



# Think, think...

## Freedom of Expression Weekly Bulletin

(Issue 10/18, 9 March 2018)

### What happened last week?

\*\*\* As the 'Afrin Operation' continued, Minister of Foreign Affairs Mevlüt Çavuşoğlu stated that there will be another cross-border operation against the PKK in collaboration with the Iraqi government.

\*\*\* Pentagon spokesman Col. Robert Manning stated that some of the operations against ISIS in the Euphrates Valley were suspended due to the Afrin Operation of Turkey.

\*\*\* Previously ordering judicial bodies and stating that he *"does not respect"* judicial decisions he doesn't like, President Erdoğan said, *"We give great importance to the supremacy of law,"* defending that he never ignores court verdicts. A summary of all speeches previously made by Erdoğan on this matter are in our bulletin...

\*\*\* Ministry of Internal Affairs announced an investigation opened against 169 people between 26 February and 5 March 2018 due to their social media posts. It was later revealed that special units were established within the Prosecutor's Offices in some provinces, only to examine social media posts related to the 'Afrin Operation.'

\*\*\* Main opposition party Republican People's Party (CHP) thinks that the new regulation with ongoing debates in the Parliament will include many articles that will violate the security of elections in Turkey. From Good Party to People's Democratic Party (HDP), the entire oppositional spectrum supports CHP on this matter - except the Nationalist Movement Party (MHP), who refused CHP's request to meet on the matter.

\*\*\* According to the February report of the Free Journalists Initiative, 171 journalists are still arrested, sixteen journalists were taken into custody, three of them were arrested, three journalists were sentenced to heavy life imprisonment and four journalists were sentenced to a total of 10 years and two months of imprisonment within a one month period. A new lawsuit was filed against one journalist. At least six news websites were banned to access by the Information and Communication Technologies Authority (BTK), some of them more than once.

\*\*\* Reporters Without Borders (RSF) called the European Court of Human Rights to urgently take action for the journalists who are "arbitrarily arrested" in Turkey. For further information: <https://goo.gl/g65uun>

\*\*\* Credit rating institution Moody's decreased Turkey's credit grade to "Ba2." In the explanation, Moody's pointed out that Turkey did not comply with the release verdict of the Constitutional Court for journalists Mehmet Altan and Şahin Alpay.

\*\*\* Digital encyclopedia Wikipedia, which was banned to access 10 months ago, started a campaign named *"We Miss Turkey,"* announcing that they will share content related to Turkey for an entire week.

\*\*\* Making an announcement on the regulation regarding sexual crimes against children, Deputy Prime Minister Bekir Bozdağ stated, *"Penalties and deterrence are increased,*

*preventative measures are popularized. The 'sterilization' topic is being given a legal basis."*

\*\*\* Ministry of Culture retired Musical Work Owners' Society of Turkey (MESAM) Executive Board and assigned trustees to replace the board until the extraordinary general assembly three months later. However, two of the assigned trustees rejected the duty.

\*\*\* Unity for Democracy, Dialogue Group, Rights and Justice Platform, First Democracy and Citizens Initiative organized a press meeting and announced that they want a "clean, democratic, fair election without the State of Emergency." The press meeting underlined the new regulations debated in the Parliament that would neglect the legitimacy and security of the elections; hence guaranteeing the political power to win the elections at any cost.

\*\*\* UN Human Rights Commissioner Zeid Raad Al Hussain stated that respect towards basic rights in Turkey is continuing to worsen. Al Hussain further spoke on the operation started by Turkey in Afrin, saying, "It threatens civilians."

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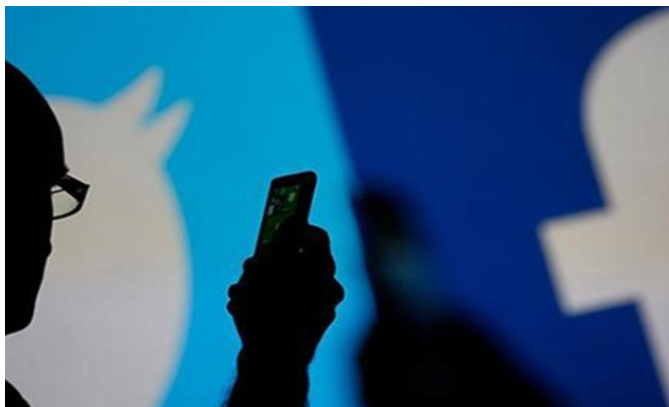
### **Erdoğan's statements against supremacy of law in response to claim of 'never neglecting a court decree'**

