

## **BREACHES IN FREEDOM OF EXPRESSION IN TURKEY**

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INTERVENTIONS IN PRESS FREEDOM AND FREEDOM OF EXPRESSION

### **INTRODUCTION**

Freedom of expression is an equal right of each individual. It is an essential prerequisite for the progress of democratic societies and the personal development of individuals. There are legal framework set in place to protect this right both on the international and local levels. However, throughout history, those who are in power have tried to limit freedom of expression thinking that critical ideas can harm their privileges and endanger their rule. For this reason, they chose to criminalize and punish freedom of expression by using censorship laws and policies. They sometimes utilized the legal system which they put under pressure, and other times they didn't shy away from using violence. Particularly in places where despotism ruled supreme, written and mass media, two powerful mediums of freedom of expression, were systematically taken under control and were made to voice the state ideology.

The existence of academia is also dependent on freedom of expression. Therefore it is noteworthy that the number of journalists and academics who are pressurised, fired from their jobs, subjected to violence and even killed is considerable in countries where freedom of expression is breached.

The country of Turkey has been moving away from democracy at incredible speed every day during Erdogan's presidency, especially after the 15 July coup attempt, whose perpetrators have still not been ascertained. Human rights breaches increased and laws were consciously breached, or suspended, and a despotic rule came to the surface. Every passing day, intellectuals, journalists, writers, academics, members of NGOs and human rights defenders, social media users, all of whom are accused of being critical of the government, are blamed to be belonging to a terrorist organization and face trial for this reason.

In our report, we have taken a panorama photo of freedom of expression in Turkey where journalists and academics are put in prison.

Section 1.

LEGAL FRAMEWORK.

#### LEGAL GUARANTEES THAT PROTECT FREEDOM OF EXPRESSION

Freedom of expression is a right that was declared by the UN as part of the International Human Rights Declaration, and it was signed and accepted by Turkey like many other countries on 6 April 1949. <sup>1</sup> Turkey signed and affirmed the International Covenant on Civil and Political Rights (Turkey signed the agreement on 15 August 2000 and it was confirmed on 23 September 2013) and signed and accepted the European Convention on Human Rights. For this reason Turkish courts have to take human rights law into consideration by securing and protecting freedom of expression. Every limitation placed on freedom of expression and freedom to create content in member states of the European Council has to meet the criteria mentioned in Article 10 of European Convention on Human Rights.

According to Article 10 of the European Convention on Human Rights;

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

Article 19

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<sup>1</sup> İnsan Hakları Evrensel Bildirgesi, Bianet, 10 December 2002,  
<https://m.bianet.org/biamag/insan-haklari/15169-insan-haklari-evrensel-bildirgesi>

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

#### FREEDOM OF EXPRESSION CANNOT BE RESTRICTED EVEN DURING STATE OF EMERGENCY

Article 4 of International Covenant on Civil and Political Rights states that in the case of a 'state of emergency', the obligations mentioned in Article 19 (2) are allowed to be restricted or limited.

Turkish authorities had declared on 21 July 2016 to the European Council's General Secretary that some of the measures taken after the coup might include derogation of some of obligations predicated by the European Council of Human Rights. On the same date, the Turkish authorities informed the United Nation's General Secretary that in line with Article 4 of ICCPR, they may use their right of derogation, and that the rights predicated in Articles 2/3 and 9, 10, 12, 13, 14, 17, 19, 21, 22, 25, 26 and 27 will be suspended. However, in terms of ICCPR and European Covenant of Human Rights, the use of the right of derogation is dependent on certain conditions, and some rights can never be suspended. The application of derogation cannot be discriminatory in nature or they cannot be incompatible with the other obligations of the state in terms of international law. The main aim must be to maintain normalcy once again as necessitated by human rights.

The right of freedom of expression is exempt from any limitation of obligations, whether in normal conditions or extraordinary conditions.<sup>2</sup> The Human Rights Committee concludes that limitation of obligations predicated in the ICCPR must be 'exceptional and temporary'.

#### Constitution of the Republic of Turkey

#### **VII. Freedom of thought and opinion**

**ARTICLE 25-** Everyone has the freedom of thought and opinion.

No one shall be compelled to reveal his/her thoughts and opinions for any reason or purpose; nor shall anyone be blamed or accused because of his/her thoughts and opinions.

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<sup>2</sup> Düşünce ve İfade Özgürlüğünün Korunması ve Geliştirilmesine ilişkin Özel Raportörün Türkiye Ziyaretine İlişkin Raporu, 6-23 June 2017, A/HRC/35/22/Add, <http://www.un.org.tr/humanrights/images/pdf/ifade-ozgurlugu-ozel-raportoru.pdf>

**ARTICLE 26-** Everyone has the right to express and disseminate his/her thoughts and opinions by speech, in writing or in pictures or through other media, individually or collectively. This freedom includes the liberty of receiving or imparting information or ideas without interference by official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, or similar means to a system of licensing.

**ARTICLE 28-** The press is free, and shall not be censored. The establishment of a printing house shall not be subject to prior permission or the deposit of a financial guarantee.

**Article 30:** A printing house and its annexes, duly established as a press enterprise under law, and press equipment shall not be seized, confiscated, or barred from operation on the grounds of having been used in a crime.

## TURKISH PENAL CODE ARTICLES THAT RESTRICT FREEDOM OF EXPRESSION

Turkey is the country that was sentenced and condemned the most regarding freedom of expression at the European Court of Human Rights.<sup>3</sup> According to data from ECHR regarding its legal work in 2018, Turkey breached Article 10 of ECHR regarding protection of freedom of expression in 40 court cases.

When applications to ECHR are observed, it becomes clear that the greatest obstacles to media freedom and freedom of expression in Turkey are the Turkish Penal Code and Prevention of Terrorism Act. Particularly ambiguous statements later added to these penal laws are used to limit freedom of expression. These articles contradict related articles of the ECHR and International Covenant on Civil and Political Rights.

