

## BİA MEDIA MONITORING / 2015 OCTOBER-NOVEMBER-DECEMBER

*Especially for the last five years, we have been experiencing problems in entitling our Media Monitoring Reports issued quarterly. It seems almost impossible to think of title other than “Getting Worse”, “Getting Much Worse”. So we live it to you this time.*

Three Syrian journalists have been killed; last year’s figure of arrested journalists has increased from 22 to 31 in this year; action has been taken on 93 persons including 42 journalists with charges of defaming the President (Articles 299 and 125(3) of Turkish Criminal Law) of on charges of of attack on personal rights; six journalists and a politician among these 93 persons have been sentenced to 6 years and 24 months of imprisonment in total (with 11 months 20 days deferred).

26 journalists have been put on trial demanding 337 years and 6 months of imprisonment on the basis of Anti-terror Law and 58 others with charges of “conducting illegal organization”, “being member of an illegal organization” and “helping an illegal organization” demanding 877 years and 6 months of imprisonment. In addition, four journalists are on trial with charges of “inciting to armed riot” and “attempt to coup” demanding aggravated life imprisonment twice and 40 years of imprisonment. Two others are on trial with charges of “being a member of a terrorist organization” and “spying” demanding life imprisonment and 20 years of imprisonment.

Along with distancing from the solution process considerably, courts have sentenced three journalists from the Kurdish media to 6 years, 3 months and 22 days of imprisonment and 7,900 euro (24,000 TL) penalty fine.

### **Headlines from media monitoring**

Regaining the majority on November 1 Elections which it had lost on July 7 Elections, the Government has intensified its pressures on the media again; it excluded TV channels close to Gülen Community from digital platforms and seized control of their broadcastings. It has arrested Cumhuriyet daily Chief Editor Can Dündar and its Ankara representative Erdem Gül.

Becoming gradually stronger through Telecommunications Communications Presidency (TİB), National Intelligence Organization (MİT), Criminal Courts of Peace and Interior Security Law, the Government has intensified its pressure on journalists in the period of October-December 2015 and stigmatized media representatives with "spying", "having pro-coup mindsets" and "being terrorists".

In a period, in which the inner peace had been damaged gradually and a comeback had been experienced in Syria/Middle East in diplomacy, the government could not manage to

carry conviction though breaking the three-month-long silence with regards to the European Union. Many international and national journalists organizations have condemned the arrests of Can Dündar and Erdem Gül and warned the European Union with regards to its relations with Turkey not to put freedom of expression matters behind Syrian refugees' issue in importance.

While Turkish Government was getting mass reactions from many international and national journalism organizations, media representatives from all critical political stances have been on the "Hope Watch" in front of the Silivri Prison. Nonetheless, President Erdoğan himself has damaged the spirit of reform by his order of arresting Dündar and his intense "defamation" lawsuits against the media.

BİA Media Watch Report includes the chapters: "murdered journalists", "imprisoned journalists", "attacks, threats and restrictions", "investigations, opened-ongoing cases, decisions", "defamation, personal rights and compensation trials", "bans, closures and shelf pulls", "Constitutional Court (AYM)", "European Court of Human Rights (ECtHR)", "Radio and Television Supreme Council (RTÜK)" and "Supreme Election Board (YSK)"

During the three months covered by the report, both Turkish Criminal Law (TCK) and Turkish Civil Code (TMK) have been applied in combination on the cases of journalists put on trial. Within these trials, journalists, distributors, and media employers have been charged with "being a member of an illegal Organization", "helping an illegal organization", "establishing, dispatching and conducting an illegal organization" by means of journalism.

### **Arrested Journalists: Majority from Kurdish media.**

31 journalists and eight distributors have been put in jail. 17 of these journalists and all of the distributors are from the Kurdish media and are being charged with being affiliated to "the organization". 19 of the 31 journalists in prison are convicted, three others are on trial and nine others under investigation.