President Recep Tayyip Erdoğan spoke at the 150th Anniversary Symposium event of the Supreme Court of Appeals, claiming that they

give great importance to the supremacy of law. Previously ordering judicial bodies and stating that he "*does not respect*" judicial decisions he doesn't like, Erdoğan said, "There were times when we criticized the decisions given by our courts, our higher judicial bodies or our Constitutional Court, and there will be some criticisms in the future as well; whereas we have never neglected any court decree. We have never hesitated in putting the necessities of the decrees into action." Here are some of the statements made by Erdoğan since 2008, regarding judicial matters:

- Erdoğan stated, "*I am the Prosecutor of this case*" concerning the Ergenekon Case on 15 July 2008.
- Erdoğan objected against National Intelligence Agency Undersecretary Hakan Fidan to testify at the Prosecutor's Office within the KCK investigation on 7 February 2012. He spoke of the incident himself as following: "*I told him you absolutely will not go testify. In case the police comes to get you, order your security officers, they also shouldn't let the police in.*" Immediately after this statement, the bill that binds National Intelligence Officers to only be able to testify upon Prime Minister permission was enacted as law.
- Erdoğan gave a speech in Erzurum on 24 June 2013 and spoke on the police violence during the Gezi Park protests. "*They ask, who gave the police the order. I gave the order to the police,*" he said.

- *"We have to comply with the decree issued by the Constitutional Court. However, I don't have to respect it. I don't respect this decision,"* said Erdoğan on 4 April 2014, regarding the removal of the access ban on Twitter.
- Concerning the academics who signed the peace petition, Erdoğan said, *"These are tyrants, these are low..."* on 15 January 2016. He further asked judicial bodies to take action on the matter.
- The Constitutional Court issued the release of journalists Dündar and Gül, who were arrested due to their news coverage on the trucks belonging to the Turkish National Intelligence. Erdoğan said, *"I do not comply with this decision, neither do I respect it"* on 15 January 2016. Immediately after, Erdoğan further implied that the local court may also resist the Constitutional Court order. *"They can apply at the European Court of Human Rights, and the government will pay that indemnity,"* said Erdoğan.
- In his speech on 18 January 2017, addressing members of the Judicial Unity Association, Erdoğan spoke on the period in which the Gülen Community was staffed in the judiciary. *"We could not interfere with the judiciary at that time... This situation, created by those in critical positions derailing these matters upon an illegal organization order, was only revealed later,"* said Erdoğan.
- Erdoğan spoke on Deniz Yücel, who stayed in prison for a year without an indictment against him. *"It turned out that all those incidents are happening because of this terrorist. This man is a terrorist, not a journalist,"* said Erdoğan on 5 March 2017.
- Erdoğan addressed Republican People's Party (CHP) leader Kemal Kılıçdaroğlu on 17 June 2017 after Kılıçdaroğlu's Justice March. *"Roads do not corrode by walking on them. If they think they will gain any judicial solutions, that is also not possible. Walking around with banners depicting justice does not bring justice. Don't be surprised if the judiciary summons you next time tomorrow,"* said Erdoğan.
- Erdoğan spoke on Selahattin Demirtaş and other arrested People's Democratic Party (HDP) MPs on 8 July 2017. *"This person is a terrorist - such a terrorist that he made all my Kurdish brothers go on the streets and then he makes them kill each other,"* said Erdoğan. On the same day, Erdoğan made a statement following the arrest of rights advocates during their workshop in Büyükada. *"They came together for a meeting that was a continuation of July 15th,"* said Erdoğan.



## **Prosecutor's Offices establish special unit for Afrin to track social media accounts**

Chief Public Prosecutor's Offices in some provinces established special units to examine social media posts on the 'Afrin Operation.' Many social media accounts were followed, as

custody operations continue. Ministry of Interior Affairs announced that legal actions were taken against 690 social media accounts within the past week (26 February - 5 March 2018) and that 169 people were taken into custody due to "illegal organization propaganda," "insulting government authorities," "attempting to disrupt the indivisible unity of state and the life safety of the society" through their social media posts. Following the announcement, seven more people were taken into custody in Izmir,

charged with “making terrorist organization propaganda” through their social media accounts. The Ministry previously announced, on February 26th, that 845 people were taken into custody after criticizing the Afrin Operation on the social media and participating in protest demonstrations against the operation. According to the data compiled from the press, at least 45 people were arrested since the beginning of the operation on 20 January 2018 and arrests continued this week as well. Five people were arrested in Elazığ, Gaziantep and Afyon, charged with “making illegal organization propaganda” with their social media posts.