Articles 28 and 29 of the Turkish Constitution that protect press freedom, are limited by this regulation:

“Anyone who writes any news or articles which threaten the internal or external security of the State or the indivisible integrity of the State with its territory and nation, which tend to incite offence, riot or insurrection, or which refer to classified state secrets or has them printed, and anyone who prints or transmits such news or articles to others for the purposes above, shall be held responsible under the law relevant to these offences.’ It is thus limited with this additional article.

In the Prevention of Terrorism Act no 3713 membership and propaganda of a terrorist organisation is prohibited but some essential terminology used are not defined. The law does not specify which actions are to be considered terrorism. Article no 7 (2) of the code states that ‘people who do propaganda of a terrorist organization that makes the organization’s methods that include cohesion, violence and threatening, appear legitimate, or praise or encourage others to use these methods’ are to be sentenced to one to five years of imprisonment. Furthermore, it is added that if this crime is committed using media organs the sentence is to be increased by half.

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<sup>3</sup> “Türkiye, AİHM’de düşünce ve ifade özgürlüğünden en fazla mahkum olan ülke oldu”, Euronews, 24 January 2019, <https://tr.euronews.com/2019/01/24/turkiye-aihm-de-dusunce-ve-ifade-ozgurlugunden-en-fazla-mahkum-olan-ulke-oldu>

The article in the Turkish, "To insult Turkishness, the Republic, the state, the Turkish Parliament, the government or judicial organs' (article 301) caused the imprisonment of hundreds of intellectuals. The court case of Hrant Dink who was killed is an example. Dink was found guilty of insulting Turkishness and was then killed in Istanbul by ultra-nationalists.

Article 299 states that insulting the President incurs up to four years of imprisonment. To open a court case the permission of the Minister of justice is needed, while high level bureaucrats including the President are able to file a suit against journalists, artists and academics on the basis of insulting the President.

Turkish national intelligence law: The article no. 6532 (2014) gave permission to the Turkish National Intelligence Organization to access the personal data of individuals without a court decision. According to the article, the organization has the right to gather information, documentation and data from public institutions, financial institutions and official and non official institutions.

The article also incurs heavy punishment on gathering and publishing information about the National Intelligence Organization. According to this, distributing information or documents regarding the organization necessitates nine years of imprisonment. This article came into effect after the publication of scandals related to the national intelligence exposed by journalists. It was aimed to prevent news made about the organization with these heavy punishments.<sup>4</sup>

## INTERNET PROHIBITIONS

The internet has become one of the platforms where freedom of expression and freedom to access information" are one of its main uses. The first censorship of the internet was implemented in Turkey in 2007 regarding prevention of internet content with the blocking of all access to Youtube. Soon after this move the Ministry of Telecommunication was founded and a new law was put into effect with the preface to protect children from harmful content but which also allowed preventing access to any website.

In May 2007, article 5651, 'Regulation of internet broadcasting and fighting against crimes committed on the internet' was put into effect, and after this, access to 90.000 websites including those critical of the government was prevented as of July 2015, with court decisions and access prevention decisions of the Telecommunication Ministry.<sup>5</sup>

Article 5651, the Internet law, gave the government the permission to block access and censor any internet content in the name of national security.

The AKP government blocked access to Wikipedia on 29 April 2017. When Wikipedia rejected taking down an article that claims that the Turkish Republic supports terrorist groups in Syria, the government officials blocked access to the website using this article and the prohibition continues to this day.<sup>6</sup>

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<sup>4</sup> "Yeni MİT Yasası Hakkında Bilmeniz Gereken 20 Şey", Onedio, 29 April 2014, <https://onedio.com/haber/iste-mit-yasasi-hakkinda-her-sey--295452>

<sup>5</sup> İnternet Ortamında Yapılan Yayınların Düzenlenmesi Ve Bu Yayınlar Yoluyla İşlenen Suçlarla Mücadele Edilmesi Hakkında Kanun, Resmi Gazete, 23 May 2007, <http://www.resmigazete.gov.tr/eskiler/2007/05/20070523-1.htm>

<sup>6</sup> "Wikipedia, Türkiye'de tam 2 yıldır yasaklı!", T24, 29 April 2019, <https://t24.com.tr/haber/wikipedia-turkiye-de-tam-2-yildir-yasakli,818867>

The AKP government, after the 17-25 December corruption and bribe investigations, increased the penal responsibilities of access suppliers using article 5651 and introduced more limitations. All of these steps were taken despite international criticism and uproar. According to the AGIT representative of media freedom: 'These measures conflict with agreements with AGIT and international standards. They have the potential to negatively affect freedom of expression, investigative journalism, protection of news resources, political discourse and access of information on the internet.'<sup>7</sup>

## TWITTER, FACEBOOK AND YOUTUBE BLOCKED

Following the February 2014 amendments to article no. 5651, Ministry of Telecommunications signed administrative decisions preventing access to Facebook, Twitter and Youtube platforms on 18 and 27 March 2014 and 2015 respectively. Decisions were found unconstitutional by the Constitutional Court and the blocking decision was cancelled.<sup>8</sup> During 2004, the Constitutional Court angered Erdogan and the AKP by 'lifting the ban on Twitter on April and the one on Youtube in May with the reason that the decisions were against freedom of expression'. Erdogan had called the decision on Twitter as 'anti-national' and had said 'I do not respect it' about the decision.<sup>9</sup>

More than 3000 court decisions were made by the Penal Courts of Peace also known as 'project courts' of the AKP government regarding internet prohibitions in Turkey, and more than 20.000 URL's were blocked. 700 of these decisions are regarding Twitter accounts and specific tweets, 500 of them about Facebook content, and 200 on content published on the Youtube platform. Similarly, Cumhuriyet daily received 60, Sozcu daily 36, Radikal daily 28, Zaman daily 24 and T24, a news website, 40 court decisions to block their content. More concerning is the fact that 95 of these blocking decisions were requested by then PM Ahmet Davutoglu and 50 of them were implemented upon request of President Erdogan.<sup>10</sup> All of these decisions were made by Ankara and Istanbul Penal Courts of Peace.

