



Think, think...

Freedom of Expression Weekly Bulletin

(Issue 30/18, 27 July 2018)

What happened last week?

*** The law draft predicting amendments which will effectively continue State of Emergency applications for at least three more years has passed the GNAT. **(Details below...)**

*** As the law draft on paid military service passes the Parliament, President Erdoğan stated that paid military service was a promise during the elections, although he doesn't find it right for the citizens to lose complete connection with military service. *"This nation is a soldier nation and we don't want to lose that sensitivity,"* Erdoğan said.

*** Debates inside the opposition continue after their alliance in the June 24 elections. Internal turmoil inside the Good Party (İYİ Parti) brought the party in a process of extraordinary congress; Republican People's Party (CHP) has divided into two as those who 'want change' and those who don't. Good Party leader Akşener announced that she will not be a candidate in the congress. It was further announced that oppositional groups within CHP collected necessary signatures for the congress.

*** Radio and Television Supreme Council (RTÜK) was bound to the Ministry of Culture and Tourism and Turkish Radio and Television Association (TRT) was bound to the Communication Directorate of the Presidency with Presidential decrees issued this week. The Communication Directorate was further assigned the authority to regulate on all activities and rights of journalists.

*** Minister of Economics Albayrak announced that *"they will not go against the market."* However, the Central Bank did not change interest rates despite market expectations. Turkish Lira has fallen three percent and the stock market has fallen more than two percent immediately after. US Dollar has reached 4.94 TL.

*** Turkey and the Netherlands decided to normalize relations in the diplomatic crisis since the referendum period. Germany removed the sanctions put into action due to the arrests of human rights advocate Peter Steudtner and journalist Deniz Yücel; decided to lighten the travel warnings in Turkey.

*** The application made by arrested MP Enis Berberoğlu due to obtaining Parliamentary immunity once again after his election as MP was denied by the Court of Appeals. Berberoğlu decided to protest the court verdict by not holding interviews, not using his right to defense during hearings and cutting all interaction with the outside world.

*** The State of Emergency Applications Monitoring Commission has concluded 26 thousand of more than 100 thousand applications so far. 22,400 applications were denied; only 1560 applications concluded positively.

*** The police blockade around the Human Rights Monument, which was “*in custody*” due to being the symbol of State of Emergency protests, was removed. However, the mobile police station right next to the monument remains.

*** American Priest Andrew Brunson, who is arrested pending trial due to “*espionage*,” was released with house imprisonment. The release claim for Brunson was denied in the hearing last week; Trump reacted against the verdict by calling it a “*disgrace*.” Immediately after, the U.S. Senate brought an application of financial restrictions against Turkey into agenda.



“Continuous State of Emergency Law” passes Parliament

The law draft that would involve regulations that would provide the continuity of State of Emergency applications for at least three more years after its end has passed the General Assembly of the Parliament.

The regulation predicts amendments in many laws including the Law on Meetings and Demonstrations, the Turkish Penal Code and the Law for Provincial Administration. Governorates were given the authority to ban entrances and exits to provinces, bring individual restrictions and decide when, where and how people can wander around in addition to their authority to issue curfews and ban protests. The custody period, which was 24 hours in case of no State of Emergency, has increased to 48 hours. The period will reach up to four days in mass crimes and will be able to be extended up to 12 days.

Dismissals in public service will continue for three more years. Authority on the dismissals made with Statutory Decrees issued within the State of Emergency were given directly to the ministries. Judges and prosecutors will be able to be dismissed by the Council of Judges and Prosecutors, academics by the Council of Higher Education (YÖK) and other public personnel with no relations to any ministry by an authorized institution. YÖK had objected against the regulation due to “indefensibility” based on the independence of universities.

Restrictions on protests and demonstrations were brought the condition to “not make daily lives of citizens extremely and unbearably difficult.” This vague term, which has no definition in the law, makes banning protests and demonstrations easier.