In the same period of last year, 22 journalists and 10 distributors had been on trial; 14 of the journalists and all of the distributors had been from the Kurdish media. 18 of the 22 journalists had been convicted, three others on trial and one under investigation.

17 of the 31 journalists have been charged with being members of "Group of Communities in Kurdistan (KCK)", "Kurdistan Workers' Party (PKK)", "Democratic Patriotic Youth (DYG)", two others with being members of "Marxist-Leninist Communist Party (MLKP)"; two others of being members of "Revolutionary Peoples' Liberation Party/Front (DHKP-C)", one journalist of being a member of "Resistance Movement" and another of being a member of "Turkey Communist Labour Party/Leninist (TKEP/L)".

Whereas one journalist has been tried with charges of “conducting Fethullahist Terrorist Organization (FETÖ) / Parallel State Organization (PDY)” and another one on charges of “destroying/using confidential documents of the state” and “attempt to subvert the government”; one other journalist has been under investigation for “conducting FETÖ/PDY” and two others of “assisting FETÖ/PDY” and “obtaining confidential documents”.

One Journalist is on trial with charges of being a member of all the three Ergenekon Organization Mersin Arm, Turkish Revenge Union Organization and the Inner Organization; one other of “propagandizing for the Democratic Union Party (PYD) in Syria”, and the last one on investigation due to assisting an unknown organization.

In the same period of the last year, among 22 journalists in jail, 14 journalists were sentenced from KCK, PKK and DYG cases, two others from MLKP cases, and each one journalist from DHKP-C, Resistance Movement, TKEP/L, Parallel Pro-coup Organization, Ergenekon Organization Mersin

In the period of October-December 2015, 15 journalists, one media group and one media organ were attacked. Three Syrian journalists have been killed in Antep. Four journalists and five media organs have been threatened.

In the same period of 2014, 33 journalists, two websites and one Twitter account were subjected to attacks, one newspaper distributor was killed and four journalists were threatened. In the whole year, 142 journalists, two newspapers, one newspaper printing house, six websites, one Twitter account were targets of attacks including 23 verbal attacks.

### **34 journalists under custody; one handcuffed from behind**

In the period of October-December 2015, 34 journalists and media employees were taken into custody among which, one journalist was handcuffed from behind. In the same period in 2014, 43 journalists had been taken into custody. This figure has been 72 for the entire year of 2014.

### **93 “Erdoğan” suspects/victims**

In the period of October-December, four journalists and one politician were sentenced to 2 years, 10 months and 27 days of imprisonment (11 months and 20 days deferred) over charges of defaming the President on the basis of Article 299 of TCK.

Eight journalists and an ex-representative were put on trial over charges of defaming the President on the basis of Article 299 of TCK. Eight journalists and two political party members are still on trial with the same charges.

In this period, new investigations have been launched against 10 journalists on the basis of Article 299 TCK. The court has decided to discontinue criminal charges on the cases of three

journalists and one cartoonist under investigation on the basis of the aforementioned article and two criminal charges have been pressed on the same basis.

Two journalists have been sentenced to 3 years, 1 month and 27 days of imprisonments on the basis of Article 125/3 of TCK with charges of defaming the former Prime Minister Erdoğan by means of press. One director and one author have been sentenced to 1 year and 9 months of imprisonment and 1800 euro in total. 23 protestors, two journalists and two teachers are still on trial. Charges have been pressed against one journalist.

One journalist, one newspaper and a website have been sentenced to 8,500 euro of punitive fine for moral damages in total over claims of having violated the personal rights of President Erdoğan, who was also the former Prime Minister. The trial of another journalist with demands of punitive fine in amount of 3,600 euro still continues.

In the period of October-December, action has been taken on 93 persons including 42 journalists on charges of defaming and violating the personal rights of Recep Tayyip Erdoğan; the former Prime Minister (on the basis of Article 125 of TCK) and the President (on the basis of Article 299 of TCK).