## Summaries against HDP MPs

A summary was prepared against People’s Democratic Party (HDP) Van MPs Adem Geveri, Bedia Özgökçe Ertan and Lezgin Botan due to “making terrorist organization propaganda.” Ankara Chief Public

Prosecutor’s Office announced that the MPs are charged due to their social media posts regarding the Afrin Operation.

A summary was prepared against HDP Diyarbakır MP Feleknas Uca with the claim of her Parliamentary immunity being taken off due to five different charges. In the summary prepared by Diyarbakır Chief Public Prosecutor’s Office, Uca was stated to have committed the offenses of “public denigration of the government of the Republic of Turkey,” “insulting the President,” “public incitement towards hatred and hostility,” “praising the crime and the criminal” as well as “making terrorist organization propaganda” after the evaluation made on the social media posts made following the Democratic Regions Party (DBP) meeting organized on 21 October 2016 at Diyarbakır Kayapınar Municipality Sports Hall.



## Final verdict in FETÖ Media Structuring Case

25 of the 29 defendants, 19 of whom were in remand, were sentenced to imprisonment in the case they were charged with supporting the Gülen Community through media to be able to execute the 15 July 2015 coup attempt. The sentenced defendants include journalist Murat Aksoy and musician-writer Atilla Taş.

Istanbul 25th High Criminal Court issued the acquittal of all defendants of the charge of “coup attempt;” sentencing Atilla Taş to 2 years, 1 month and 15 days of imprisonment and Murat Aksoy to 2 years and 1 month of imprisonment due to “willfully aiding and abetting an illegal organization.” Defendant Muhterem Tanık was acquitted of all charges imposed; the files of three people were separated, including two defendants who are currently in “fugitive” status. The rest of the defendants were sentenced to a total of 171



years and three months of imprisonment due to “illegal organization membership.” Defendant Ali Akkuş was arrested after the announcement of the verdict.



## **Investigation against Cumhuriyet due to ‘insulting Erdoğan’**

Istanbul Chief Public Prosecutor’s Office started an investigation against Cumhuriyet reporter Alican Uludağ. Uludağ covered the verdict of non-prosecution issued by the

Prosecutor’s Office regarding the Isle of Man documents announced by Republican People’s Party (CHP) Chairman Kemal Kılıçdaroğlu. The news had the title, *“Prosecutor’s Office: Man Documents Real.”*

In the investigation started following the complaint of President Erdoğan, Uludağ is charged with “insult and slander.” In his letter of complaint, Erdoğan’s lawyer Ahmet Özel stated that Cumhuriyet has a strategy of making publications against Erdoğan. *“Cumhuriyet Newspaper has adopted the public defamation and accusation of my client in every opportunity; Birgün and Sözcü newspapers are also pioneering in such allegations being distorted and presented to the public audience, together executing their attacks against the person and reputation of my client,”* said the complaint letter.



## **Lawsuit against Nazlı Ilıcak due to ‘espionage’**

Another lawsuit was filed against Nazlı Ilıcak due to ‘espionage’, who was sentenced to heavy life imprisonment in the ‘Coups Attempt Media Case’ due to “violating the Constitution.” In the indictment prepared as a result of the

investigation started following the denouncement of the Ground Forces Command, heavy life imprisonment was claimed against Ilıcak.

The indictment stated that Ilıcak has published a secret writing belonging to the General Staff in an article she wrote on 2 January 2015 for Bugün Newspaper, entitled, “Military Intelligence and Tahşiye members,” therefore committing the offense of “announcing confidential information concerning the security of state with the purpose of espionage.” Ilıcak previously stated that she shared the document with the public within the right to information due to the freedom of expression and press-media freedom; and that it is not the duty of the judicial authority to identify her method of reporting news.



## March 8 protests: Police intervention in Ankara and Tekirdağ, 'national sensitivity' ban in Antalya

Various demonstrations and protests were organized in many provinces within March 8, World Women's day. Antalya Governorate did not let the event to be organized by women's organizations in the province due to

"national sensitivities." Protests to be organized in Ankara and Çorlu district of Tekirdağ were banned by the police. The police indicated that Ankara Governorate did not give permission for the protest due to the State of Emergency. In the police intervention with tear gas, 18 women were beaten and taken into custody. In the protest in Çorlu, seven people were beaten and taken into custody. Those taken into custody in Ankara were sentenced to judicial fines within the Law of Misdemeanor and were released.

