

With judicial reform package, the government of Turkey thinks of cleaning his image of a country where journalists and rights defenders are regularly imprisoned due to the verdicts of arrest or conviction given by the judiciary with security-based political arguments.

CLICK - Judicial Reform Package on Pre-Trial Detention, Freedom of Expression Passes in Parliament

CLICK - Maximum Period of Arrest 'Reduced from 5 Years to 5 Years'

Human rights defenders and legists who admit the problem have been underlining that so long as judicial independence is not really achieved against external interventions and a freedom-based understanding is not adopted, reminders such as "criticisms do not constitute a crime", introduction of Court of Cassation controls on thought crimes and imposition of time limits on arrests will not suffice to resolve the problem.

Detention during protests against trustees

In the period of July-August-September 2019, at least 13 journalists and media workers were detained. While 10 journalists were detained as part of "Kurdish Question"-related investigations and developments, nine of these 10 journalists were taken into custody while trying to report on the protests against appointment of trustees to HDP's municipalities.

Ümit Uzun, a reporter for the *Demirören News Agency (DHA)*, was battered, handcuffed from behind and taken into custody while trying to report on a vehicle accident in *Gaziosmanpaşa, İstanbul*.

In the same period last year, seven journalists and media workers were detained. Five of these journalists were taken into custody as part of investigations related with "Kurdish Question".

In 2018, 47 journalists were detained; 36 of them were held in custody in security directorates or Anti-Terror Branches after being detained while reporting on "Kurdish Question"-related developments.

3 attacks and government-backed threats

In these three-month period, at least three journalists were attacked. While an armed attack was launched against two of these journalists, one journalist was subjected to police violence. While one media worker was verbally attacked, one journalist was threatened.

The climate of violence following March 31 Local Elections and mostly targeting the journalists critical of the People's Alliance partners Justice and Development Party (AKP) and Nationalist Movement Party (MHP) keeps on affecting local journalists (in Balıkesir and Mersin) for other reasons.

After the foundation called SETA targeted tens of international media representatives as "International Media Outlets' Extensions in Turkey", former AKP MP and Constitutional Law Professor Burhan Kuzu threatened journalist Kadri Gürsel, who criticized him for being ignorant, by saying "You went through tough times, you have still not come to your senses". Lastly, President Erdoğan scolded FOX TV reporter asking him a question about the Tank Track Factory in Sakarya by saying "First, stop being a fake media channel. Be honest at least for once." These incidents indicate the harassment of government circles targeting critical journalism.

In the same period last year, 13 journalists were attacked and two of them were threatened. Especially the intervention against nine journalists during the protests of Saturday Mothers/People brought up the issue of police violence. Throughout 2018, 19 journalists and one media organization were assaulted. Moreover, Jamal Khashoggi from Saudi Arabia was killed in the Consulate General of the country in İstanbul, Turkey.

TCK, TMK, SPK and Law on Banking

In the period of July-August-September 2019, 18 journalists or media representatives faced life sentences aggravated for 10 times on charge of "disrupting the unity of the state" as part of journalism or political cases. Eight journalists faced 416 years in prison in total on charges of "espionage" and "obtaining and publishing confidential documents of the state."

87 journalists faced 1,333 years in prison in total on a series of charges including "leading a terrorist organization", "membership of a terrorist organization", "committing crimes on behalf of the organization as a non-member" and "aiding the organization". Three of these lawsuits were

filed in this period. Three people have been sentenced to 28 years, 7 months, 15 days in prison in total. Three people have been acquitted.

In July-August-September 2019, 36 journalists or media workers faced 234 years in prison in total on charges of "propagandizing for a terrorist organization", "reporting on the statements of the organization" and "targeting the ones struggling against terror by revealing their identities." Three of these lawsuits were filed in this period. While four journalists have been acquitted in the end, five journalists have been sentenced to 14 years, 3 months in prison in total (2 years, 11 months deferred).

In the same period, six journalists faced 12 years in prison for "defaming state institutions", two journalists have been sentenced to 10 months in total.

Five journalists faced 25 years in prison for "inciting to commit crimes"; three of them have been acquitted. Facing 9 years in prison in total for "praising crime", three journalists have been acquitted. Two journalists have been facing 6 years in prison in total for "violating the confidentiality of the investigation". While one journalist faced 4 years, 6 months in prison for "inciting the public to enmity and hatred", an investigation was launched against one of them on the same charge.

