



# Think, think...

## Freedom of Expression Weekly Bulletin

(Issue 11/18, 16 March 2018)

### What happened last week?

\*\*\* As 'Afrin Operation' left its 56th day behind, clashes reached to central Afrin. According to the data announced by the General Staff, 44 Turkish Armed Forces members have lost their lives during the operation. The Presidency Spokesperson announced that safety was provided in 70 percent of Afrin, saying, *"We do not intend to leave the administration of Afrin to Damascus after the operation is complete."*

\*\*\* President Erdoğan demanded the composition of a janissary anthem just like the Turkish National Anthem. *"Let's march our soldiers with new anthems like the janissary anthem,"* said Erdoğan.

\*\*\* European Parliament accepted a resolution that sends the message to Ankara to withdraw from Afrin. *"Don't get too excited, we will not leave that place unless we are done with what we came for. For your information,"* said Erdoğan; threatening the European countries once again with the refugee crisis. Foreign Minister Mevlüt Çavuşoğlu announced that they have agreed with the U.S. to clean Manbij of YPG, whereas the U.S. Foreign Ministry announced that such an agreement has not yet taken place.

\*\*\* The law draft predicting an amendment in the electoral law, presented by the coalition of the Justice and Development Party (AKP) and the Nationalist Movement Party (MHP), passed the Parliament in one night. The use of unsealed envelopes and ballots became legal after heavy debates during the last referendum. The opposition evaluated the amendment, which involves regulations revoking the security of elections, as *"an election preparation with sticks,"* and *"They have stolen the minaret during the referendum, now they have tailored a cover for it."*

\*\*\* 26 of the 31 Statutory Decrees issued within the State of Emergency have passed the Parliament and enacted as law after being published on the Official Gazette. Thus, any reason for Constitutional Court (AYM) denying applications regarding the Statutory Decrees was revoked. Republican People's Party (CHP) will carry the emergency decrees to AYM, initially filing an action for nullity of the *"judicial immunity for civilians"* brought with Statutory Decree No. 696.

\*\*\* Constitutional Court (AYM) issued a second right violation verdict for arrested journalist Şahin Alpay. ***(Details in the bulletin...)***

\*\*\* On the sixth hearing of the Cumhuriyet Case, the court decided for the release of Ahmet Şık and Murat Sabuncu. The press statement to be made before the hearing was banned by the Istanbul Governorate due to the State of Emergency. ***(Details in the bulletin...)***

\*\*\* The Court of Appeals reversed the local court decree on former Cumhuriyet Newspaper Editor-In-Chief Can Dündar, who was convicted within the case on Turkish

National Intelligence Trucks. The court demanded a heavier penalty against Dündar due to “espionage.” (*Details in the bulletin...*)

\*\*\* Ministry of Interior Affairs announced 635 social media accounts examined between the dates 5 March and 12 March 2018 and legal actions were taken against 290 identified users due to “making illegal organization propaganda,” “insulting government authorities” and “inciting people towards hatred and hostility.”

\*\*\* According to the data shared by Republican People’s Party (CHP) Istanbul MP Sezgin Tanrikulu, who reported rights violations in February, at least 78 people were arrested within one month due to their social media posts. At least 37 press statements were intervened by the police; at least 161 were detained. For the full report; <https://goo.gl/fHswga>

\*\*\* Human Rights Association (IHD) and Human Rights Foundation of Turkey (TIHV) made a common press declaration on Nur Mohammad Abay, who was officially detained on 11 March 2018 after being kidnapped by unidentified people on February 16th. Indicating that Abay was exposed to heavy torture, the rights organizations stated, “A kidnapping of this level has happened for the first time since the 1990s.”



## Constitutional Court issues second right violation decree for Şahin Alpay

The Constitutional Court (AYM) issued a second right violation decree for arrested journalist Şahin Alpay. AYM General Assembly previously

issued, on January 11th, that the “rights to personal freedom and safety” as well as “freedom of expression and press freedom” of arrested journalists Mehmet Altan and Şahin Alpay were violated during their arrest due to FETÖ membership. Istanbul 13th and 26th High Criminal Courts objected to the decree of violation, denying the release claims of Alpay and Altan. The two journalists then applied to the high court once again with the allegation that their rights to personal freedom and safety are being violated. AYM concluded the application of Alpay, emphasizing Article 153 of the Constitution, which states that Constitutional Court decrees bind all organizations.



