



Think, think...

Freedom of Expression Weekly Bulletin

(Issue 25/19, 28 June 2019)

What happened last week?

*** Receiving 54 percent of votes in the renewed mayoral elections in Istanbul, Republican People's Party (CHP) candidate Ekrem İmamoğlu won the elections with a large difference. İmamoğlu received his election certificate.

*** Congratulating İmamoğlu, President Erdoğan said, "The winner of the elections on March 31st is indubitably the Public Alliance." Following the elections, Erdoğan paid more attention to developments in foreign relations. Claiming that Turkey is attempted to be pushed outside the new global order, Erdoğan indicated that he will make use of the opportunity of a century, this time around.

*** Losing blood in the local elections, Justice and Development Party (AKP) started restricting areas of authority of mayors as well as regulation amendments and authority transfers. Ministry of Environment and Urban Planning was assigned the authority to affect all urban transformation applications. The "omnibus bill draft," predicting extensive amendments in the development plan law, was presented to the Parliament. The draft amendment predicts extensive authority to be assigned to Erdoğan in the identification of problematic real estates. It was further revealed that the authority to assign administrators to municipal participations was previously taken from mayors and given to the municipal assembly with a ministry regulation.

*** Moscow and Ankara announced the delivery of S-400s will be executed next month. No progress was made towards resolving the S-400 crisis between the United States and Turkey in the meeting held by defense ministers at NATO Headquarters. Erdoğan and Trump will meet in Japan during their visit for the G20 summit.

*** As tensions continue following Turkey's drilling work in the Eastern Mediterranean, The U.S. Senate approved the Security and Energy Partnership Draft in the Eastern Mediterranean, predicting an alliance of the U.S., Israel and Greece.

*** Minister of Justice presented the first judicial bill regarding the Judicial Reform Strategy Document, to President Erdoğan. The 65-clause bill is expected to arrive at the GNAT within a few days.

*** Ministry of Treasury and Finance prepared a regulation on transferring "reserve funds" to the budget. According to the law, reserve funds are put aside by Central Bank to be used in extraordinary situations.

*** Erdoğan announced that Sinop Nuclear Plant project was cancelled due to a discrepancy

between cost and timing.

*** The first hearing of Gezi Park Case was held. Yiğit Aksakoğlu was released; Osman Kavala's release claim was denied. *(Details below...)*

*** Teacher Ayşe was acquitted after being retried following the right violation decree of the Constitutional Court. *(Details below...)*

*** The Constitutional Court announced its reasoned decisions regarding the applications concluded on arrested journalists in May. Contrary to the previous precedents of the high court, this time it adopted an attitude perceiving journalist activities criminal. On the other hand, the court decided that the rights to "personal freedom" and "press freedom" of journalist Deniz Yücel, who was released after remaining about one year under arrest, were violated. *(Details below...)*

*** The report prepared by Ankara Bar Association on Mustafa Yılmaz, who disappeared more than four months ago, concluded that allegations on Yılmaz having been kidnapped were not investigated in accordance with international laws of human rights. [Please click here](#) for the full report.



Gezi Case: Aksakoğlu released, release claim for Kavala denied

The first hearing of the lawsuit with 16 rights advocates on trial, two arrested, was held at Silivri Prison. The rights advocates are charged with "attempting to overthrow the government" due to the Gezi Park protests. Istanbul 30th Assize Court decided for Osman Kavala, who is arrested for the last 19 months, to remain

arrested. Yiğit Aksakoğlu, who was imprisoned for the last eight months, was released with judicial measures and travel ban. The second hearing of the lawsuit will be held on July 18-19, 2019 in the courtroom at Silivri Prison.



Constitutional Court announces reason for denial of applications for arrested journalists

The Constitutional Court announced its reasoned decision on the applications regarding arrested journalists, concluded in May. The court accepted that the journalists were indeed arrested due to their news, columns and social media

posts; whereas claimed that the arrests were not "arbitrary" or "baseless." The reasoned decision drew attention mainly because the high court left previous precedents on press freedom and freedom of expression aside and adopted an attitude that perceives journalist activities criminal. [Please click here](#) for details.

