

## BİA MEDIA MONITORING 2016 / JANUARY-FEBRUARY-MARCH

In the first three months of the year, Cumhuriyet daily's Editor-in-Chief Can Dündar and its Ankara Representative Erdem Gül getting arrested, trustee being appointed to Zaman daily and lawsuits of "defaming the President" Recep Tayyip Erdoğan have been subjects of criticism growing against the Government in and outside the country.

Venice Commission of Council of Europe has demanded reforms in the penal code. US President Barack Obama started giving "clear messages" concerning the freedom of speech. Ahead of the May 3 World Press Freedom Day, the journalists are facing 5 life imprisonment sentences and 2,229 years and 6 months in prison charged of being "spies", "coup attempters" and "terrorists" according to the Turkish Penal Code (TCK) and Anti-Terror Law (TMK).

Presenting the deteriorating conditions of freedom of speech and press freedom, BİA January-February-March 2016 Media Monitoring Report demonstrates that the 5 journalists have been convicted on charges of "defaming the president" according to the Article 299 widely criticized by the Venice Commission, 22 others have newly been put on trial for the same charges and that legal action has been taken against 86 persons 53 of whom are journalists on grounds of the Article 125 and 299 of the penal code with respect to President Erdoğan only.

The report demonstrates that by comparison to the same 3-month period of the last year (2015), the number of assaulted journalists has increased from 10 to 17, the custodies from 7 to 49, the journalists in prison from 23 to 28, the broadcast bans from 2 to 5 and unemployed journalists from 8 to 185.

### Headlines from Media Monitoring Report

BİA Media Monitoring Report covers the main topics of "killed journalists", "journalists in prison", "assaults, threats and blockings", "investigations, "ongoing lawsuits", "defamation, personal rights and suits for damages", "bans, closures and pull offs", "Constitutional Court (AYM)", European Court of Human Rights (ECtHR)", "Radio and Television Supreme Council (RTÜK)" and "Supreme Election Board (YSK)".

During these three months, the lawsuits increasingly continued to be brought against journalists on grounds of both the penal code and Anti-Terror Law have been continuing. Within the trials, the charges brought against journalists, distributors and media outlet workers were "being a member of an armed organization", "aiding the [illegal] organization" as well as "forming, conducting and controlling an [illegal] organization".

### Journalists in prison mostly from Kurdish media

28 journalists and 10 distributors have entered April 2016 in prison. 18 of these journalists and distributors are from the Kurdish media and are in prison for being affiliated to the [illegal] organization according to the Anti-Terror Law and the Turkish Penal Code.

In the same period of the last year (2015), 23 journalists and 9 distributors had been in prison; 14 of the journalists and all of the distributors had been from the Kurdish Media.

19 of these 28 journalists in prison have been tried for being a member of “Group of Communities in Kurdistan (KCK)”, “Kurdistan Workers’ Party (PKK)” and “Democratic Patriotic Youth (DYG)”, 2 others for being a member of “Marxist-Leninist Communist Party (MLKP)”, the other 2 for being a member of “Fethullahist Terrorist Organization (FETÖ) / Parallel State Organization (PDY)”, 1 for being a member of “Revolutionary Peoples’ Liberation Party-Front (DHKP-C)”, 1 for being a member of “Resistance Movement” and another one for being a member of “Turkey Communist Labour Party/Leninist (TKEP/L)”. 1 journalist has been tried for being a member of “Ergenekon Organization Mersin Arm, Turkish Revenge Union Organization and the Inner Organization”.

15 of the 28 journalists in prison are convicted, 2 others are in prison waiting for the decision of Supreme Court of Appeal, 2 are still being tried and the other 9 are under investigation.

4 of the above mentioned 9 under investigation are being probed on suspicion of “being member of an [illegal] organization, 3 others of “propagandizing for the [illegal] organization”, 1 both of “being a member of and propagandizing for the [illegal] organization” and another one of both “conducting an [illegal] organization and providing documents”.