## ‘Cumhuriyet Case’: Release verdict for Şık and Sabuncu

The sixth hearing of the ‘Cumhuriyet Case’ was held at Istanbul 27th High Criminal Court with 20 defendants, four of them arrested including writers and executives of Cumhuriyet

Newspaper. The court issued the release of reporter Ahmet Şık and the newspaper’s Managing Editor Murat Sabuncu.

With judicial control measures against them, Şık was released after 434 days in detainment and Sabuncu after 495 days. Cumhuriyet Chief Executive Officer Atty. Akın Atalay and Ahmet Kemal Aydođdu, who is on trial due to his Twitter posts, will remain arrested. The seventh hearing of the case was ongoing as the bulletin was being prepared. The Prosecutor’s Office presented their opinion on the basis of the charges imposed on published news and social media posts, claiming imprisonment sentences against 13 defendants, including Şık, Atalay and Sabuncu, up to 15 years each due to “aiding and abetting an illegal organization without being members.”



### **‘National Intelligence Trucks Case’: Court of Appeals claims heavier sentence against Dündar**

The local court had sentenced Cumhuriyet Newspaper’s former Editor-In-chief Can Dündar to 5 years and ten months of imprisonment and

the newspaper’s Ankara Representative Erdem Gül to five years of imprisonment due to “announcing confidential information and documents” within the National Intelligence Trucks Case. 16th Penal Department of the Court of Appeals reversed the local court sentence, claiming Gül’s acquittal and Dündar to be sentenced due to the charge of “*obtaining confidential information with the purpose of espionage*” which predicts an imprisonment sentence up to 20 years.



### **Indictment against journalist Seda Taşkın: News and online posts considered ‘crime’ once again**

An indictment was prepared against Mezopotamya Agency (MA) reporter Seda Taşkın due to “making illegal organization propaganda” and “illegal organization membership”

after she was detained in Muş due to “serious denouncement against her” and was released with judicial control, later being arrested on 22 January 2018 after the objection of the Prosecutor’s Office. In the indictment, prepared by Muş Public Prosecutor Muhammed Mustafa Demirbaş and was accepted by Muş 2nd High Criminal Court, the news reported by the journalist as well as her social media posts were shown as “crime evidence.” The first hearing of the case will be held on 30 April 2018.



## **‘Insult’ case against journalist calling Governor’s mustache “almond-shaped”**

A lawsuit was filed against journalist Oktay Candemir due to an article he wrote, entitled, “Rather an Almond-Shaped Mustache” on the statements of Van Governor Murat Zorluoğlu,

targeting Democratic Regions Party (DBP) Metropolitan Municipalities. The article was published on a news website on 22 December 2017.

The Prosecutor’s Office charged the journalist with “publicly insulting a public officer due to his duty” with his statements, “*Van Governor Zorluoğlu also has an almond-shaped mustache now. Whatever happened, happened after those words,*” written in the article. The indictment against the journalist was accepted by Van Criminal Court of First Instance. Candemir indicated that the Van Governor complied with the trend at the Justice and Development Party (AKP) and left an almond-shaped mustache, and that he has written an ironic article on the matter. “*It is now a crime to indicate an almond-shaped mustache,*” said the journalist, reacting to the case. For the full article written by Candemir; <https://goo.gl/jfLX6i>



## **Summary against HDP MP Mahmut Toğrul**

A summary was prepared against People’s Democratic Party (HDP) Gaziantep MP Mahmut Toğrul due to “violating the Law on Meetings and Demonstrations No. 2911.” The name of HDP MP Celal Doğan, who was the mayor in Gaziantep for three

sessions, was given to a school and later was removed; and Toğrul protested the removal of Doğan’s name from the school with a press statement. Ankara Chief Public Prosecutor’s Office Parliamentary Crimes Investigation Bureau sent the summary to the Parliament, indicating a one-month protest ban announced by Gaziantep Governorate across the province and that Toğrul had violated the ban with the press statement he made.