Six journalists have been facing 30 years in prison in total for allegedly "violating the Law on Capital Market". Another journalist has been given a deferred prison sentence of 10 months and an administrative fine of 16 thousand 660 TRY for "violating the Law on Banking". Moreover, facing 4 years, 6 months in prison for "violating the Law on Protecting Atatürk", one journalist has been sentenced to 1 year, 6 months in prison.

One person (Bülent Şık), who raised concerns over the problems in health sector in his articles, faced 5 years in prison for "disclosing confidential information" and has been sentenced to 1 year, 3 months in the end.

Taken together, 175 journalists faced life sentences aggravated for 10 times and 2 thousand, 82 years in prison in total on the above-mentioned charges.

The trials of "insult" and "insulting the President" are not included in this calculation of defendants and penalties. When these are included as well, the number of defendants increases to 212 and the total amount of penalties increases to 10 aggravated life sentences, 2 thousand 172 year, 8 months in prison and 2 million 35 thousand TRY.

Defamation: Threats with 72 years in prison and 2 million 35 thousand liras of damages

In the July-August-September period, 28 journalists faced 72 years in prison for "defamation", "insulting a public officer", and "insult". Two journalists were acquitted, three cases are continuing.

In the same period, four journalists and two media outlets faced paying a total of 2 million 35 thousand lira for damages for "attack on personal rights" and "insult". The cases for 225 thousand liras of damages against two journalists and one media outlet were new. Çiğdem Toker, a former columnist for Cumhuriyet newspaper is still under trial in the case where she faces to pay 1 million 500 thousand lira damages. Evrensel newspaper, sued by former Prime Minister Binali Yıldırım, Turkuvaz Media Group executive Serhat Albayrak and President's son Bilal Eđdođan, defends the right to deliver news to the public before the courts.

Throughout 2018, seven journalists were sentenced to prison for 4 years and 9 months in total (2 years, 8 months and 15 days deferred), one drawer and one media outlet were sentenced to pay a total of 18 thousand lira for damages.

"Insulting Erdoğan": One of five defendants was convicted

In the last three months, five journalists faced 18 years and 8 months in prison in total. A lawsuit for Evrensel newspaper's former managing editor Cem ŐimŐek was filed in this period. Birgün newspaper's former editor-in-chief BarıŐ İnce was sentenced to 11 months and 20 days in prison for his "acrostic defense statement."

The law article that began to be used against accusations and criticism against Erdoğan after he was elected president in August 2014, has provided a basis for at least 60 journalists to be given a prison term, a deferred prison term or a fine until October 1, 2019.

Throughout 2018, 20 journalists were given prison terms for a total of 38 years, 5 months and 4 days (6 years, 10 months, and 2 days deferred) and sentenced to pay judicial fines of 35 thousand lira in total upon Article 299 of Turkish Penal Code.

Wikipedia has been banned for 29 months

In the last three months, access to at least 577 news articles was blocked by a Penal Court of Peace order. Seven social media accounts were blocked, one book was banned, eight national newspapers and TV channels were subjected to discrimination in the accreditation process.

Some of the allegations and news reports that were most subjected to censorship are: Medipol University being assigned land and building; President Erdoğan's son Burak Erdoğan causing the death of musician Sevim Tanürek; AKP İstanbul MP Merve Kavakçı Kan being sent to the US in an irregular way to study for a doctorate on the day she started a job at İstanbul Metropolitan Municipality; Presidency Communications Director Fahrettin Altun and his spouse Fatmanur Altun each receiving two salaries; İstanbul Cađalođlu Anatolian High School Principal Necati Yener getting the pocket money of the students seized after a lawsuit was filed against him.

Ankara 3rd Penal Court of Peace blocked access to 136 web addresses, including bianet.org on July 16. While it was revealed that bianet was added to the list "by mistake," the ban order was implemented for other addresses.

Constitutional Court

In this period, the Constitutional Court took a stance in favor of freedom of the press and freedom of speech in cases that have symbolic importance such as the trial of the Academics for Peace and a news report by BirGün on Hacı Lokman Birlik.

The court made a decision in favor of Halk TV, which made an application regarding the access block on reports about the reports on corruption allegations against four ministers in the period of December 17-25, 2013; and the right to freedom of the press of Erdal İmrek, a reporter for the daily Evrensel, was violated because he was subjected to police violence while he was following the 2013 Gezi Park protests. However, for taking action about the censorship on Wikipedia, the Constitutional Court waited for the subject being brought to the agenda of the European Court of Human Rights (ECtHR).