Article 8 (A) was added to the law with a change in March 2015 and this allowed the Ministry of Communication and Telecommunication to block access to websites with ambiguous reasons without any court decision. As of 2015, the government blocked access to 110.000 websites and more than 16.500 URLs.<sup>11</sup>

## 1. SECTION

### INTERVENTION INTO PRESS FREEDOM AND FREEDOM OF EXPRESSION

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<sup>7</sup> Türkiye İnternet Yasası 5651 sayılı Kanunun Değişiklik Tasarısı Üzerine Değerlendirme, January 2014

[www.osce.org/fom/110823?download=true](http://www.osce.org/fom/110823?download=true)

<sup>8</sup> "Anayasa Mahkemesi ve Youtube Kararı", Bianet, 9 June 2014,

<https://bianet.org/bianet/siyaset/156280-anayasa-mahkemesi-ve-youtube-karari>

<sup>9</sup> "Erdogan Anayasa Mahkemesi'ni hedef aldı", CNN Turk, 12 April 2014,

<https://www.cnnturk.com/haber/turkiye/erdogan-anayasa-mahkemesini-hedef-aldi>

<sup>10</sup> "Türkiye'de Muhalif Düşüncenin Susturulması ve İfade Özgürlüğü", Yaman Akdeniz, Kerem Altıparmak,

[https://www.researchgate.net/publication/329988009\\_Turkiye'de\\_Muhalif\\_Dusuncenin\\_Susturulmasi\\_ve\\_Ifade\\_Ozgurlugu](https://www.researchgate.net/publication/329988009_Turkiye'de_Muhalif_Dusuncenin_Susturulmasi_ve_Ifade_Ozgurlugu)

<sup>11</sup> Düşünce ve İfade Özgürlüğünün Korunması ve Geliştirilmesine İlişkin Özel Raportörün Türkiye Ziyaretine İlişkin Raporu, 6-23 June 2017, A/HRC/35/22/Add,

<http://www.un.org.tr/humanrights/images/pdf/ifade-ozgurlugu-ozel-raportoru.pdf>

## INTERVENTIONS INTO PRESS FREEDOM BEFORE 15 JULY 2016

Even before 15 July coup attempt, press freedom was under threat in Turkey under the AKP. AGIT representative of Free Media, in a written statement made on 4 April 2011, called out to Turkish officials to make the legal regulations regarding the media more compatible with AGIT's press freedom commitments. In the list given with the statement, the names of 57 journalists who were imprisoned by that date were also added.

Experiencing the freedom of the press in Turkey before July 15, 2016 coup attempt was under the threat of the AKP government. OSCE Free Media representative, in his written statement on 4 April 2011, the Turkish authorities in the field of media legislation to harmonize with the OSCE commitments regarding freedom of the press have urged. The OSCE has published the name of the 57 journalists in the list in the annex to the statement.

However, the opening of corruption investigations for President Recep Tayyip Erdoğan and his relatives on 17-25 December 2013 was an important breaking point. Erdoğan claimed that prosecutors and policemen who opened the investigation were members of the movement, led by Fethullah Gülen. He accused the Gulen movement of attempting a coup against him and the AKP government. In the end, Erdogan labelled the group as a terrorist organization.<sup>12</sup> He targeted journalists and media organizations that were critical of him. Some of the journalists that Erdoğan blacklisted had begun to be dismissed from media outlets labelled 'the centre'.<sup>13</sup> The pressure on the media organizations known for their close proximity to the Gülen movement took form of seizing all their assets. On October 27, 2015 Ipek Media Group's some of Turkey's most watched and read media outlets and newspapers such as Bugun Newspaper, Millet Newspaper, kanaltürk TV and Kanalturk Radio, were confiscated. The administration of these broadcasting organs was given to individuals close to the government.<sup>14</sup> 58 journalists and columnists who were critical got fired in a day.<sup>15</sup>

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<sup>12</sup> 'FETÖ/PDY'yi ilk terör örgütü kabul ve ilan eden Erdoğan'dır', Anadolu Ajansı, 3 June 2018

<https://www.aa.com.tr/tr/turkiye/basbakan-yardimcisi-bozdog-feto-pdyyi-ilk-teror-orgutu-kabul-ve-ilan-eden-erdogandir/1164004>

<sup>13</sup> "Habertürk'ün işten çıkardığı gazeteci Bülent Ceyhan: O listede olmak benim için şereftir", Diken, 19 August 2018,

<http://www.diken.com.tr/haberturkun-isten-cikardigi-gazeteci-bulent-ceyhan-o-listede-olmak-benim-icin-sereftir/>

<sup>14</sup> "İşte Koza-İpek'e atanan kayyumlar", Hürriyet, 28. Oktober 2015,

<http://www.hurriyet.com.tr/gundem/iste-koza-ipeke-atanan-kayyumlar-40007103>

<sup>15</sup> "İşte Koza-İpek'e atanan kayyumlar", Hürriyet, 28. Oktober 2015,

<http://www.hurriyet.com.tr/gundem/iste-koza-ipeke-atanan-kayyumlar-40007103>

After a while, all news archives of these media outlets were erased.<sup>16</sup> İpek Media Group employees, 500 in total, were unemployed. On March 5, 2016, Zaman Media Group, a newspaper with high circulation and known for its connection with the Gulen Movement, was confiscated and handed over to the trustees appointed by the government. Zaman Newspaper, along with the FEZA Media group's Aksiyon magazine, Cihan News Agency, Today's Zaman's management were now being controlled by people close to the AKP. The broadcasting policy of all of these media organs were changed and they were now in support of the AKP government.<sup>17</sup> Likewise, 13 channels including Mehtap TV, Ebru TV and Burç FM which are in Samanyolu Broadcasting Group, were decided to be removed from list of channels broadcast on satellite. As of April 30, 2016, their publications are obstructed.<sup>18</sup> The channels have been closed, and 850 employees were rendered unemployed.<sup>19</sup>

#### ERDOĞAN GAVE THE ORDER AND CAN DUNDAR WAS ARRESTED

In Turkey, the legal system functions according to Erdogan's pressure and commands, and a good example of this is the arrest of one of the managers of Cumhuriyet daily.