In the same period of the last year, nine journalists had been put on trial over charges of defaming or violating the personal rights of Erdoğan, one of these had been sentenced to 2,100 euro of damages payment. Besides, one academician and a student had been sentenced to 11 months and 20 days of deferred imprisonment and 1,850 euro punitive fine.

In the entire year of 2014, two journalists had been sentenced to 11 months and 20 days deferred imprisonment and 2,120 euro of punitive fine in total; 61 persons had been sentenced to 31 years 2 months and 15 days of imprisonment and 98,100 euro punitive fine.

## **Censorship expands to TV broadcasting**

In the period of October-December 2015, 18 TV channels have been excluded from digital platforms such as Tivibu, Digiturk and TURKSAT; 13 online web pages, books of four authors, two magazines, two humor magazines, one new report, one leaflet, one panel, one commemoration were censored. Four decisions of confidentiality and three decisions of broadcast ban were issued. There were at least two cases of accreditation discriminations.

In the same period of the last year, six journalists, two websites, two Facebook pages, one book, one film, one piano piece had been censored, four broadcast bans and four accreditation discriminations have been experienced.

In the entire year of 2014, 30 online web pages and news, 17 journalists, two newspapers, three Facebook pages, three films, two banners, one painting exhibitions, one piano piece, one concert and one book had been censored. In addition, seven broadcast bans, four accreditation discriminations and two communication prohibitions in prison had been experienced.

## **Defamation: Seven journalists convicted, five new trials**

In the period between October-December 2015, seven journalists have been sentenced to 2 years, 2 months and 7 days of imprisonment and 6,050 euro punitive fine, 13 others are still on trial. Five journalists have been put on trial newly and two others acquitted.

Two journalists have been sentenced to 2,730 euro compensation on claims of violating personal rights. Four journalists are on trial on charges of for damage in the amount of 304,000 euro and two newspapers of 30,400 euro. Claim for damages against one journalist has been dismissed.

In the same period of last year, two journalists and one student had been sentenced to 1,050 euro (530 euro deferred) punitive fine and 6,990 euro compensation of moral damages. 13 journalists, one columnist and one cartoonist were on trial.

In 2014, 10 journalists had been sentenced to 3 years, 5 months and 9 days of imprisonment and 4,340 euro punitive fine on charges of “inciting to hostility”, “defaming religious values” and “defamation”.

## **Civil Law and Criminal Law: Journalist = “terrorist” and “spy”**

In the period of October- December 2015, 26 journalists we on trial demanding 337 years and 6 months of imprisonment on the basis of Turkish Civil Law (TMK), three of these had been convicted to 6 years, 3 months and 22 days of imprisonment (1 year, 6 months and 22 days deferred) in total and 7,300 euro punitive fine with charges of “issuing illegal organization’s statements” and “propagandizing for the terrorist organization”. Trials of 18 others, with demands of 135 years imprisonment, have been dismissed due to prescription, and one journalist has been acquitted. There had been two new cases. Hukukçu Tahir Elçi, TMK’den daha açıldıktan sonra Diyarbakır’da öldürüldü. New investigations had been launched against 32 journalists and an author on the basis of TMK.

58 journalists are on trial with demands of 877 years and 6 months of imprisonment with charges of “conducting illegal organization”, being a member of an illegal organization” and “assisting the illegal organization”, two others are under investigation with demands of life imprisonment and 20 years of imprisonment on charges of of “being a member of an illegal organization” and “spying”. Two journalists acquitted of “spying”.

Besides, four journalists are on trial demanding aggravated life imprisonment twice and 40 years of imprisonment with charges of “inciting to armed riot” and “attempt to coup”.

Six journalists have been on trial with charges “violating confidentiality of investigation” and “compromising”, three of which have been acquitted. Four journalists are on trial on charges of “resisting to police” and two others are being tried within three lawsuits with charges of

“defaming military forces” and one journalist on charges of “opposing to Demonstration and Protest March Law”. The total of imprisonment demanded in these trials reach up to 336 years.