Through 2018, the Constitutional Court sentenced Turkey to pay 135 thousand 881 lira for damages, including expenses, in 18 cases, including applications by 10 journalists, one website and one newspaper. Since the coup attempt on July 15, 2016, the high court has been criticized for handling the cases results of which could be against the government's policies in an extended period of time.

The European Court of Human Rights

The European Court of Human Rights (ECtHR), which had closed itself to individual applications from Turkey after the 2016 coup attempt, broke its silence on March 20, 2018, with the decisions on Şahin Alpay and Mehmet Altan. While it had no decisions on Turkey in cases of freedom of speech in the April-May-June period, it broke its silence for published Ahmet Önal and Peoples' Democratic Party (HDP) former Co-Chair Selahattin Demirtaş.

In the last three months, the ECtHR ruled that Turkey shall pay 6 thousand Euro (42 thousand lira) for damages to Önal and Demirtaş and took action for the ban on Wikipedia. On the other hand, it ruled that there was no violation in cases of Özgür Gündem newspaper executives Ali Gürbüz and Hasan Bayar.

In the same period last year, the ECtHR sentenced Turkey to pay 2,500 Euro (18,700 lira) for damages to a publisher for violating Article 10 of the European Convention on Human Rights.

Throughout 2018, the ECtHR sentenced Turkey to pay 73 thousand Euro (~365 thousand lira) for damages to 12 applicants, including six journalists and two publishers, for violating Article 10.

Struggle against impunity: Depends on the case

In Balıkesir province, the perpetrators of the attack on Levent Uysal, the recently closed Yenigün newspaper's owner, were caught. In Adana province, those who were involved in the incident that journalist Hakan Denizli was shot in the feet in front of his child and grandchild were released. The government stayed silent against physical attacks on "incorrigible" journalists during the periods of March 31 local elections and June 23 İstanbul repeat elections.

Ankara Chief Public Prosecutor's Office could say the report titled, "Extensions of the International Media Organizations in Turkey" by the Foundation for Political, Economic and Social Research (SETA) was "within the freedom of expression."

The Umut Case, which includes the killings of journalists Uğur Mumcu and Ahmet Taner Kışlalı in the 1990s, is continuing under two separate files. The case where seven judges and prosecutors are under trial for arresting journalist Ahmet Şık through a conspiracy for his book titled, "The Army of the Imam" (İmamın Ordusu) awaits the chamber of the Court Of Cassation that will examine the file to be determined. The claim for damages by journalist Deniz Yücel, who was arrested after being detained in February 2017 when he was working as a reporter in İstanbul for Germany's Die Welt newspaper and spent one year in prison, was rejected.

Police officer Abdül Köksal, who was dismissed from his job and being tried for illegally wiretapping 70 people, including journalist Haydar Meriç, whose body was found on the shores of Akçakoca, Düzce on June 18, 2011, was released.

In the case where the perpetrators of the attack in the Council of State and the attack on Cumhuriyet newspaper with a hand grenade were under trial, the defendants were given heavy prison sentences.

RTÜK: 19 fines and program suspensions on TVs

The Radio and Television Supreme Council (RTÜK) imposed monetary fines on TV organizations for nine times and broadcast suspensions for five times. It did not take any actions on radio organizations. The council fined TVs to pay a total of 1 million 180 thousand 146 lira.

31 journalists became unemployed in three months

In the three-month period, numerous media outlets that have different editorial policies terminated labor contracts with a total of 31 columnists, editorial office personnel and employees.

Yeni Şafak newspaper, which previously parted ways with columnists Kemal Öztürk and Özlem Albayrak after not publishing their articles, dismissed two more columnists, one of them being Faruk Aksoy. Cumhuriyet newspaper, on the grounds of the economic crisis, dismissed 15

people, including Mahmut Oral, its Diyarbakır Representative, and Ceren Çıplak Drıllat, a reporter. Columnist Erdal Sağlam, who is known for his articles on the business world and the economic bureaucracy, left Hürriyet newspaper. Artı Gerçek website parted ways with journalist and author Murat Aksoy after his criticism regarding the Kurdish Question.

The number of journalists who became unemployed was 85 in the same period last year and 157 in 2018.