On the other hand, Chamber of Architects Ankara Branch wanted to celebrate March 8 in front of the Human Rights Monument on Yüksel Street, which is surrounded by barricades. The Governorate sent a letter to the Chamber, saying, "*any sculpture with registered culture value may be visited.*" Despite the letter, the women were not let out of the chamber building. The police claimed that all protests in front of the monument were banned with a decision made by Ankara Governorate during the State of Emergency.



## Access ban on journalism article on bianet

Istanbul 8th Criminal Judicature of Peace banned 11 news articles to access following the request of businesswoman Derya Bozovalı.

The related news involved an interview Hürriyet made with

Bozovalı on 14 March 2017 and the debate on journalism that was sparked by the interview. Following reactions to the interview, Hürriyet Reader Representative Faruk Bildirici carried the matter to his weekly column, with the title, "*If Truth is Not Told On Interviews.*" The article of Bildirici is also banned to access, after its conclusion that some of the information given by the interviewed person are wrong and some are debatable.

The column of Bildirici was evaluated by bianet Co-Editor-In-Chief Haluk Kalafat in his article, entitled, "*What Is The Relation of Believing In Everything That's Said In Interviews to City Hospitals?*" In the article, Kalafat evaluated the results of interviewing a person without previous preparation. Istanbul 8th Criminal Court Judge Ali Ersin stated that the journalism article is "destructive to Bozovalı's personal rights and to damage it."



## **Nine access bans on Hürriyet within one week**

Hürriyet Newspaper's Reader Representative Faruk Bildirici announced that nine of the news and articles published on the newspaper within the past week were banned to access by Criminal Judicatures of Peace. The banned news on [hurriyet.com.tr](http://hurriyet.com.tr) are as following:

- Yeni Şafak Newspaper published the script of a sound recording of a phone call made with Reza Zarrab on 23 December 2013 following the allegation made by Zarrab, who said, *"They asked 1 million TL bribe from me."* Other news websites also reported the news originated in Yeni Şafak. Following the application of Yeni Şafak, access to these news (their own) was banned.
- Access to the news on an operation in which four little girls, who were victims of sexual abuse in Kayışdağı, were saved, was banned following the application of the Ministry of Family and Social Politics.
- The column written by Erman Toroğlu in which he wrote on the merging of Ankaragücü and Ankaraspor was banned following the request of former Ankaragücü Vice President M. Kemal Ünsal. Ünsal was one of the names criticized in the column.
- Access to the news of Anadolu Agency was banned, reporting the administrative investigation concerning the allegations that one of the fingers of a 6-month-old baby was cut off while the cast on the arm was being removed in Kırklareli Babaeski Public Hospital.
- The news, entitled, *"One Deputy Governor and Three District Governors in Bitlis Dismissed,"* was banned to access.
- The news that explained an investigation regarding the allegation that a doctor in Kırklareli Public Hospital sexually harassing a 16-year-old female patient was banned to access.
- The news in which 'Miss Turkey' candidates were represented in the Sunday supplement of Hürriyet Newspaper was banned to access.
- A magazine news explaining a football player from Galatasaray being seen with a psychologist with allegations of a romantic affair was banned to access.
- The news explaining the testimony of a suspect at the Prosecutor's Office after being taken into custody within the investigation related to the killing of journalist Haydar Meriç, accusing his brother who fled the country, was banned to access.





## Constitutional Court claims “no discrimination” on dismissed teacher, two judges put annotation on verdict

Constitutional Court (AYM) decided that there was no discrimination against the religion teacher, who was

dismissed from profession because of being homosexual. The High Court stated, *“Those who would like to become a teacher and take part in the education of little children are naturally bound to certain limitations in which other persons are not bound to.”*

However, two judges (Constitutional Court Deputy Chairman Engin Yıldırım and member judge Muharrem Topal) put annotations to the decision. In the dissenting vote letter, it was underlined that the verdict contradicts the Constitution and indicated that all international conventions in which Turkey is a party of bans discrimination based on sexual orientation. The letter further emphasized that there is no preferred sexual orientation of the state in the Constitution and that the state must remain equal and unbiased against all genders, sexual identities and sexual orientations.