Now a police warrant will be enough to issue a custody once again instead of a warrant issued by the Prosecutor, that was brought in order to “*fasten investigation*.” Furthermore, objections against arrest warrants, which would previously conclude within three days, will now be able to be concluded within 30 days; with arrest examinations (previously conducted monthly) increased to 90 days. Phone calls of family members of those who have investigations against them will be allowed to be taped and travel restrictions could be brought on them. On the other hand, the proceeding of vice presidents, ministers, their deputies, generals, admirals, governors,

district governors and other high judiciary members will be bound to permission. This privilege protects the people in those positions with a shield of impunity.

Thus, the State of Emergency was effectively extended for at least another three years after its official end. Turkey will continue to be governed with State of Emergency laws without needing an official declaration of State of Emergency with such regulations that are in conflict with many provisions protected by the Constitution, such as the 'freedom of travel and residence,' 'right to congregate and demonstrate' and 'personal criminal liability.'



Speech by HDP MP Ahmet Şık prevented at Parliament

Taking the floor on behalf of the Peoples' Democratic Party (HDP) during the debates on the law draft involving new regulations on the fight against terrorism at GNAT General Assembly, Ahmet Şık could not complete his speech due to the attack of Justice and Development Party (AKP) Izmir MP Alpay Özalan. Parliamentary Deputy Speaker and AKP member Mustafa Şentop, who was moderating the session, turned Şık's microphone off. Şık was penalized by not being allowed to participate in two sessions after unanimous votes of AKP members.

In his prevented speech, Şık described the draft as *"a simple cartoon of coup organizers,"* saying, *"You feed your aggressivity towards those speaking the truth with your helplessness. You polish your immorality with impudence, even though you know deep down it's not enough."* Please click for the full speech: <https://goo.gl/ib4B5o>

With the bylaw amendment last year remove immunity on the Parliamentary floor, which is protected by the Constitution, with sanctions brought on speeches at the Parliament. Whoever holds the majority at the Parliament can now penalize all criticisms with reasons such as 'defamation of the President of the Republic, governmental institutions or indivisible integrity of the state.' Furthermore, there is not one single legal authority to be applied for objections. The first penalty within this scope was given to Peoples' Democratic Party (HDP) MP Osman Baydemir due to using the words, "Kurd" and "Kurdistan" followed by HDP MP Garo Paylan due to using the term, "Armenian Genocide." Now Şık is being penalized due to saying, *"You polish the arrogance created by your power with lies and ignorance..."*



Young woman arrested due to ‘insulting Atatürk’ with video

23-year-old Safiye İnci, who was taken into custody due to insulting Atatürk in the video she recorded to send to a friend, was arrested due to ‘violating the Law Concerning Crimes Committed Against Atatürk No. 5816.’

“I am so ashamed of being [at Anıtkabir]. I only came because they insisted a lot. I don’t like Atatürk a single bit. Atatürk didn’t save Turkey. You know how there are people who don’t like Tayyip [Erdoğan] but like Atatürk... Atatürk can’t be the shit of Tayyip,” İnci says in the video.

The law states that “a person who insults or denigrates the memory of Atatürk will be imprisoned from one year up to three years.” The Law No. 5816 is another legal obstacles in criminal law against freedom of expression, just like Turkish Penal Code (TCK) Articles 299 and 301, which could be described to be regulating “crimes committed against the government.” Debatable notions like “insult,” “incitement,” “hostility,” “provocation” and “respect” being regulated with penal sanctions restricting freedom ultimately results with the restriction of freedom of expression.

Even when the sole existence of “the crime of insult” within criminal law is on debate (The European Court of Human Rights even finds penalty fines disproportionate), the sanction to arrest the suspect during investigation/proceeding is an issue in itself. The European Court of Human Rights have issued precedent decrees on violations of freedom of expression related to the Law No. 5816 as well.



berna laçın
@bernalacin35

Follow

#idam çözüm olsaydı
Medine toprakları tecavüzde rekor kırmazdı!
Konuşturmayın şimdi beni!
Bırakın artık bilim insanları,
nörologlar,psikiyatrlar, psikologlar,toplum
bilimciler ,hukukçular el birliği verip çare
üretsin.
Devlet, tribün sesleriyle toplum inşaa etmez!

