

BİA MEDIA MONITORING / 2018 JULY-AUGUST-SEPTEMBER

In the period of July-August-September 2018 BİA Media Monitoring Report, centralization and authoritarianization have become deeper. Violations of fundamental rights and freedoms, especially that of freedom of expression, have been met with criticisms and condemned by the international circles affiliated with the European Union (EU).

Though the violations of fundamental rights and freedoms do not constitute the main decisive criteria in the relations between the EU and Turkey, which has been seeking a ground to restart accession negotiations with the EU, the ruling that a red notice shall be issued for Sweden-based journalist-writer Ragıp Zarakolu; the arrest of journalist from Austria Max Zirngast in Ankara on charge of "being a member of a terrorist organization"; the "unlawful arrest" lawsuit of Germany-based Die Welt newspaper's reporter Deniz Yücel and similar other instances have still had repercussions within the EU.

The BİA Media Monitoring Report of July-August-September 2018 has been showing the way to prison for several journalists, especially the ones tried on charges of "membership of a terrorist organization", "propagandizing for a terrorist organization" and "insulting the President", since they have been sentenced to prison in the indicated time period.

The Article no. 299 of the Turkish Penal Code (TCK), which started to be implemented for criticisms and allegations about President and Justice and Development Party (AKP) Chair Recep Tayyip Erdoğan since August 2014, when he was elected President, became the basis of prison sentences or judicial fines given to at least 49 journalists until October 1, 2018.

According to the report, in the indicated time period, at least 304 journalists and media representatives faced 46 aggravated life imprisonment, 1 life imprisonment, up to three thousand 23 years and 10 months in prison and immaterial compensation of 3 million 540 thousand Turkish Lira (approx. 545 thousand Euro) on charges ranging from "being coup plotters" to "insult".

The case files of 123 journalists, who have been on trial due to their professional activities, have been offering an insight into the problematic practices of the Anti-Terror Law (TMK), Turkish Penal Code (TCK) and Law on Criminal Court (CMK) in terms of the court practices and legal precedents of the European Court of Human Rights (ECtHR).

The following chapters can be found in the BİA Media Monitoring Report: "imprisoned journalists", "assault, threat and obstructions", "impunity/right-seeking", "investigations, opened-ongoing cases, verdicts", "insult, personal rights and actions for compensation", "Constitutional Court", "ECtHR" and "Radio and Television Supreme Council".

123 imprisoned journalists

123 journalists in Turkey, who have been on trial over their occupational activities or political cases, entered October 1 in prison. While the trials of 36 of 123 journalists were still continuing, 31 of them were convicted and took their cases to the court of appeal or to the Supreme Court of Appeals; 27 of them were sentenced; 29 of them were waiting for their indictments in prison.

In the same period last year, 122 journalists were imprisoned. 75 of the imprisoned journalists were representing the media of Gülen Community and 28 of them were representing the Kurdish media.

73 of the arrested journalists were working at media outlets affiliated with Gülen Community while 36 of them were from the Kurdish Media. In this period, arrested journalists faced charges such as "coup-plotting", "attempting to abolish the Constitutional order" and "cooperating or aiding armed organizations such as FETÖ, PKK, MLKP, DHKP-C, TKEP/L, Resistance Movement."

Detentions

In the period of July-August-September 2018, seven journalists were taken into custody. Five of the journalists were detained as part of investigations related to the "Kurdish Question".

In the same period last year, 14 journalists or media workers were taken into custody. While seven of these journalists were detained as part of "Kurdish Question"-related investigations, four of them were taken into custody as part of investigations related to "FETÖ" (Fethullahist Terrorist Organization, which is held responsible for the coup attempt on July 15, 2016).

Throughout 2017, 85 journalists in total were detained; while 31 of them were working at media outlets affiliated with Fethullah Gülen Community, 20 of them were working at the Kurdish media and five of them were from international media. In 2016, when the coup attempt took place and State of Emergency was declared, this number of detained journalists was 201.

Police violence

In July-August-September 2018, 13 journalists were attacked and two of them were threatened. Especially the intervention against nine journalists during the sit-in protests of Saturday Mothers/ People brought the issue of police violence into agenda.

In the same period last year, one woman journalist from Syria was killed, at least two journalists were subjected to physical assault and six journalists were threatened. One journalist was verbally attacked while one news website was subjected to cyber-attack.