Cumhuriyet, known for its opposition to the government, published a news on 29 May 2015 about the National Intelligence's lorries allegedly carrying arms to the terrorist organization ISIS. Erdoğan threatened the broadcasters of the news broadcast on 31 May on the state television TRT1. He said, 'These slanders made about the National Intelligence Agency is an illegitimate operation, and this is an espionage activity. This newspaper has been involved in this espionage activity. This is a psychological operation on behalf of some other people...The person who makes this new piece and brands it as special news, I think he will pay the price heavily; I will not let him go like that'.<sup>20</sup>

In the following days, Erdogan said, 'We are developing a project. Thousands of lawsuits will be filed'. On 26 November 2015, Can Dündar, the Editor-in-Chief of the newspaper Cumhuriyet, and Erdem Gül, the Ankara representative, were arrested by the Istanbul 7th Criminal Court of Peace. Dündar and Gül remained in custody for 92 days. They were released after the Constitutional Court decided that it is a violation of the right to freedom of expression and right to security.

#### ERDOĞAN DID NOT ACCEPT THE DECISION MADE BY THE CONSTITUTIONAL COURT

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<sup>16</sup> "500 çalışan işsiz kaldı... İpek Medya böyle batırıldı", Cumhuriyet, 2 March 2016, [http://www.cumhuriyet.com.tr/haber/ekonomi/490391/500\\_calisan\\_issiz\\_kaldi...\\_ipek\\_Medya\\_boyle\\_batirildi\\_.html](http://www.cumhuriyet.com.tr/haber/ekonomi/490391/500_calisan_issiz_kaldi..._ipek_Medya_boyle_batirildi_.html)

<sup>17</sup> "Zaman'ın kayyum yönetimindeki ilk sayısı", BBC, 6 March 2016, [https://www.bbc.com/turkce/haberler/2016/03/160306\\_kayyum\\_zaman\\_ilk\\_sayi](https://www.bbc.com/turkce/haberler/2016/03/160306_kayyum_zaman_ilk_sayi)

<sup>18</sup> "Samanyolu'na ait 13 kanal Türksat'tan çıkarıldı", Milliyet, 14 November 2015, <http://www.milliyet.com.tr/samanyolu-na-ait-13-kanal-gundem-2147730/>

<sup>19</sup> "Samanyolu'nda ekran kararı 850 kişi işsiz kaldı", Gazeteciler.com, 16 November 2015, <http://www.gazeteciler.com/haber/samanyolunda-ekran-karard-850-kii-isiz-kald/249424>

<sup>20</sup> "Erdoğan'dan Can Dündar'a: Öyle Bırakmam Onu", HABERLER.COM, 1 June 2015, <https://www.haberler.com/erdogan-dan-can-dundar-a-oyle-birakmam-onu-7369084-haberi/>

On 28 February 2016, President Erdoğan said, this incident has nothing to do with freedom of expression; this is a case of espionage. For me, there can be no limitless freedom of the media. The Constitutional Court may have made a decision in this way. But I do not have to accept it and I do not follow their decision; I do not respect it. This is a decision to release these people. In fact, the court could persevere about their decision against them.’<sup>21</sup> After Erdoğan’s statement, the journalists were sentenced to 5 years and 10 months in prison by the court that tried them.<sup>22</sup>

## MEDIA OUTLETS CLOSED DOWN AND ARRESTS AFTER 15 JULY WITH THE ONSET OF THE STATE OF EMERGENCY

During the coup attempt on July 15, 250 civilians lost their lives. Then, in an operation launched across Turkey, at least 511 thousand people have been detained so far,<sup>23</sup> and at least 228 thousand 137 people have been arrested as of March 2018.<sup>24</sup> According to the Ministry of Internal Affairs's official statement; 259 thousand 999 people are undergoing an investigation or at the litigation phase, while after all the acquittal and release of individuals, there are still 30 thousand 947 people in prison.<sup>25</sup> A large number of these people were arrested on charges of being members of the Gülen movement, attempting a coup, and doing propaganda of a terrorist organization.

Despite such mass arrests and hundreds of cases filed, it is still not clear who organized the July 15 coup attempt. The main opposition party, the Republican People's Party, argues that the coup was carried out in a controlled manner by the AKP government.<sup>26</sup>

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<sup>21</sup> “Cumhurbaşkanı Erdoğan: 'Karara uymuyorum, saygı da duymuyorum'”, Hürriyet, 28 February 2016, <http://www.hurriyet.com.tr/cumhurbaskani-erdogan-karara-uymuyorum-saygi-da-duymuyorum-40061344>

<sup>22</sup> “Can Dündar'a 5 yıl 10 ay hapis cezası”, Hürriyet, 6 May 2016, <http://www.hurriyet.com.tr/mit-tirlari-davasinda-hakim-kararini-verdi-40100458>

<sup>23</sup> “Soylu: 15 Temmuz sonrası 511 bin kişi gözaltına alındı”, Sputniknews, 11 March 2019, <https://tr.sputniknews.com/turkiye/201903111038119903-soylu-15temmuz-sonrasi-511bin-kisi-gozaltina-alindi/>

<sup>24</sup> “Türkiye'de OHAL yedinci kez uzatıldı”, Deutsche Welle, 18 March 2018, <https://www.dw.com/tr/t%C3%BCrkiyede-ohal-yedinci-kez-uzat%C4%B1ld%C4%B1/a-43436783>

<sup>25</sup> “500 bin kişiye FETÖ soruşturması”, OdaTV, 4 March 2019, <https://odatv.com/500-bin-kisiye-feto-sorusturmasi-04031941.html>