Against a newspaper, criminal charges have been pressed on basis of “defaming Atatürk” and one author has been sentenced to 1 year and 9 months of imprisonment.

In the same period of 2014, four journalists were on trial demanding 268 years and 6 months of imprisonment on the basis of TMK. Three journalists had been sentenced to each five years of deferred imprisonment due to having “declared criminal” in their corruption reports, all three have been put on trial separately from the first trial due to having “violating confidentiality and attempt to influence judiciary” and one of them due to “slander”.

In the entire year of 2014, one journalist was sentenced to 16 years and 3 months of imprisonment on the basis of TMK and four others were put on trial demanding 268 years and 6 months of imprisonment. 10 journalists were sentenced to 3 years, 5 months and days of imprisonment and 4,350 euro punitive fine with charges of “inciting to hostility”, “insulting religious values” and “defamation”.

182 summary of proceedings and mass investigations for HDP

As of December 15, there are 182 summary of proceedings submitted to the Turkish Parliamentary Speaker’s office against MPs of Peoples’ Democratic Party (HDP) and independent MPs.

Besides, Ankara and Diyarbakır Chief Prosecutions have launched investigations against more than nine representatives and authorities following their statements with regards to the “ditches” and “self-governance”.

HDP Co-Chairs Figen Yüksekdağ and Selahattin Demistaş, HDP MP Sırrı Süreyya Önder, former HDP MP Sebahat Tuncel, Democratic Society Congress Co-Chairs Hatip Dicle and Selma Irmak, DBP Co-Chair Kamuran Yüksek and HDP İzmir MP Ertuğrul Kürkçü are under investigation on charges of “propagandising for the terrorist organization”, “inciting to crime”, inciting people to riot”, “disrupting the unity and the territorial integrity of the state”, “separating parts from the lands under state domination from its administration” and “praising criminals”.

## **Endless ECtHR, AYM trials**

In the period of October-December 2015, ECtHR sentenced Turkey to 19,060 euro due to violating freedom of expression brought to trial by three jurists, two journalists and a politician.

In the same period of the last year, ECtHR had sentenced Turkey to make three persons a payment of compensation for moral and material damages in the amount of 28,800 euro. In the entire year of 2014, Turkey had been sentenced to 135,612 euro compensation for cases brought to trial by nine journalists and one media organ among others.

Yet prior to ECtHR the Constitutional Court (AYM) introducing the right to an individual application, had determined the violation of freedom expression and press over the individual applications of one author, one radio organization and one web page. AYM has ruled for 1,500 euro compensation payment including court expenses. It has also decided, to compensate the damages of a journalist occurred due to “torture under custody” in amount of 16,820 euro and to repeat the trial of another journalist as the first one had not constituted a fair trial.

## **Unemployed journalists increase**

In the 4th quarter, more than 213 journalists and media employees were laid off or forced to quit. On the same period of last year, the figure was 47. In the entire year of 2014, 339 journalists, authors and media employees had been laid off or forced to quit.

## **RTÜK: 24 times warning for TVs, 23 times punitive payment**

In the period of October-December 2015, Radio and Television Supreme Council (RTÜK), issued 24 warnings for television organizations and 23 times punitive payments. In this period, no such warnings or fines were imposed on Radio organizations. RTÜK ordered 359,566 euro punitive fine

In the same period of last year, RTÜK has issued eight warnings and 46 times punitive fine for television organizations and one warning and two time punitive fine for radio organizations added up to 734,370 euro in total.

In 2014, where local and presidential elections had taken place, RTÜK has issued 78 warnings and 254 times punitive fine for television organizations and 12 warnings and seven times punitive fine for radio organizations.

## **YSK: 117 broadcast cease, 59 warnings**

Supreme Election Board (YSK) imposed 117 broadcast bans on 61 television organizations and 59 warnings for 39 television organizations. (EÖ/DG)