The Constitutional Court issued verdicts of violation for some journalists, denied some applications. However, all journalists were on trial due to news, writings and social media posts - so their criminal evidence was exactly the same. Then, why did the Constitutional Court make such opposing evaluations? The answer to that question is completely “obscure”...

In the verdict of violation issued for Deniz Yücel, who was released after remaining 1 year under arrest, the court stated, “accusing a journalist solely due to spreading opinions through an interview may seriously restrict press activities.” Similarly for Kadri Gürsel, the court searched the expression for a condition to call for violation and riot in order to be subject to a terror-related accusation. However, the court ignored those conditions in the denied applications of journalists; finding the claim, “producing a pro-terrorist organisation perception” sufficient. With the reasoned verdict issued on Cumhuriyet Daily executives, the court further paved the way for the entire publishing policy of the newspaper to be charged.

The Constitutional Court’s opposing and contradicting evaluations on journalists, who are on trial entirely due to their journalistic activities with news, columns and social media posts as evidence for their crimes proves such criticisms right that no one in the country is under legal protection...

The Initiative for Freedom of Expression



Teacher Ayşe acquitted upon retrial

Teacher Ayşe Çelik, who said, “Do not let children die, do not let mothers cry” on a TV show she participated via phone call during curfews, had previously been sentenced to 1 year and three months of imprisonment due to “making illegal organization propaganda.” Çelik was acquitted in the first hearing of the retrial that started after the “right violation” verdict of the Constitutional Court (AYM). The 2.5-year unlawfulness finally ended; whereas teacher Ayşe lost

her job, served time in prison and her baby was deprived of a mother.



Constitutional Court Chief Judge puts annotation on verdict denying Kavala’s application

The Constitutional Court (AYM) unanimously denied the application of businessman Osman Kava, who is arrested within the “Gezi Park Case.” It was revealed that one of five members

against the final verdict was AYM Chief Judge Zühtü Arslan. In the annotation, Chief Judge Arslan and two Deputy Chief Judges openly criticised the indictment. AYM Chief Judge claimed that “Kavala’s participation in and support of the Gezi events alone does not constitute a crime,” indicating that everyone has the right to organize, participate in and spread meetings and demonstrations, as long as they are peaceful.



Civil disobedients on trial

The first hearing of the lawsuit filed against Necmi Demir, one of 17 disobedient civilians who made a criminal complaint against himself at the Prosecutor’s Office to support “Peace Academics,” was held at Istanbul 28th Assize Court. The next hearing was scheduled to October 31st at 11:00. Thus, first hearings of six out of 17 separate lawsuits filed were held in total.



Lawsuit against Evrensel Daily due to “insulting Erdoğan”

A lawsuit was filed against Evrensel Daily’s former Managing Editor Cem Şimşek due to the news published on the newspaper. The journalist faces an imprisonment claim for up to 4 years and eight months with the allegation of “insulting President Erdoğan.” The first hearing will be held on October 10th at

Bakırköy 27th Criminal Court of First Instance.



Özgür Gündem Cases: 122 lawsuits, 17 years of imprisonment against Eren Keskin

Human rights advocate and lawyer Eren Keskin shared the numbers regarding the lawsuits filed against her due to the time she was a substitute Editor-In-Chief for Özgür Gündem Daily. 122 lawsuits were filed against Keskin and she was

sentenced to a total of 17 years, 2 months and 20 days of imprisonment as well as 360 thousand TL judicial fine in total. As prosecutions continue within five lawsuits, 31 files are at the Court of Cassation, 72 files are awaiting appeal. There is also 139 thousand TL finalised judicial fine against her in ten different files.



Press freedom verdict from Court of Cassation

The Court of Cassation reversed the 10 thousand TL compensation sentenced against journalist Alican Uludağ due to the news on the witness statements of Adana Governor Hüseyin Avni Coş regarding the Turkish National Intelligence Trucks. The verdict indicated that there is “public interest” in the news and indicated that the news are “in

accordance with visible reality and within the right of press to inform and the right of the public to be informed.” The lawsuit will be retried at Sakarya 4th Civil Court of First Instance on July 19th.