<sup>26</sup> “Kılıçdaroğlu: 15 Temmuz kontrollü darbe girişimidir”, BBC, 3 April 2017, <https://www.bbc.com/turkce/haberler-turkiye-39478777>

Since July 15, pressures on freedom of expression have increased dramatically. By the end of 2016, 178 media outlets including news agencies, newspapers and television channels were closed by the Decree Laws adopted after the State of Emergency (OHAL) adopted on 20 July 2016. <sup>27</sup> In addition, 30 publishers were closed down and their books were banned. <sup>28</sup> the number of journalists who have been rendered unemployed surpassed 10 thousand according to the Turkish Journalists Association. <sup>29</sup>The Decree Laws have further intensified the restrictions already existing on freedom of expression on account of the anti-terror law and the regulations prohibiting criticism of the president and other officials. **After the end of the state of emergency on July 17, 2018, freedom of expression remains under pressure and threat.**

#### 191 JOURNALISTS ARRESTED

Since the State of Emergency, more than 300 journalists have been arrested despite working at different institutions with different broadcasting policies but on the grounds that they are publishing criticism of the AKP. The number of journalists who are still in prison together with those who have since been released is 191. <sup>30</sup> However, the number of journalists abroad is 167 because of the arrest warrant in their names. 34 foreign journalists were targeted and deported from Turkey . Only in 2018, 839 journalists were brought to court for writing news. 1954 journalists' press ID cards, including 705 who were working for media institutions close to the Gulen Movement, which they were entitled to receive with the approval of the Prime Ministry, were also canceled. <sup>31</sup>

#### MEDIA CHANGING HANDS DURING AKP PERIOD AND BEING UNDER THE CONTROL OF THE GOVERNMENT

Since the AKP came to power in 2002, The Turkish press has entered into a major transformation. The first steps of AKP's restructuring of the media began in 2007. From this period onwards, the AKP has done its best to strengthen pro-government media outlets alongside the mainstream media outlets and mobilized state capabilities to this effect. Powerful media outlets were stuck between bending to the will of the AKP or facing charges that threatened their existence.

In order to be the only voice that can reach the masses, Erdoğan tried to bring all the media to his desired level. <sup>32</sup> He has imprisoned a significant portion of the journalists and intellectuals he saw as critical of his rule and forced some to live abroad. <sup>33</sup>

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<sup>27</sup> "Üç Gazete, Bir Televizyon Kapatıldı", Bianet, 8 July 2018

, <https://m.bianet.org/bianet/ifade-ozgurlugu/198961-uc-gazete-bir-televizyon-kapatildi>

<sup>28</sup> "OHAL'de 30 yayınevi kapatıldı", Susma, 7 June 2017, <http://susma24.com/ohalde-30-yayinevi-kapatildi/>

<sup>29</sup> "Sayılar ve Raporlarla 15 Temmuz'un 2 Yılı", Bianet, 16 July 2018,

<https://m.bianet.org/bianet/siyaset/199216-sayilar-ve-raporlarla-15-temmuz-un-2-yili>

<sup>30</sup> "Time to Stop Erdoğan!", Stockholm Center For Freedom, 3 May 2019, <https://stockholmcf.org/wp-content/uploads/2019/05/NYT-Ad-Stockholm-Center-for-Freedom-May-2-2019-1.pdf>

<sup>31</sup> "1954 Gazetecinin Basın Kartı İptal Edildi", Bianet, 19 December 2018,

<https://bianet.org/bianet/medya/203679-1954-gazetecinin-basin-karti-iptal-edildi>

<sup>32</sup> "Yeni Türkiye'nin Medya Düzeni," Emre Tansu Ketten, Yeni Yol, Ocak-Şubat 2016, Sayı 17,

<http://www.yeniyol.org/yeni-turkiyenin-medya-duzeni/>

<sup>33</sup> "Jailed and wanted journalists in Turkey – Updated List," SCF, July 30, 2017, <http://stockholmcf.org/updated-list/>; "Freedom of the Press in Turkey: Far Worse Than You Think," SCF, January 2017, [http://stockholmcf.org/wp-content/uploads/2017/02/Freedom\\_of\\_press\\_in\\_Turkey\\_26.01.2017.pdf](http://stockholmcf.org/wp-content/uploads/2017/02/Freedom_of_press_in_Turkey_26.01.2017.pdf)

In the policy note prepared by the main opposition CHP; It was stated that the Justice and Development Party (AKP) controlled 95% of the media.<sup>34</sup> According to the CHP report; As a result of economic and political oppression with monopolistic practices of the AKP, Turkey's press freedom declined in the World Press Freedom Index from 99th rank in 2002 to 157 in 2018. The AKP government wanted to block access to the corruption scandal involving his ministers and close family members. Only between 2011 and 2018, access to 468 news pieces was blocked. In the first two months of 2019, 34 broadcast bans were introduced.

#### POLICY OF DEMORALIZATION THROUGH PENALTIES AND THE POLICY OF ACQUISITION

When the AKP harshly punished the Doğan Group, the largest media group in Turkey, for making news that are critical of the AKP, this has created an example of caution for the rest of the media outlets and 'tamed' other media bosses leading them to adopt a more obedient line.<sup>35</sup>

Doğan Group's 82-year-old boss, Aydın Doğan, suddenly faced with the threat of a case opened against him that accused him of supporting the postmodern coup of 28 February 1997. In 2009, a tax penalty of 4.2 billion TLs was imposed on the Dogan Group, after Erdogan repeatedly criticized them for being biased against the government. Aydın Dogan rejected charges of tax evasion at the time, saying regarding the charges that 'everything has a political basis'.<sup>36</sup> In May 2011, Aydın Doğan sold Milliyet and Vatan dailies to Demirören, a businessman known for his proximity to the AKP government and who was not previously in the media sector. Doğan then left the media sector after selling Hurriyet, Fanatik and Posta newspapers, and giant media channels such as Kanal D and CNN Turk in March 2018 to Demirören.