## **Imprisonment sentence against Sebahat Tuncel approved**

The imprisonment sentence against Democratic Regions Party (DBP)’s arrested Co-Chair Sebahat Tuncel due to her participation in the

Newroz march organized in 2012 in Kocaeli and the following press statement was approved by the Court of Appeals. Tuncel had been sentenced to two years and three months of imprisonment due to “violating the Law on Meetings and Demonstrations” in the case she was on trial at Kocaeli 4th Criminal Court of First Instance.



### **TMMOB members sentenced due to ‘insulting President’**

Izmir Regional Court sentenced Union of Chambers of Turkish Engineers and Architects (TMMOB) members to imprisonment and judicial fines, who stood trial and acquitted of the allegation of insulting the President; then retried following the objection of the Prosecutor’s Office. The Court of Appeals sentenced TMMOB Izmir Provincial Coordination Council Session Secretary Melih Yalçın to 11 months and twenty days of imprisonment after he stood trial at Izmir 2nd Criminal Court of First Instance and was acquitted of the charge imposed against him due to chanting the slogan, “*Thief, Murderer Erdoğan*” during the press statement in Izmir on 12 February 2015 to react against the Omnibus Bill preparation of the government. Chamber of Mechanical Engineers Izmir Branch member Devrim Cem Erturan was sentenced to 7000 TL judicial fine.



### **Zoroastrianism as evidence for ‘illegal organization membership’**

Yücel Delek was sentenced to six years and three months of imprisonment after standing trial and being acquitted of “illegal organization membership” in 2006 as a student of Niğde University, then retried following the objection of the Prosecutor’s Office. Adana 7th High Criminal Court stated the reason for the verdict against Delek was the inscription “Zoroastrian” in the religion section on Delek’s identity card, written there in 2010. The court has considered Delek’s religious preference as sufficient evidence for the charge of “PKK membership” and based the verdict on the allegation that PKK adopts Zoroastrianism. The sentence against Delek was approved by the Court of Appeals and he was jailed at Mardin Type-E Closed Prison.



## Court considers 'victory sign' as "terrorist symbol"

Şanlıurfa 6th High Criminal Court sentenced Ahmet Colayır to one year and eleven months of imprisonment due to "illegal organization propaganda" through his social media posts; the sentence was deferred. The indictment of the case based the charge imposed against

Colayır on the 'victory sign' made by him and the yellow-red-green scarf worn by the defendant, defined as a "terror symbol."



## 7000 TL judicial fine against protest

Şilan Delipalta, one of the 15 students detained due to opening a booth at Istanbul University to protest the bomb attack of ISIS against the 'Peace Rally' in Ankara, was sentenced to 7000 TL of judicial fine. The proceeding of 15 university

students continue due to "violating the Law on Meetings and Demonstrations." A separate case has been filed against Delipalta due to the banner hung on the booth, which depicted the writings, "Recep Tayyip Erdoğan, the one who creates a civil war in our country," "We know the murderers, we will resist against fascist attacks and massacres." Küçükçekmece 13th Criminal Court of First Instance sentenced Delipalta to judicial fine and the objection against the verdict was not accepted by the Court of Appeals. A warrant was issued against Delipalta, who could not pay the fine. In case the fine is not paid, Delipalta will serve 350 days in prison.

**Bu siteye erişim mahkeme kararıyla engellenmiştir.**

T.C. Ankara 12. Sulh Ceza Mahkemesi 17/01/2008 Tarih ve 2008/55 nolu karar gereği bu siteye erişim engellenmiştir.

Access to this web site has been suspended in accordance with decision no. 2008/55 of T.R. Ankara 12th Criminal Court of Peace

## Access bans

**35 websites banned to access after reporting official statement as news**

Republican People's Party (CHP) Istanbul MP Sezgin Tanrıkulu demanded a special commission to be established for child abuse and GNAT Spokesman Ismail Kahraman

gave an official reply to Tanrıkulu's demand, stating the impossibility of such an establishment. Ankara 2nd Criminal Judicature of Peace brought an access ban on the news reporting the official reply of Kahraman. Tanrıkulu had indicated that the rate of child abuse increased 700 percent within the past ten years, demanding a special commission to be founded by the Parliamentary Speakership. The official reply to Tanrıkulu's demand, signed by Kahraman, expressed the impossibility of such an

establishment due to legislation and this reply was shared with the journalists by the MP. Following the application of the Parliamentary Speakership, the Criminal Judicature of Peace claimed that the news “violate personal rights” and banned access to related links on 35 news websites.