Conscientious objector Yazıcı acquitted

Conscientious objector Şendoğan Yazıcı was acquitted in the second hearing he was on trial due to “draft evasion.” Yazıcı was previously sentenced to 640 TL judicial fine, corresponding to 62 days of imprisonment in the lawsuit he was on trial due to the same charge.

Yazıcı indicated that two more summaries were prepared against him and that he may face two new lawsuits in the near future based on similar charges.



Istanbul Governorate bans Pride March across town

As Pride Week events are banned in Izmir, Antalya, Mersin and Antep, Istanbul Governorate didn't allow Pride March to be held at Taksim Square. The Governorate also announced that the rally organized at Bakırköy Square, which is among the allowed areas of demonstration, is also not permitted.



Access ban against column on T24

Istanbul Anatolian 4th Criminal Judicature of Peace brought an access ban against t24.com.tr writer Mehmet Y. Yılmaz's column on the wealth of Binali Yıldırım's children, with the title, “Mr.

Binali, give me your secret, get my vote.” The judiciary claimed that the column “violates personal rights” of Yıldırım.



Assyrian surname verdict by ECHR

The European Court of Human Rights (ECHR) evaluated the Turkish court verdict, which banned the Assyrian word “amno” from being used as surname due to being non-Turkish due to “public interest.” ECHR found the court verdict unrightful and convicted Turkey of violating the right to “privacy and family life.” ECHR further stated, “It is not yet

proven how surnames being changed with non-Turkish names will affect public interest.”



DÜŞÜNCE SUÇU DURUŞMALARI

WHO: Osman Kavala, Yiğit Aksakoğlu, Can Dündar, Memet Ali Alabora and 12 others
CASE: In the 657-page indictment on Gezi Park protests, heavy life imprisonment is claimed against 16 defendants due to “attempting to overthrow the government of Republic of Turkey.”

COURT: Istanbul 30th Assize Court (Silivri Prison Courtroom)

VERDICT: The court issued the release of Yiğit Aksakoğlu with judicial measures and travel ban; and for Osman Kavala, who is arrested for 19 months, to remain arrested. Judicial measures against other defendants will continue as well. The next hearing was scheduled to July 18-19, 2019.

WHO: Ayşe Çelik

CASE: The lawsuit filed against teacher Ayşe Çelik, who stated, “Don’t let children die,” on a phone call with a TV show to draw attention to the curfews and deaths, was retried due to “terrorist organization propaganda” following a Constitutional Court decree.

COURT: Bakırköy Courthouse 2nd Assize Court

VERDICT: The Court abided by the Constitutional Court verdict and issued Çelik’s acquittal. It was further indicated that Çelik may apply for compensation due to unrightful arrest.

WHO: 3rd Airport workers and union representatives

CASE: Lawsuits were filed against 61 workers and union representatives, who protested heavy working conditions and work murders at the airport construction; 31 were released in the first hearing after remaining under arrest for 2.5 months and the judicial measures against them were taken off in the second hearing. The third hearing of the case was held this week.

COURT: Gaziosmanpaşa 14th Criminal Court of First Instance

VERDICT: The next hearing was scheduled to November 27, 2019.

WHO: Journalist Sertaç Kayar

CASE: The fourth hearing of the lawsuit filed against Kayar with a claim of imprisonment for up to 22.5 years due to press statements, events and marches he followed as a journalist between the years 2012 and 2014 was held.

COURT: Diyarbakır 10th Assize Court

VERDICT: The next hearing was scheduled to 4 December 2019.

WHO: Journalist Beritan Canözer

CASE: The second hearing of the lawsuit against Jin News reporter Beritan Canözer was held with a claim of imprisonment from 7.5 years up to 15 years with the allegation of “illegal organization membership” due to the news she made during curfews declared in 2015 in Sur district of Diyarbakır as well as due to the witness statements against her.

COURT: Diyarbakır 9th Assize Court

VERDICT: The next hearing was scheduled to October 16, 2019.

WHO: Necmi Demir

CASE: Hearings of the lawsuits filed against Necmi Demir, who among other intellectuals has held a press statement in front of Istanbul Çağlayan Courthouse, indicated that they support the academics signing the Peace Petition and made criminal complaints against themselves at the Prosecutor’s Office by partaking in their crime, was held this week.