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<sup>34</sup> "Türkiye'de medyanın yüzde 95'i AKP'nin kontrolünde", MedyaBold, 5 March 2019, <https://medyabold.com/2019/03/05/turkiyede-medyanin-yuzde-95i-akpnin-kontrolunde/>

<sup>35</sup> AKP döneminde Türkiye'de değişen Medya Sermayesi, Hala Gazeteciyiz, 10 May 2018, <https://halagazeteciyiz.net/2018/05/10/akp-doneminde-turkiyede-degis-en-medya-sermayesi/>

<sup>36</sup> FT: Doğan Grubu'nun satılması, Türkiye medyasına büyük bir darbe, T24, 29 April 2018, <https://t24.com.tr/haber/dogan-holdingten-kapa-aciklama,587295>

It became apparent later on that Erdogan called Demiroren after a news piece was published and insulted Demiroren for the content of the news. Demiroren subsequently apologized to Erdogan for the publication and reportedly said, "How did I get involved with this business," and started to cry.<sup>37</sup> After Dogan media group was sold, 21 newspapers out of 29 (except sports gazettes, newspapers on economy and foreign language newspapers) came to have a managerial structure that had a close subordinate relationship with the AKP government. The share of newspapers following the government line in total newspaper circulation exceeds 90 percent.<sup>38</sup>

The handover of Sabah-ATV media group is also an important milestone. In the documents that entered into the corruption investigation, it was revealed that Sabah-ATV, which was put up for sale at the end of 2013, was bought by the businessmen of the AKP, who formed a pool of capital by the instructions of Erdoğan. The media group started to be governed by the instructions of Erdoğan and his son-in-law Berat Albayrak.<sup>39</sup>

### LIFE IMPRISONMENT FOR JOURNALISTS

Journalists are sentenced to imprisonment only for doing journalism in Turkey.

The Istanbul 26th High Criminal Court sentenced journalists Ahmet Altan, Mehmet Altan, Nazlı Ilıcak, Fevzi Yazıcı, Yakup Şimşek and Şükrü Tuğrul Özşengül to life imprisonment. Journalists were convicted for violating the constitution by implying a coup and supporting the coup(the journalists rejected these accusations).<sup>40</sup>

The UN Special Rapporteur on freedom of expression David Kaye and the European Organization for Security and Cooperation Media Freedom Representative Harlem Désir have said in their statement, "These harsh charges are attacks on freedom of expression and media freedom in Turkey. These sentences of imprisonment represent an unprecedented level of suppressing opposition voices in Turkey."<sup>41</sup>

### PANEL OF JUDGES WHO DIDN'T PROSECUTE WERE REPLACED

Hundreds of journalists are being tried and charged with membership in a terrorist organization because they have retweeted and shared social media posts, or because they wrote columns, gave interviews critical of the government, or even because of photographs they have taken. Some of these cases have been concluded and some of the journalists have

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<sup>37</sup> "Erdoğan fırçaladı, Demirören ağladı", Cumhuriyet, 6 March 2014,

[http://www.cumhuriyet.com.tr/haber/turkiye/48011/Erdoğan\\_fircaladi\\_Demiroren\\_agladi.html](http://www.cumhuriyet.com.tr/haber/turkiye/48011/Erdoğan_fircaladi_Demiroren_agladi.html)

<sup>38</sup> "Doğan Medya Grubu Demirören'e satıldı", Euro News, 21 March 2018,

<https://tr.euronews.com/2018/03/21/dogan-medya-grubu-demiroren-e-sat-ld->

<sup>39</sup> 'Havuz' resmen Sabah-ATV'nin sahibi, Sol, 22 February 2014

<http://haber.sol.org.tr/medya/havuz-resmen-sabah-atvnin-sahibi-haberi-88341>

<sup>40</sup> "Altan kardeşler ve Ilıcak'ın cezası onandı!", Habertürk,

<https://www.haberturk.com/son-dakika-altan-kardesler-ve-ilicak-in-cezasi-onandi-2165227>

<sup>41</sup> Türkiye: BM ve AGİT uzmanları gazetecilere müebbet hapis cezası verilmesinin "ifade özgürlüğüne eşit görülmemiş bir saldırı" olduğunu söylüyor, 16 February 2018, UN Turkey,

<http://www.un.org.tr/humanrights/tr/raporlar-ve-aciklamalar>

been convicted. In one case, 29 journalists were tried. The case seen at the 25 th High Criminal Court became the scene of intervention of the government. <sup>42</sup>

At the end of the trial, the trial court decided that 5 of the 21 journalists who were under arrest were to remain under arrest. However, the decision to release the remaining journalists was prevented by the involvement of AKP government officials. Journalists continued to be kept in prison and then they were detained in their wards with a new accusation. A new delegation was appointed to replace the court that released the journalists. The newly appointed delegation has sentenced all journalists with harsh punishments. 19 of the journalists were sentenced to 7 years and 6 months of imprisonment, 14 of them were sentenced to 6 years and 3 months of imprisonment for membership of a terrorist organization, while two journalists were sentenced to 2 to 3 years of imprisonment for aiding a terrorist organization. <sup>43</sup>

In the Turkey report of the International Press Institute (IPI) titled 'Progress Arrested', it was explained that "There is no progress in press freedom after the State of Emergency" . "At the moment, 155 journalists are in prison", the report said. 'Of these, 30 were arrested before, and 125 were arrested after the coup attempt. The sentences of 75 journalists have been determined and 82 cases continue to be seen', it was added. <sup>44</sup>

According to the Reuters Institute for Journalism Studies at Oxford University, Turkey ranks the second highest in distrust in the news among the public. <sup>45</sup>

Freedom House, a US-based think tank, published the 'World Freedoms Report', which shows each country's fundamental freedom levels in 2019. It has been stated that while Turkey falls in the category of countries where the press is 'not free', it was also added that the situation 'has been getting worse' compared to past years. <sup>46</sup>