## **Assaults on 15 journalists and 2 vehicles, 10 threats**

In the period of January-March of 2016, 1 journalist has been killed in the bomb attack in Ankara. 15 journalists and 2 vehicles belonged to journalists have been attacked, 6 journalists and 1 caricaturist as well as 3 media organs have been threatened and 3 cases of verbal assaults have been experienced. Academics for Peace Initiative consisting of 1,128 members has been threatened by a person convicted of “being an organized crime leader”.

In the same period of the last year (2015) 1 newspaper columnist had been killed, 10 journalists had been assaulted, and a verbal assault had been experienced. In addition, 7 journalists and 4 newspapers had been threatened, and house search had been conducted in the apartment of 2 journalists.

In the entire year of 2015, 3 Syrian journalists and 1 newspaper columnist had been killed; 64 journalists, 4 media organs and 1 author had been assaulted. In addition, 21 media organs had been threatened and three cases of verbal assault had been experienced.

## **49 journalists taken into custody**

In the period of January-March 2016, 49 journalists and media workers have been taken into custody. 1 journalist has been taken away by force to give testimony and raid has been conducted on 1 local newspaper. PKK (Kurdistan Workers' Party) has kidnapped and later released 3 journalists.

In the same quarter of 2015, 7 journalists 2 of whom were from international media and a social media member had been taken into custody.

In the entire year of 2015, 120 media representatives had been taken into custody.

## 86 “Erdoğan” suspects/victims

In the quarter of January-March of 2016, 7 persons including 5 journalists have been sentenced to 11 years 4 months in prison in total including 3 years and 3 months deferred on grounds of Article 299 (defaming the President) of the Turkish Penal Code. Still 32 persons including 29 journalists 22 of whom are new suspects are being tried for their articles, opinions and criticisms on basis of the same article. 20 persons 2 of whom are journalists have been acquitted. New Investigations have been launched into 8 journalists and the court has ordered nolle prosequi on the cases of 2 journalists.

1 journalist, 1 teacher and a politician have been sentenced to 1 year 6 months in prison and 4,400 euro (14,160 TL) punitive fine for defaming former Prime Minister Erdoğan on basis of the Art 125(3) lit. a of the Turkish Penal Code. 1 teacher has been acquitted, the trials of 5 journalists, 1 member of parliament, 1 medical doctor and 1 model are still ongoing.

1 member of the parliament, Eren Erdem from Republican People's Party (CHP) has been sentenced to 2,180 euro compensation of moral damages.

The leaders of the two opposition parties; Selahattin Demirtaş from Peoples' Democratic Party (HDP) and Kemal Kılıçdaroğlu from CHP have been put on trial on demanding 110,000 euro in total, 62,310 euro of the demanded fine has been rejected. The lawsuit brought against 1 journalist and 1 director seeking 62,310 euro in damages is still ongoing.

In the quarter of January-March of 2016, action (imprisonment, prosecution, criminal complaint and damages) has been taken against 86 persons 53 of whom were journalists on charges of defaming and violation the personal rights of the former Prime Minister (based on Art. 125(3) lit.a TCK) and the President (based on Art. 299 TCK) through of media.

In the same quarter of the last year (2015), 3 journalists and 2 caricaturists had been sentenced to 16 months and 20 days in prison and 6,550 euro punitive fine on charges of defaming and violating the personal rights of President Erdoğan during his Prime Ministerial term. Journalist Barış İnce and columnist Ender İmrek have been put on trial on charges of defaming the President (Art 299 TCK). 7 persons in Çanakkale and Dikili have been sentenced to a punitive fine in amount of 17,800 euro in total.

In the entire year of 2015, 9 persons 5 of whom were journalists had been sentenced to 10 years, 8 months and 22 days in prison in total on charges of defaming President Erdoğan (Art. 299 TCK), 19 persons 14 of whom were journalists and 2 were caricaturists had been sentenced to 10 years, 9 months and 27 days in prison on charges of defaming President Erdoğan in his Prime Ministerial term (Art. 125(3) TCK). As a result, 28 persons in total including 19 journalists and 2 caricaturists had been convicted for defaming Erdoğan.

## **5 broadcast bans, censorship on 15 websites, 312 web-reports**

In the quarter of January-March of 2016, 15 websites, 8 media organs (6 newspapers, 1 TV channel and 1 magazine), 312 URL-based reports, 200 Twitter accounts, 79 Instagram links, 3 books and 1 panel have been censored. 5 broadcast orders have been issued and besides 2 cases of accreditation discrimination, 12 other cases of censorship have been experienced.