Throughout 2017, one woman journalist from Syria was killed in İstanbul; 20 journalists, one newspaper and one publishing house were attacked. Moreover, 12 journalists and one media outlet were threatened and five journalists were verbally attacked.

47 journalists face life imprisonment

In July-August-September 2018, 12 journalists or media representatives were facing life imprisonment aggravated for 35 times in total on charge of "participating in the attempted coup". 11 of these journalists have been acquitted of this charge. 10 journalists have been facing one aggravated life imprisonment, one life imprisonment and 454 years in prison on charge of "espionage" or "acquiring and publishing the confidential documents of the state". One of the lawsuits ended in acquittal. 10 journalists have also been facing life imprisonment aggravated for 10 times in total on charge of "damaging the unity of the state".

In this period, 125 journalists faced 1,912 years in prison in total on charges of "leading a terrorist organization", "committing crimes in the name of a terrorist organization as non-member", "propagandizing for a terrorist organization" or "aiding a terrorist organization." While 13 of them have been sentenced to 114 years in prison, lawsuits against 16 journalists were new.

In the indicated three-month period, 60 journalists or media workers faced 423 years in prison in total on charge of "propagandizing for a terrorist organization" or "reporting the statements of a terrorist organization". While five of these journalists have been sentenced to 15 years in prison in total, the lawsuits filed against 10 of them were new.

While seven journalists faced 10 years and 6 months in prison in total on charge of "inciting the public to enmity and hatred", one of them has been sentenced to a suspended prison sentence of 6 months. The court case against one journalist was filed in this period. While it was demanded that six journalists be sentenced to 12 years in prison on charge of "insulting the state institutions", three of the journalists have been acquitted and one of them has been sentenced to 6 months in prison. The investigation, which was launched against one journalist as per the Article no. 301 of the Turkish Penal Code (TCK), has still been continuing. Moreover, as part of the lawsuits, one of which had recently been filed, six journalists faced 12 years in prison on charge of "praising the crime and the criminal".

Four journalists have been facing 20 years in prison in total on charge of "openly provoking to commit crime". One of these lawsuits was filed in this three-month period. Two journalists have been facing 6 years in prison on charge of "violating the confidentiality of the investigation" and one journalist has been facing three years in prison on charge of "violating the confidentiality of communication". One journalist, who faced 3 years in prison, has been sentenced to a suspended prison sentence of 10 months on charge of "violating the right of privacy".

While 22 media workers faced 66 years in prison in total for "resisting the commissioned officer", three journalists have been sentenced to pay a judicial fine of 30 thousand Turkish Lira (approx. 4,500 Euro) relating to a sentence of the Press Law regarding "disclosing identity".

On all of the above charges, 247 journalists faced life imprisonment aggravated for 46 times, one life imprisonment, 2 thousand 855 years in prison and a judicial fine of 30 thousand Turkish Lira in total. These figures regarding defendants and sentences do not include the lawsuits filed against journalists on charges of "insult" and "insulting the President".

37 journalists are defendants at "insult" cases

In the period of July-August-September 2018, 32 journalists (including Ahmet Hakan, Pelin Ünker, Barış Terkoğlu, Hakan Dirik and Erk Acarer) faced 75 years in prison in total as part of cases filed on charge of "insult". While one journalist was given a penalty, whose amount was not specified, the verdict of acquittal which was issued for another journalist was reversed.

Moreover, Çiğdem Toker, Orhan Erinç and Sefer Selvi have been facing an immaterial compensation of 3 million 540 thousand Turkish Lira (approx. 550 thousand Euro) in total on charges of "attack on personal rights" and "insult".

In the same period last year, while Ahmet Şık and Barış Terkoğlu faced 9 years and 8 months in prison in total as part of lawsuits filed on insult charges, Melis Alphan was acquitted.

Throughout 2017, one journalist was sentenced to 1 year, 5 months and 15 days in prison and five journalists were sentenced to pay a judicial fine of 43 thousand 840 Turkish Lira (approx. 6,700 Euro). A verdict of acquittal was given for one journalist.