### **Access ban on articles of journalist Ahmet Takan**

Three articles of Yeniçağ Newspaper writer Ahmet Takan, known with his leaked rumors from inside the Justice and Development Party (AKP), were banned to access. Bakırköy 4th Criminal Judicature of Peace banned access to the articles of Takan, entitled, “*Was the Pope asked to mediate?*” published on February 8th; “*Barzani’s lobby company worked for Erdoğan*” published on February 9th and “*Boundary fight in palace cabinet*” published on February 27th. Carrying the matter to his column in the newspaper, Takan wrote, “*They talk about democracy and the freedom of information exchange when they are an opposition, but then it stays in words. When they come into power, they never refrain from applying the same things they criticized when they were an opposition.*”

### **Access ban on news reporting statement by CHP MP**

Republican People’s Party (CHP) Istanbul MP Barış Yarkadaş made a statement regarding Prime Minister Binali Yıldırım, entitled, “*Constuction planning favor for prime minister with special contract.*” The news reporting the statement were banned to access by Istanbul Anatolian 3rd Criminal Judicature of Peace. Links on 22 news websites, including the official website of CHP, were banned to access. “*Thus, the special contract made for Prime Minister Binali Yıldırım for his land in Fikirtepe was deleted from the Internet records,*” said Yarkadaş.



### **Book on incest relationships considered ‘inappropriate’**

CNN Turk News Anchor and journalist Büşra Sanay wrote a book, entitled, “*Giving Birth to a Sibling,*” which draws attentions to the reality of incest culture in Turkey. Sanay

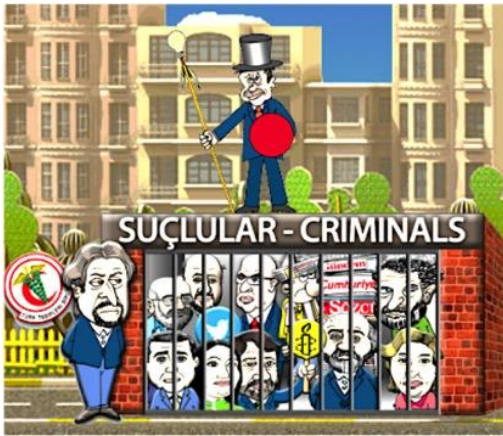
announced that her autograph sessions to be organized in two different shopping malls for her new-published book were cancelled due to the content of the book deemed “inappropriate.” “*The first censorship came from the mall administration... Giving Birth to a Sibling touched such a wound that they are doing their best so we don’t see it,*” said the journalist.

# THIS WEEK ON THE MUSEUM OF CRIMES OF THOUGHT



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## 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.

On Cumhuriyet trial, journalists Ahmet Şık and Murat Sabuncu was released after more than one year. Akın Atalay, chairman of the executive

board of Cumhuriyet, left 500 days in prison behind.



## Afrin

The Afrin operation continues for almost 2 months, 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.

On March 14, Erdogan made a statement and mentioned that Afrin city centre would be taken by the evening, he wishes. Erdogan requested a Mehter Anthem like Turkish National Anthem.





## Erdoğan

AKP and MHP's alliance proposal was accepted in one night. Election safety is abolished legally, CHP's leader Kılıçdaroğlu commented about the law that it's a preparation of election with the stick and HDP's co-leader Temelli mentioned that *"the devil looked after his own"*



## State of emergency

26 of the 31 decree-laws (KHK) was published on the Official Gazette, thus "State of Emergency Law" became law and the justification of Constitutional Court's denials was disappeared. CHP will make an appeal to the Constitutional Court about the 696 decree-law that gives legal exemption to civils.

Ministry of Interior made a statement that between March 5 to March 12, 635 social media accounts were examined and legal action was done for 290 of those accounts.