In the same quarter of the last year (2015), 3 websites, 2 journalists, 2 movies, 1 book, 2 columns and 1 image had been censored. 2 broadcast bans had been imposed one of which had been a temporary restriction. In addition, 6 other cases of censorship have been experienced including censorships imposed on 49 reports and 312 Twitter messages and Facebook blocking off access to contents including Prophet Muhammad. Within at least 2 incidents, 17 media organs have been exposed to discrimination in accreditation.

In the entire year of 2015, 6 media blackouts, 5 confidentiality and 10 accreditation discriminations have been experienced. In addition, 118 websites, 353 Twitter accounts, 399 news articles and columns as well as 21 TV channels and 2 journalists had been subjected to censorship. 12 footages, 7 books, 5 humor magazines, 4 movies, 2 magazines, 2 journalists, 1 documentary film, 2 leaflet, 1 panel, 1 commemoration, 1 election film, 1 banner and 1 image had been censored.

## **Defamation: 3 convictions, 2 new cases**

In the quarter January-March of 2016, 3 journalists have been convicted to deferred 10 months in prison and a punitive fine of 2,375 euro, 3 journalists have been acquitted, 7 journalists are still being tried and 2 others have newly been put on trial.

2 journalists have been convicted to 4,370 euro of compensation payment on charge of violation of personal rights. The lawsuits brought against 3 journalists seeking 360,520 euro in damages is still ongoing and three others have newly been sued for damages demanding 12,485 euros of compensation payment.

In the same quarter of 2015, 2 journalists had been convicted to 1,380 euro of punitive fine and 9 others were still being tried. 6 journalists had been acquitted and 2 others had newly been put on trial or been subjected to new criminal complaints.

Action for damages had been brought against 4 journalists and 2 newspapers seeking 474,451 euro.

In 2015, 15 journalists and 1 news site have been convicted to 5 years, 8 months and 17 days in prison and 15,280 euro of punitive fine including 540 euro deferred. Three journalists have been convicted to compensation payment of 4,330 euro in total for violating personal rights.

## **TMK/TCK: 5 life-time imprisonments, 2,229 years in prison demanded**

In the quarter of January-March of 2016, 40 journalists have been tried in accordance with the Anti-Terror Law (TMK) demanding 642 years in prison, 5 journalists have been acquitted, 2 others have been convicted to 2 years and 6 months in total. The cases of 18 journalists have been dismissed and there have been 5 new cases. Investigations have been launched into or criminal charges have been filed against 8 journalists in accordance with the Anti-Terror Law.

64 journalists have been tried seeking a prison sentence of 1,427 years and 6 months in total on charges of “conducting [illegal] organization”, “being a member of an [illegal] organization” and “aiding an [illegal] organization”. 1 journalist has been sentenced to 49 years in prison on charges of “being a member of an [illegal] organization”, “resisting police”, “damage to property”. Four others have been brought to trial.

3 journalists are being tried on charges of “being coup attempters”, 2 others of “spying” and 2 journalists for “inciting to armed insurgency” and 2 others of “providing and publishing documents concerning the security of State”. 1 journalist has been sentenced to 1 year and 8 months in prison on charge of “providing and publishing documents concerning the security of State”. 5 journalists are being tried on charge of “violating confidentiality”, 4 others for “inciting to hatred and hostility”, 3 journalists for “inciting the Turkish Nation”, 2 others for “insulting religious values” and 1 journalist for “inciting to crime” and 1 other for “insulting Atatürk’s memory”.

Based on all the above listed charges, 3 aggravated life imprisonments, 2 life imprisonments and prison sentence of 2,229 years and 6 months are being demanded in total.

In the same quarter of the last year (2015), 6 journalists had been tried or put on trial demanding 143 years in prison in accordance with the Anti-Terror Law, 2 of these had been acquitted. 3 journalists had been put on trial on charges of “violating confidentiality and attempting to influence judgement” and criminal complaints had been filed against 17 journalists on charges of “inciting to hatred and hostility”. In addition, Eren Keskin, lawyer and Co-Editor in Chief of Özgür Gündem daily had been sentenced to prison in accordance with Art. 301 TCK, 1 other journalist had been sentenced to 1 year and 15 days in prison and 1 other had been acquitted.