COURT: Istanbul 28th Assize Court

VERDICT: The next hearing was scheduled to October 31, 2019 at 11:00.

WHO: CHP İstanbul Provincial Chair Canan Kaftancıoğlu

CASE: The first hearing of the lawsuit filed against Kaftancıoğlu with the charge of “making terrorist organization propaganda” due to her social media posts was held with an imprisonment claim for up to 17 years.

COURT: Istanbul 37th Assize Court

VERDICT: The next hearing was scheduled to July 18, 2019.

WHO: Özgürlükçü Demokrasi Daily workers

CASE: The fourth hearing of the lawsuit filed against previously shut-down Özgürlükçü Demokrasi Daily workers Mehmet Ali Çelebi, Reyhan Hacıoğlu and İhsan Yaşar, who are arrested in remand, with Davut Uçar, Ersin Çaksu, Fırat Benli, Günay Aksoy, Mizgin Fendik, Önder Elaldı, Pınar Tarlak, Ramazan Sola, İshak Yasul, Hicran Urun and Yılmaz Yıldız, was held this week.

COURT: Istanbul 23rd Assize Court

VERDICT: Reyhan Hacıoğlu, Hicran Urun and İshak Yasul were sentenced to 3 years, 1 month and 15 days of imprisonment due to “aiding an illegal organization without being members” and Mehmet Ali Çelebi was sentenced to 3 years and nine months of imprisonment with the same charge. İshak Yasul was further sentenced to 1 year, 1 month and 22 days of imprisonment due to making “propaganda.”

WHO: Demokratik Modernite Magazine editor Haydar Ergül

CASE: The ninth hearing of the lawsuit filed against 14 People’s Democratic Party (HDP) members together with Ergül, who was arrested in remand for a while due to “terrorist organization membership,” was held this week.

COURT: Istanbul 22nd Assize Court

VERDICT: The hearing was ongoing as the bulletin was being prepared.

WHO: Peace Academics

CASE: Prosecutions of the academics, who are on trial due to “making terrorist organization propaganda” after signing the Peace Petition of the Academics for Peace Initiative, continued this week.

VERDICT: Files were consolidated in six cases at Istanbul 22nd Assize Court. All files were seen to include the investigation permit requested from the Ministry of Justice in order to prosecute the academics in accordance with Article 301 of the Turkish Penal Code (TCK). In the hearing of Asst. Prof. Dr. Fatma Işık Gürleyen at 28th Assize Court, the court denied the claim to demand the defendant statement with rogatory, stating, “Germany does not accept rogatory in crimes of illegal organization propaganda.” In three hearings at the 13th Assize Court and one case at 36th Assize Court, it was decided to wait for the Constitutional Court verdict on the Academics for Peace. All hearings held this week were postponed to different dates; one hearing at the 25th Assize Court concluded with rejection of venue and the file was sent to Edirne.

HEARINGS NEXT WEEK

WHO: Filiz Koçali, Aslı Erdoğan, Necmiye Alpay, Ragıp Zarakolu, Zana Bilir Kaya, İnan Kızılkaya, Eren Keskin, Kemal Sancılı ve Bilge Aykut

CASE: The twelfth hearing of the lawsuit, known as the main case of Özgür Gündem Daily, with the newspaper’s writers and editorial advisory board members on trial due to “disrupting the unity and integrity of the state,” “making armed terrorist organization propaganda” and “establishing an illegal organization to commit crimes,” will be held next week.

COURT: Istanbul 23th Assize Court

DATE: July 3, 2019, Wednesday at 09:30

WHO: Sibel Hürtaş and Hayri Demir

CASE: The fifth hearing of the lawsuit filed against journalists Sibel Hürtaş and Hayri Demir due to their news and social media posts regarding the Afrin Operation will be held.

COURT: Ankara 15th Assize Court

DATE: July 3, 2019, Wednesday at 11:30

WHO: Peace Academics

CASE: Prosecutions of the academics, who are on trial due to “making terrorist organization propaganda” after signing the Peace Petition of the Academics for Peace Initiative, will continue next week.

COURT: Istanbul Courthouse in Çağlayan and various courts across Turkey with files of academics residing outside Istanbul