## TRIALS OF FREEDOM OF EXPRESSION

- The Hrant Dink murder case started on 12 March 2018 and continued for the entire week at Istanbul 14th High Criminal Court. The defendants presented their defense statements during the hearing and it was ongoing as the bulletin was being prepared.
- Hearings of two academics from Galatasaray University and one academic from Istanbul University was held on 13 March 2018 at Istanbul 37th High Criminal Court. The court decided for the next hearings to be scheduled to 10 October 2018. Hearings of three academics from Kadir Has University and one academic from Bahçeşehir University were held on 16 March 2018 at Istanbul 33rd High Criminal Court. The next hearings were scheduled to 21-22 June 2018.
- The proceedings of journalist Can Dündar, Cumhuriyet Newspaper's Ankara Representative Erdem Gül and Republican People's Party (CHP) MP Enis Berberoğlu due to "aiding and abetting a terrorist organization without being members" continued at the 14th High Criminal Court on 14 March 2018, regarding the publicity of visuals of National Intelligence Trucks that were stopped for search. The fifth session was held closed to public audience with Erdem Gül and his lawyers readily attending the hearing and Enis Berberoğlu attending via Audiovisual Information System (SEGBIS). Accepting the reasoned decision of the Court of Appeals, presented by Berberoğlu's lawyers, the court decided to wait until the finalization of the verdict of reversal issued against Erdem Gül and Can Dündar by the 16th Penal Department

of the Court of Appeals. The court further gave time for Berberoğlu's lawyers to present witness lists, scheduling the next hearing to 9 May 2018.

- The case against Mezopotamya Agency reporter Hayri Demir was held on 15 March 2018 at Diyarbakır 5th High Criminal Court due to his posts on the Afrin Operation. We could not obtain the results of the hearing.
- The cases against Faruk Eren, Ertuğrul Mavioğlu, Celal Başlangıç, Ömer Ağın, İhsan Çaralan, Celalettin Can, Fehim Işık, Öncü Akgül and Dilşah Kocakaya due to their Substitute Editing-In-Chief for Özgür Gündem Newspaper were held at Istanbul 14th High Criminal Court on 15 March 2018. The defendants asked for more time to present a defense for the Prosecutor's Office opinion on the basis. The court gave the defendants more time following the claim, scheduling the next hearing to 7 May 2018.
- The seventh hearing of the case against 13 defendants, including Cumhuriyet Newspaper's Chief Executive Officer Akın Atalay, within which he is arrested for 502 days, was held at Silivri Prison Campus Hearing Room on 16 March 2018 starting at 10:00. The Prosecutor's Office presented their opinion on the basis in the case due to the publishing policy of the newspaper through news published and social media posts made, claiming imprisonment sentences against 13 defendants, including Şık, Atalay and Sabuncu, up to 15 years due to "aiding and abetting an illegal organization without being members." The hearing was ongoing as the bulletin was being prepared.
- The third hearing of the case filed against former People's Democratic Party (HDP) Co-Chair Selahattin Demirtaş and HDP MP Sırrı Süreyya Önder due to the speeches they gave during the Newroz celebrations in Zeytinburnu, Istanbul on 17 March 2013, was held on 16 March 2018. The hearing was ongoing as the bulletin was being prepared.

### **Trials Next Week**

- Academics from Marmara University will stand trial on 20 and 22 March 2018 at Istanbul 37th High Criminal Court, starting at 09:15.
- The proceeding of Mehmet Baransu and Murat Şevki Çoban will continue on 21 March 2018 at Istanbul 10th High Criminal Court due to "obtaining confidential documents concerning the security of state, revealing confidential information concerning the security or the domestic and foreign interests of state through press-media, revealing documents and information regarding the duty and activities of the National Intelligence Agency through press-media" The hearing will start at 10:00.
- A lawsuit was filed against Dicle News Agency (DIHA) former Executive Chairman Zekeriya Güzüpek and Managing Editor Dicle Müftüoğlu with an imprisonment claim up to 15 years following a denouncement concerning the news published through DIHA, which was later shut down with an emergency decree. The next hearing of the case will be held on 22 March 2018 at Diyarbakır 5th High Criminal Court.
- The proceeding of former People's Democratic Party (HDP) Co-Chair Selahattin Demirtaş continue due to "denigrating the government of the Republic of Turkey, its judicial bodies as well as the military and security organizations of state." The next hearing will be held on 23 March 2018 at Ankara 35th Criminal Court of First Instance.