In the entire year of 2015, penalties have been imposed in accordance with the Anti-Terror Law demanding 6 years 3 months and 22 days in prison (1 year 6 months and 22 days deferred) and

punitive fine of 7,425 euro. 26 journalists were still being tried seeking 337 years and 6 months in prison, 2 journalists had newly been put on trial and 2 others had been acquitted. The cases of 18 journalists tried demanding prison sentence had been dismissed due to statute of limitations.

## **506 Summary of Proceedings for 112 MPs**

As of the end of March, there are 506 summary of proceedings concerning 112 MPs. 278 of these are related to 41 MPs from Peoples Democratic Party (HDP), 116 to 33 MPs from Republican People's Party (CHP) and 41 are related to 21 MPs from Justice and Development Party (AKP) and 14 are related to 6 MPs from Nationalist Movement Party (MHP). In the same quarter of 2015, the figure was 22 for HDP.

## **Convictions by ECtHR**

In the quarter of January-March of 2016, the European Court of Human Rights (ECtHR) has ruled on a lawsuit brought by seven persons including 6 journalists and sentenced Turkey to compensation payment in amount of 19,090 euro for "violating freedom of speech".

In the same quarter of the last year (2015), ECtHR had sentenced Turkey to 22, 983 euro of compensation payment for pecuniary and nonpecuniary damages in a lawsuit brought by 18 persons 2 of whom were journalists.

In the entire year of 2015, Turkey has been convicted for violation freedom of speech and sentenced to 42, 043 euro of compensation payment in lawsuits brought by 26 including 5 journalists, 3 lawyers, 1 politician, 1 retired soldier.

## **Constitutional Court rulings**

In the quarter of January-March of 2016, the Constitutional Court (AYM) which has introduced the right of "individual application" before applying to ECtHR, has ruled on the application of 2 journalists that their freedom of speech and information had been violated.

The Court has ordered to compensate the 615 euro court costs on this case. The court has rejected the applications of 1 person arrested and 1 lawyer.

1 journalist who had filed a complaint to the Constitutional Court claiming that he had been maltreated in Silivri Prison had been rejected on grounds of "non-exhaustion of judicial remedies and has been waiting for a response to his claim of false imprisonment over 1 year. In this quarter, 6 other journalists have applied to the Constitutional Court for with regards to their convictions and arrests.

In the entire year of 2015, the Constitutional Court has ruled on the 12 applications lodged by 6 journalists, 4 politicians or local authorities, 1 author, 1 radio and a website compensation payment in amount of 13,215 euro including court costs.

In addition, the court has ruled compensation payment of 16,900 euro in favor of a journalist and ordered the retrial of another journalist on grounds that he had not had a fair trial.

## **185 unemployed in media sector**

In the quarter of January-March of 2016, 174 journalists, columnists and media workers have been laid off or forced to resign. The programmes hosted by 9 journalists have been terminated and 2 international media representatives have been denied work permit.

In the same quarter of the last year (2015), 8 journalists and media workers had been laid off or forced to resign. In the entire year of 2015, the figure was 348.

## **RTÜK: Number of penalties decrease, amount double**

In the quarter January-March of 2016, Radio and Television Supreme Council (RTÜK) has imposed 51 penalty fines on 24 TV organs due to broadcasting certain reports, films and programmes.

In this quarter, the council has imposed 4 warnings and 1 penalty fine on radio organizations. 3,046,000 euro administrative fine has been imposed on Radio and Television outlets.

In the same quarter of last year, RTÜK had imposed 27 warnings and 87 administrative fines on TV outlets and 2 warnings as well as 2 administrative fines on radio outlets.

In the entire year of 2015, RTÜK has inflicted 69 warnings, 168 punitive fines on television outlets and 4 warnings as well as 4 punitive fines on radio outlets. The punitive fines imposed had reached the sum of 3,045,000 euro in 2015.