## DISMISSAL FROM PROFESSION AND ARREST OF ACADEMICS

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<sup>42</sup> "Nisan 1 şakası değil... Hukuk bitti!", TR724, 1 April 2017, <http://www.tr724.com/nisan-1-sakasi-degil-hukuk-bitti-tr724-manset/>

<sup>43</sup> Medya davasında gazetecilere hapis cezası yağdı <https://ahvalnews.com/tr/tutuklu-gazeteciler/medya-davasinda-gazetecilere-hapis-cezasi-yagdi>

<sup>44</sup> "Uluslararası Basın Enstitüsü: Türk medyasının yüzde 95'i iktidar kontrolü altında", Romanya Haber, 12 February 2019, <http://romhaber.com/2019/02/12/uluslararasi-basin-enstitusu-turk-medyasinin-yuzde-95i-iktidar-kontrolu-altinda/>

<sup>45</sup> "Oxford'dan Türkiye raporu: Medyada kutuplaşma ve habere güvensizlik çarpıcı"; Diken, 22.September 2017, <http://www.diken.com.tr/oxforddan-turkiye-raporu-medyada-kutuplasma-ve-haberlere-guvensizlik-dikkat-cekici/>

<sup>46</sup> "Freedom House raporu yayınlandı: Türkiye bu yıl da 'özgür' değil", T24, 6 February 2019, <https://t24.com.tr/haber/freedom-house-raporu-yayinlandi-turkiye-bu-yil-da-ozgur-degil,807228>

During the state of emergency, 15 universities and 1043 schools were closed. 7 thousand 619 academics were expelled from profession and 1400 academics were arrested.<sup>47</sup> The activities of 19 unions, 1700 associations, foundations and non-governmental organizations were halted. 80 thousand teachers' right to teach was suspended. 125 thousand 806 people were expelled from public posts.<sup>48</sup>

To demand an end to the AKP government's counter-terrorism policy in Turkey's eastern and southeastern provinces which resulted in 1000 civilian deaths and human rights violations, some academics prepared a declaration.<sup>49</sup> On January 10, 2016, The Academics for Peace Initiative (BAK) signed the declaration 'We will not be partners in this crime'. The text was signed by 111 academics from Turkey and 372 from abroad, and the declaration was signed by 2212 academicians in total from 483 universities.

#### ACADEMICS FOR PEACE WERE THREATENED AND PUNISHED

The Turkish President Erdogan used these expressions for the academics: 'lowly, despotic, pitch black dark, ignorant, disgusting, traitors against the state, lumpen, tools of the terrorist organization, without morals and filthy spirits'.<sup>50</sup> After President Erdogan's words, the Council of Higher Education (YÖK) took action and the signatories started to be exported from universities. Academics were not targeted by state officials only. Radical AKP supporter and crime organization leader Sedat Peker said regarding the academics, 'We will take a shower with your blood.' The Separate cases were opened against the 499 academics on charges of making propaganda of a terrorist organization. As of 8 May 2019, 191 academics were sentenced to 15 months of imprisonment.<sup>51</sup> This is despite the fact that the ECtHR points out the importance of academic freedoms which include the freedom of academics to express their views on their institutions or the system they work with and the freedom to disseminate information and facts without limitation.<sup>52</sup>

#### ACADEMIC WHO WAS TARGETED AND FIRED COMMITTED SUICIDE

Mehmet Fatih Traş ended his life, one of the signatories of the declaration signed by the Academics for Peace, for being labelled as a terrorist sympathizer on February 25th, 2017, for

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<sup>47</sup> "AKP'nin 20 Temmuz Darbesi ve Bilançosu", Romanya Haber, 10 January 2017, <http://news.romhaber.com/2017/01/10/akpnin-20-temmuz-darbesi-ve-bilancosu/>

<sup>48</sup> 15 Temmuz'dan bugüne kamudan ihraç edilenlerin sayısı, Basın İlan Kurumu, 9 July 2018, <https://www.bik.gov.tr/15-temmuzdan-bugune-kamudan-ihrac-edilenlerin-sayisi/>

<sup>49</sup> Barış İçin Akademisyenler Vakasının Kısa Tarihi, TİHV, 11 January 2019, <http://www.tihvakademi.org/wp-content/uploads/2019/03/Barisicinakademisyenlervakasi.pdf>

<sup>50</sup> "Akademisyenler: En kötü notu vereceğimiz iddianame ile yargılanıyoruz", Evrensel, 5 December 2015, <https://www.evrensel.net/haber/367564/akademisyenler-en-kotu-notu-vercegimiz-iddianame-ile-yargilaniyoruz>

<sup>51</sup> "Barış Akademisyeni Füsün Üstel Cezaevine girdi", Evrensel, 8 May 2019, <https://www.evrensel.net/haber/378998/baris-akademisyeni-fusun-ustel-cezaevine-girdi>

<sup>52</sup> "İfade Özgürlüğü", Anayasa Mahkemesi'ne Bireysel Başvuru El Kitapları Serisi, 2018 [https://www.anayasa.gov.tr/bireyselbasvuru/pdf/Kitaplar/02\\_Ifade\\_ozgurlugu.pdf](https://www.anayasa.gov.tr/bireyselbasvuru/pdf/Kitaplar/02_Ifade_ozgurlugu.pdf)

being dismissed from his job, and the resulting depression. Tras wrote about the injustices he faced in his suicide letter.<sup>53</sup>

#### ARRESTED FOR SAYING 'CHILDREN MUSTN'T DIE', PLACED IN PRISON WITH HER BABY

One of the incidents that best demonstrates the low point of freedom of expression during the AKP government is the detention of the teacher Ayşe Çelik. On January 8, 2016, Ayşe Çelik joined TV show with a phone call and said: 'Are you at all aware of what has been going on in Turkey's southeastern region? Here, unborn children, mothers, people are being killed. As an artist, as a human being you should not stay silent, you must say stop. Shame, people, children mustn't die anymore, so that mothers would stop crying.'<sup>54</sup>

For saying these words, Çelik was sentenced to one year and three months imprisonment, for 'doing propaganda of a terrorist organization.'