"Insulting the President"

In the last three-month period, 20 journalists in total faced 93 years and 4 months in prison in total due to their opinions and criticisms about President Recep Tayyip Erdoğan. Seven of these journalists (including Binali Erdoğan, Eren Keskin, Reyhan Çapan and Vural Nasuhbeyoğlu) have been sentenced to a total of 13 years, 6 months and 20 days in prison and a judicial fine of 14 thousand Turkish Lira (approx. 2,150 Euro) in total. Moreover, the investigations that were launched against eight journalists (Deniz Varlı, Fatih Portakal, Fatih Polat, Selma Erdal, Alican Uludağ, Ahmet Şık, Kutlu Esendemir and Levent Gültekin) as per the Article no. 299 of the Turkish Penal Code (TCK) have still been continuing. All in all, in the last three-month period, 28 journalists became the defendants or suspects of Erdoğan.

In the same period last year, journalist Çağlar Özbilgin was given a suspended prison sentence of 11 months and 20 days as per the Article no. 299 of the TCK and on charge of "insulting the President". While new lawsuits were filed against three journalists (Ertuğrul Mavioğlu, Çağrı Sarı and Kazım Kızıl) on charge of "insulting the President" due to their articles, opinions and

criticisms, the court cases of other journalists (Hüsnü Mahalli, Ahmet Altan and Nasuh Mahruki) were still continuing. All of these journalists faced 28 years in prison in total. Moreover, investigations were being conducted against the arrested journalist Ahmet Şık and Fatih Polat as per the Article no. 299 of the TCK. Journalists Kazım Kızıl and Ozan Kaplanoğlu, who had been arrested on the aforementioned charge, were released on probation during this period.

Throughout 2017, 17 journalists and columnists were sentenced to 8 years, 4 months and 10 days in prison (of which, 4 years, 10 months and 10 days were suspended) and given judicial fines of 136 thousand 500 Turkish Lira (approx. 21,000 Euro) in total as per the Article no. 299 of the Turkish Penal Code (TCK). While four journalists were acquitted, one case was dropped due to the lapse of time. At the end of the year, new lawsuits were filed against six journalists.

The Article no. 299 of the TCK, which started to be implemented for criticisms and allegations about Erdoğan since August 2014, when he was elected President, became the basis of sentences given to at least 49 journalists between the dates of August 2014 and October 1, 2018.

2,518 news links censored

In the period of July-August-September 2018, the access to at least 2 thousand 528 news reports or their links was prohibited especially by the rulings of Penal Judgeships of Peace of local courts. Wikipedia, the most well-known free internet encyclopedia of the world, has been banned in Turkey for 17 months on the ground that some of its pages have content targeting the government of Turkey! In this period, three newspapers and televisions channels were closed as per a Statutory Decree; one temporary publication/ broadcast ban was imposed.

In the same period last year, at least three media outlets were closed by a Statutory Decree, three TV channels were removed from the Türksat; two publication/ broadcast bans were imposed; six magazines were banned in prison; the access to one website and 14 news reports and articles was prohibited; and one case of discrimination was encountered in accreditation. Moreover, four other incidents of ban and censorship occurred.

Throughout 2017, which was marked by unquestionable administrative and penal censorship practices due to the State of Emergency and Statutory Decrees, six temporary or permanent publication/ broadcast bans, three accreditation discriminations, cancellation of 47 passports and one press card and closing of three media organs by Statutory Decrees took place. In this period, 10 websites, 6 newspapers, 97 online news reports or articles, eight books, six magazines or journals, three Twitter posts and eight caricatures were censored. Also, nine other censorship incidents happened.

Constitutional Court

In the period of July-August-September 2018, the Constitutional Court recognized that the right to freedom of expression of eight people, four of whom were journalists, was violated and ruled for a compensation of 68 thousand 785 Turkish Lira (including legal expenses) in total.

While the Constitutional Court has been bringing the case files, which are free of risks and would not contradict with the security policies of the government, into its agenda to a certain extent, it has once again lost its influence after breaking its silence on January 11, 2018, when it gave a verdict relating to the complaints of arbitrary arrest, heavy isolation and violation of freedom of press that have been encountered by journalists in the wake of coup attempt on July 15, 2016.

While the applications submitted by several journalists (including Ahmet Altan, Nazlı Ilıcak, Önder Çelik, Akın Atalay, Murat Sabuncu and Kadri Gürsel) are still waiting for the General Assembly of the Constitutional Court and similar applications are being submitted by other journalists (such as İdris Sayılğan and Nedim Türfent), the local Heavy Penal Courts, for instance, do not seem eager to take the rulings of the Constitutional Court regarding journalist Mehmet Altan as precedent.