Translate Tweet

8:00 AM - 3 Jul 2018

Lawsuit against Berna Laçın with allegation of ‘denigration of religious values’

A lawsuit was filed against actress Berna Laçın with an imprisonment claim for up to one year due to her tweet against capital punishment. Laçın reacted against the debates to bring capital punishment back after

continuous news on child abuse, writing on Twitter: “If the death penalty was a solution, then the lands of Medina would not break records in the number of rape incidents. Let scientists, neurologists, psychiatrists, psychologists, social scientists and lawyers find solutions in collaboration. Governments don’t build societies with voices from tribunes.”

Due to this tweet, Laçın was charged with ‘public denigration of religious values adopted by a part of society.’

In the indictment, accepted by Istanbul Anadolu 59th Criminal Court of First Instance, the Prosecutor’s Office stated that disrespectful attitudes against religious values must be avoided while expressing opinions and that statements on a city that is considered holy by Muslims carry a quality that is intending to disrupt public peace. Laçın spoke about the investigation against her on the matter, saying, “*Why do you correlate Medina directly with Islam instead of considering it an Arabian province? Would I be insulting Christians if I said something negative about Sweden?*”



Investigation against HDP Co-Chair Buldan due to ‘criticising investigation’

Ankara Chief Public Prosecutor’s Office started an investigation against Peoples’ Democratic Party (HDP) Co-Chair Pervin Buldan due to her speech, criticizing the investigations against HDP MPs.

Investigations have previously been opened against HDP Diyarbakır MPs Remziye Tosun and Musa Farisoğulları as well as HDP Batman MPs Feleknas Uca and Mehmet Rüştü Tiryaki due to participating in the funerals of PKK members who were killed during operations. In her speech during her party assembly meeting in Van on July 21st, Buldan has stated, “*It is in our culture to participate in funeral ceremonies. This is our biggest duty and responsibility. There is a great fight we are a part of, so that people don’t lose their lives any more. If people lose lives in this clashing process, it is within our responsibility to stand together with the families of those people.*”



Penalty against protest for Tahir Elçi due to ‘insulting Erdoğan’

Seven of the participants in the protest organized in 2015 in Izmir against the murder of Diyarbakır Bar Association Chairman Tahir Elçi were convicted of ‘insulting the President’ due to the slogans they chanted.

In the case at Torbalı 3rd Criminal Court of First Instance, 15 people were acquitted and 7 people were sentenced to 1 year and two months as well as 1 year, 11 months and 10 days of imprisonment. The court claimed that it is impossible to evaluate the expressions, “*thief and murderer*” within freedom of expression due to insult. The sentences were deferred; there is another ongoing case at Izmir 13th Assize Court due to ‘making illegal organization propaganda’ during the same protest.



Lawsuit against movie “My Suburban Tale”

A lawsuit was filed against the director of movie, “*My Suburban Tale*,” Yunus Ozan Korkut and five actors in the movie with the allegation of ‘praising the offence and offender.’ Korkut announced the first hearing of the case on Twitter,

stating that it will be held on 30 January 2019 at Ceyhan Courthouse. The movie, written and directed by Korkut, depicts the stories of the residents in a ‘suburban’ area in Ceyhan district of Adana. The resident characters’ stories are told first-hand by the characters themselves.



Book “History of Kurdistan” banned again after 17 years

Prepared by Kurdish Research Center and published by Avesta Publishing, entitled, “*History of Kurdistan*,” was banned once again after 17 years. The decree was issued by Ayvalık Criminal Judicature of

Peace. The book had previously been pulled off shelves by Istanbul State Security Court (DGM) in 2001; the publisher was sentenced to judicial fine and imprisonment. Translated from its original version in Russian, the book was edited by M.S. Lazarev and Ş.X. Mihoyan. The first publication was made in 2001 and the fifth and last publication was made in 2015.



Investigation against 267 social media users within one week

Ministry of the Interior announced investigations started against 267 people due to their social media posts within the last week (July 16-

23). In the investigations opened following examinations of 403 social media accounts, the users were charged with ‘making illegal organization propaganda,’ ‘insult,’ ‘incitement towards resentment, hatred and hostility’ and ‘intending against the indivisible integrity of state.’