### Olağanüstü Hal ve Uygulamaları Bilgi Notu 1/2018



## “Atypical Statutory Decrees and Permanent Unlawfulness”

Human Rights Common Platform (IHOP) launched an information note on State of Emergency applications. The note, entitled, *“Atypical Statutory Decrees and Permanent Unlawfulness: Will laws be revoked by the*

*administration from now on?”* was prepared by Constitutional Lawyers Asst. Prof. Kerem Altıparmak, Dr. Dinçer Demirkent and Assoc. Prof. Murat Sevinç. Demirkent and Sevinç are among the academics who were dismissed with emergency decrees.

Academics pointed out that the State of Emergency, that was announced after the coup attempt, is being applied differently from previous States of Emergency. Indicating that the emerging legal situation clearly suspends the most basic principles of the Constitutional order, the academics stated, *“The situation is such that that processes which can not be regulated by law are regulated by law; whereas the administrative authority has been granted the authority to assign an administrative process that can revoke the law.”* The letter defended that emergency decrees regulating dismissals and shutdowns as well as those that led to the establishment of the State of Emergency Applications Monitoring Commission are against the Constitution and that the moment they were enacted, the abatement case must be brought to the Constitutional Court and the Constitutional Court must halt the execution immediately, revoking the enactment. For the full text of the information note: <https://goo.gl/TexwEg>





## Human Rights Law Seminars begin

The Initiative for Freedom of Expression begins a series of seminars on human rights law in March. Organized with the support of Fritt Ord, NED and the Norwegian Foreign Ministry, the seminars will be directed to the students of law in

four provinces. The seminars aim to inform the lawyers of the future on freedom of expression and the international conventions on human rights.

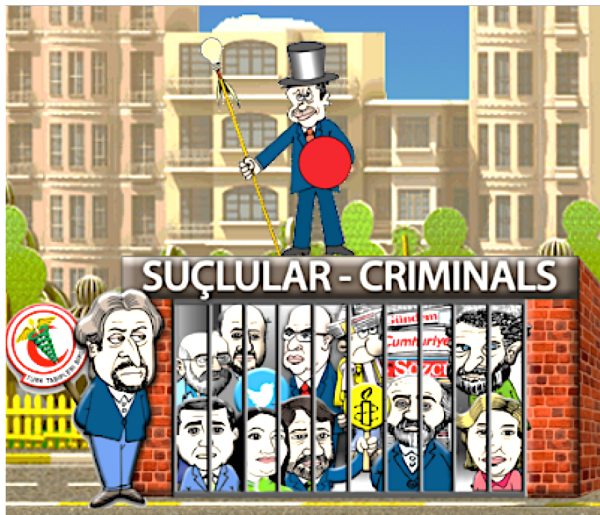
The first seminar will be organized on 12 March 2018 in Diyarbakır and will continue throughout March in Ankara, İzmir and İstanbul. The seminars will include examples to compare international and national legislation as well as European Court of Human Rights decrees; hence the young lawyers will debate the protection of human rights, the binding quality of international conventions; the scope, the limitations and the obstacles against freedom of expression; as well as the State of Emergency regulations. The seminars will be held on 12 and 13 March 2018 in Diyarbakır, 20 and 21 March 2018 in Ankara, 22 and 23 March 2018 in İzmir as well as 27 and 28 March 2018 in İstanbul. The seminars will continue with the second session of the series in April.

## This Week On The Museum Of Crimes Of Thought



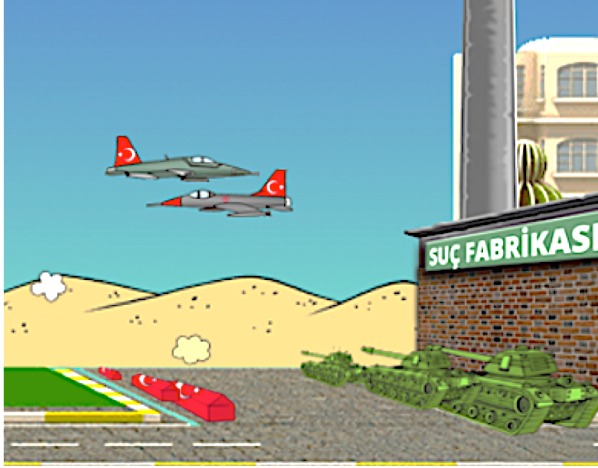
### Stay tuned

Follow the agenda in the most entertaining way with our regularly updated museum.