Çelik was placed in Diyarbakir E-type prison with her 6-month-old daughter. In order to support Çelik, 38 people who reported themselves to the prosecutor's office saying 'We are all Teacher Ayşe' were also charged with five years of prison sentence for making terrorist propaganda.<sup>55</sup>

Many users of social media accounts expressing similar criticisms were also tried and arrested with similar charges. **During the six-month period after July 15**, 3710 people faced judicial processes because of social media shares. 1656 people were arrested.

**According to 2018 data, the police detained 7 thousand 109 people after investigating 110,000 social media accounts in one year. In 2017**, 39 thousand social media accounts were examined, 3 thousand suspects were arrested by a court and 1400 people were released on condition of judicial control.<sup>56</sup> **2 thousand 754 of them were arrested on the grounds that they shared crime related content.**<sup>57</sup>

#### LAW FOR INSULTING THE PRESIDENT AGAINST FREEDOM OF EXPRESSION

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<sup>53</sup> "İntihar eden akademisyen hukuksuzluğu mektupla anlatmış", Birgün Gazetesi, 26 February 2017, <https://www.birgun.net/haber-detay/intihar-eden-akademisyen-hukuksuzlugu-mektupla-anlatmis-148411.html>

<sup>54</sup> Beyaz Show'a Bağlanan Ayşe Öğretmen Sosyal Medyayı Yıkıtı Geçti: "Doğu'da Olanların Farkında Mısınız?", Mynet, 9 Ocak 2016, <https://www.mynet.com/beyaz-showa-baglanan-ayse-ogretmen-sosyal-medyayi-yikti-gecti-doguda-olanlarin-farkinda-misiniz-190101076685>

<sup>55</sup> "Ayşe Öğretmen'e 1 yıl 3 ay hapis", Hürriyet, 27 April 2017

<http://www.hurriyet.com.tr/gundem/ayse-ogretmene-1-yil-3-ay-hapis-40439571>

<sup>56</sup> "Emniyet bir yılda 39 bin sosyal medya hesabında suç tespit etti", 26 December 2017,

<https://www.politikyol.com/emniyet-bir-yilda-39-bin-sosyal-medya-hesabinda-suc-tespit-etti/>

<sup>57</sup> "Sosyal medyadan suç içerikli paylaşım yapan 2 bin 754 kişi tutuklandı", Sputnik News, 19 December 2018, <https://tr.sputniknews.com/turkiye/201812191036707573-sosyal-medya-tutuklama/>

The offense of insulting the President regulated in Article 299 of the Turkish Penal Code was used as an obstacle to freedom of the press and expression. Only in 2017, 20 thousand 539 investigations were opened and 2099 people were convicted.<sup>58</sup> In particular, after the emergence of 17-25 December corruption investigations, since 2014 13.000 lawsuits has been filed for the offense of insulting Erdoğan.<sup>59</sup> Criticisms of social media users, artists, media workers, cartoonists, university students, trade unionists, minors and ordinary citizens have resulted in them being tried for insulting the President. It is noteworthy that even children ranging from 12 to 15 years of age are being prosecuted for insulting the President because for sharing content on social media.

#### CHILDREN AGED 12-15 TRIED FOR INSULTING THE PRESIDENT

According to the Ministry of Justice, General Directorate of Judicial Register and Statistics, in 2014, 132 people were tried among 299 items, including a minor. In 2015, 1,953 people were tried, including 76 underage children. In 2016, 4,178 people, 148 of whom were underage, were tried. Of the people who were tried in 2016, 54 were from 12 to 15 years of age. In 2017 there was a big leap, and 340 were underage (42 of them were in the 12-15 age range), among 6,033 people who were tried. According to the statistics of the Ministry, the number of convictions increased in the same period. 40 people were convicted of insulting the President in 2014, but 238 people were convicted in 2015. In 2016, this number increased by four times in 884, and in 2017, the number shockingly increased to 2.099 convictions.<sup>60</sup>

Even people who shared the slogan of 'Hirsiz Var' ('There is a Thief'), which does not mention Erdoğan's name, and which came into circulation as a criticism of corruption, were detained and a trial process was started for them on the basis that they committed the crime of insulting the President.<sup>61</sup>

#### RESULT:

More than half of the journalists in the world living behind bars are in Turkey. Turkey is distancing itself from democracy and freedoms every passing day. By controlling the media sector in different ways, Erdoğan conducts psychological operations to twist the perceptions of the general public.

The current regime does not allow freedom of expression and does not let different worldviews to exist.

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<sup>58</sup> "Türkiye: "Cumhurbaşkanına Hakaret" Davalarının Açılmasına Son Verilsin", HRW, 17 Oktober 2018, <https://www.hrw.org/tr/news/2018/10/17/323507>

<sup>59</sup> 'Cumhurbaşkanına hakaret' TCK'den çıkarılmalı, Gazete Duvar, 14 February 2019, <https://www.gazeteduvar.com.tr/gundem/2019/02/14/cumhurbaskanina-hakaret-tckden-cikarilmali/>

<sup>60</sup> "Türkiye: "Cumhurbaşkanına Hakaret" Davalarının Açılmasına Son Verilsin", HRW, 17 Oktober 2018, <https://www.hrw.org/tr/news/2018/10/17/323507>

<sup>61</sup> "İlave TV'ye Cumhurbaşkanına hakaret davası", 16 Punto, 26 April 2019 <https://16punto.com/ilave-tvy-cumhurbaskanina-hakaret-davasi/>

The Turkish government must make sure that the international agreements it signed and accepted, such as the Human Rights Convention, and the European Human Rights Convention it had suspended, and the Turkish Constitution, are in effect again.