Access bans

Nine different website URLs, including the ones of BirGün Daily and gazeteduvar.com.tr, were banned by Ankara 3rd Criminal Judicature of Peace after reporting the news of the train accident in Çorlu district of

Tekirdağ with 24 people dead. The ban decree was announced on Twitter by Prof. Dr. Yaman Akdeniz and was revealed to have been given after the claim by Unitek Construction Industry and Trade Inc.

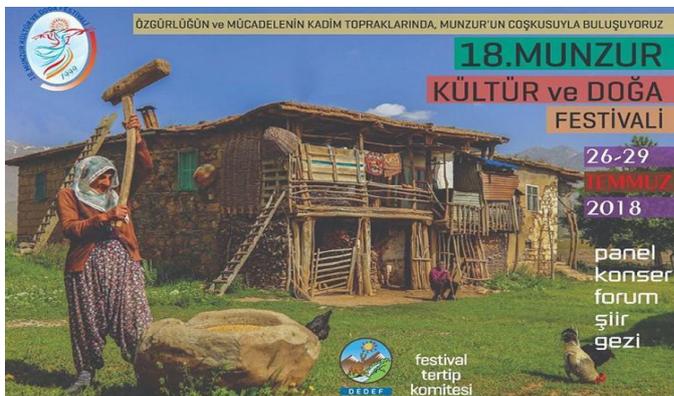
Hürriyet Daily's reader representative Faruk Bildirici announced that the number of access bans brought by Criminal Judicatures of Peace against the newspaper's content since 2014 has reached 2047. The latest news banned by Ankara 1st Criminal Judicature of Peace and Istanbul 8th Criminal Judicature of Peace on the newspaper's website were entitled, "Building assigned to TURGEV turns out land and "Names of 140 Court of Cassation members with custody warrants against them."



Homophobic leaflets distributed in Izmir, Ankara and Osmaniye

Leaflets were distributed in Izmir, Ankara and Osmaniye involving homophobic hate speech. The unsigned leaflets with the writings, "homosexuality is disgusting and can be given up by convincing people

otherwise" were distributed on the streets of Alsancak district in Izmir; the leaflets in Ankara and Osmaniye left in post boxes were entitled, "The danger of homosexuality" and "Say no to homosexuality and homosexual organizations." The leaflets involved hate speech against homosexuality and asserted that homosexuals are being supported by the "British secret state"; homosexuals were targeted as "sexual perverts." Similar leaflets were claimed to have been distributed in İskenderun, Adana and Antakya as well.



Governorate bans Munzur Festival

Munzur Culture and Nature Festival, planned to be organized for the 18th time this year, was banned by Tunceli Governorate. In the notice sent to the organizing committee of the festival, the governorate claimed that the festival is "providing finance and staff

for terrorist organization." The festival was banned by the governorate last year as well due to the State of Emergency.



AYM decrees

Constitutional Court (AYM) issued a right violation on three children who were convicted and were released with monitoring due to the press statement made by the Prime Minister upon his arrival in Adana. The court issued 4000 TL of moral compensation to be paid.

Adana 4th Juvenile Court sentenced the children to 3 months and 10 days of imprisonment each due to violating the Law on Meetings and Demonstrations No. 2911 during the protest; the sentences were turned into supervised release for three years. In the decree, the Constitutional Court stated that the applicants were exposed to penalty threat for three years due to a peaceful protest they participated in and that this leads to a deterrent effect on the use of the right to meeting and demonstration.

On the other hand, AYM reversed the local court decree which denied the claim for an applicant, who was recorded as a female in the citizenship identity, to transfer into a male identity. The court further repealed the related law article that the denial was based on. The high court decided that the 'right of protection and development of material and moral assets' protected by Article 17 of the Constitution, was violated. Furthermore, the provision on the ability to reproduce, that was shown as reason for the denial of the applicant's claim, was repealed due to contradiction with the Constitution.



TRIALS OF FREEDOM OF EXPRESSION

Hearings of the case files we are tracking are not being held due to judiciary recess.