### Freedom of Expression

Atilla Taş was sentenced to 3 years 1 month and 15 days and Murat Aksoy was sentenced to 2 years and 1 month on charge of “knowingly and willingly aiding an illegal organization without being a member”. The court rejected prosecutor’s demand for arrest of Taş and Aksoy.



## Afrin

The Afrin operation continues for 49 days, brought operations, detentions and threats against those who say "No to War!". At least 845 were detained during the operations. As Turkish Armed Forces made statements regarding the number of those killed, the coffins of the soldiers wrapped with flags continue to come. 41 soldiers died in the operation according to Erdoğan's last statement.



## TRIALS OF FREEDOM OF EXPRESSION

- The lawsuit filed against journalists Erhan Akbaş and İdris Yılmaz was held at Erciş 1st Criminal Court of First Instance on March 6th. The court scheduled the next hearing for 5 June 2018. The journalists are charged following the complaint of District Director of National Education Erol Şimşek after they have reported the sexual abuse in a school in Erciş district of Van.
- The lawsuit filed against Özgür Gündem Newspaper was held at Istanbul 23rd High Criminal Court. Özgür Gündem Newspaper was previously shut down with an emergency decree. The warrant against Ragıp Zarakolu, who is currently abroad, was removed and the judicial control provisions on Eren Keskin were decided to remain. The next hearing was scheduled to 4 June 2018.
- Lawsuits of Academics for Peace continue. The hearings of Prof. Dr. Şebnem Korur Fincancı and Prof. Dr. Ayşe Huri Özdoğan stood trial at Istanbul 37th High Criminal Court on March 6th, the next hearing was scheduled to 4 October 2018. The next hearings of Prof. Dr. Nuray Mert and research members Zeynep Savaşçın and Sami Cankat Tanrıverdi were scheduled to 9 October 2018. The trials held on March 8th were postponed to 9-10 October 2018. With these hearings, 145 scientists have stood trial within the first hearings of the cases.
- The lawsuit against Dicle News Agency (DIHA) reporter Şerife Oruç, who is in remand at Elazığ Type-T Prison, with the allegation of "illegal organization membership" was proceeded at Batman 2nd High Criminal Court on March 7th. DIHA was previously shut down with an emergency decree. In the hearing, the lawyers have presented their defense statements and the court decided the defendants to separately remain arrested. The next hearing was scheduled to 8 May 2018.
- In the lawsuit filed against the media structuring of FETÖ/PDY following the coup attempt of July 15th, the court announced the decree on 29 defendants, 19 of whom are arrested. Sentencing Atilla Taş to 3 years, 1 month and 15 days of imprisonment, the court issued the acquittal of 13 defendants of "coup attempt." Defendants Ali Akkuş was arrested after the announcement of the verdict.
- The Cumhuriyet Newspaper Case, in which Cumhuriyet Newspaper executives and writers are on trial due to being members of FETÖ/PDY, DHKP-C and PKK illegal organizations and "making illegal organization propaganda" started to be

held at Silivri Courthouse on 9 March 2018 at 11:00. The hearing was ongoing as the bulletin was being prepared.

### **Trials Next Week**

- The case on the assassination of Hrant Dink will start on 12 March 2018 at Istanbul 14th High Criminal Court and will continue for the entire week.
- Two academics from Galatasaray University and one academic from Istanbul University will stand trial at Istanbul 37th High Criminal Court on 13 March 2018. Three academics from Kadir Has University and one academic from Bahçeşehir University will stand trial at Istanbul 33rd High Criminal Court on 16 March 2018. The hearings will start at 09:30.
- The proceeding of journalist Can Dündar, Cumhuriyet Newspaper Ankara Representative Erdem Gül and Republican People's Party (CHP) MP Enis Berberoğlu, who are on trial due to "aiding and abetting a terrorist organization without being members" related to the publication of the visuals of the trucks belonging to the National Intelligence Agency will continue on 14 March 2018 at 14th High Criminal Court.
- The hearing of the case against Mesopotamia Agency reporter Hayri Demir will be held on 15 March 2018 at Diyarbakır 5th High Criminal Court. Demir is charged due to his social media posts on the Afrin Operation.
- The case in which Faruk Eren, Ertuğrul Mavioğlu, Celal Başlangıç, Ömer Ağın, İhsan Çaralan, Celalettin Can, Fehim Işık, Öncü Akgül and Dilşah Kocakaya are on trial due to being Substitute Editors-In-Chief for solidarity with shutdown Özgür Gündem Newspaper, will continue on 15 March 2018 at Istanbul 14th High Criminal Court, starting at 14:00.