European Court of Human Rights

In the period of July-August-September 2018, in response to an application made by a publisher/ broadcaster, the European Court of Human Rights (ECtHR) sentenced Turkey to pay a compensation of 2 thousand 500 Euro (approx. 18 thousand 700 Turkish Lira) for having violated the Article no. 10 of the European Convention on Human Rights.

The first verdicts of violation issued by the ECtHR regarding the applications made by the arrested journalists in Turkey after the amendment of the Internal Regulation in May 2017 were given in the cases of Şahin Alpay and Mehmet Altan on March 20, 2018. In the last three-month period, the ECtHR did not announce any verdicts specifically about the arrested journalists.

The verdicts given by the ECtHR for Alpay, Altan and Turhan Günay with the intention of setting a precedent have made a little impact on the rulings of the local courts as well as the cases of journalists such as Kadri Gürsel, Akın Atalay, Ahmet Şık, Ahmet Turan Alkan, Ahmet Altan and Nazlı Ilıcak, who have not received any results yet despite having applied to Strasbourg. Several journalists could be released not thanks to the related rulings of the ECtHR, but with their previous periods of detention being taken into consideration; most of them are still behind bars.

As a matter of fact, United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression David Kaye and former Commissioner for Human Rights of Council of Europe Nils Muiznieks as well as 13 rights organizations promoting and defending the freedom of expression and freedom of the press in the world also got involved in the case files of journalists, who were still in prison under conditions of heavy isolation or had just been released.

Impunity

The lawsuit for damages of 2.9 million Turkish Lira (approx. 440 thousand Euro), which was filed by Die Welt reporter Deniz Yücel, who was released in February 2018 after being arrested for a year, was rejected on the ground that "the conditions of the case had not arisen".

A verdict of non-prosecution was given in the case of journalist-writer Seray Şahiner, who was detained in a raid to her hotel room. As for the attack carried out by the security forces and a group of people against 10 journalists reporting a bomb attack launched against the Midyat Security Directorate in Mardin on June 8, 2016, it has been unpenalized for 28 months.

The trials of 143 police officers regarding the kidnapping and killing of journalist Haydar Meriç as well as the telephone tapping of several people have still been continuing. İstanbul MP and Vice Chair of the Nationalist Movement Party (MHP) Semih Yalçın was sentenced to pay an immaterial compensation of 4 thousand Turkish Lira (approx. 600 Euro) to Rahmi Turan, a columnist at Sözcü newspaper, on charge of "attack on personal rights."

Radio and Television Supreme Council

In this period, the Radio and Television Supreme Council (RTÜK) stopped the broadcasts of 10 TV channels and imposed 19 fines on them due to their news, movie or programmes; no action was taken against the radio channels in this period. The council stopped the broadcasts of 10 TV channels in total and imposed a fine of 2 million 33 thousand 185 Turkish Lira (approx. 300 thousand Euro) in total in 19 proceedings.

Media has changed hands: 85 journalists without a job

In the period of July-August-September 2018, at least 85 journalists, columnists or editorial personnel were either dismissed from their jobs or forced to leave their jobs after the media outlets, which they had been working for or affiliated with, changed hands.

In the same period last year, 109 journalists and media workers were dismissed from their jobs or forced to resign. It was announced that only in Doğan News Agency (DHA), almost 100 press workers, four of whom in İzmir, were dismissed. Throughout 2017, this figure was 166.
(EÖ/APA/SD)

** **Important note:** The state of imprisoned journalists and media workers is being reported both in Turkey and in the international arena in different ways and forms. While some organizations and initiatives have been engaging in the activities of defense on the basis that they are "journalists", other organizations and initiatives have been focusing on "whether they are in prison due to their activities of journalism or not". As a matter of fact, they could sometimes acquire different results though their criteria of evaluation are the same. In the BIA Media Monitoring Report, the imprisoned journalists or the ones introduced as journalists by the institutions that they work for, against whom a legal action have been taken as per the Anti-*

Terror Law (TMK) and Turkish Penal Code (TCK), are being evaluated without drawing any conclusions or evaluations regarding their journalistic activities.