



BANNED BOOKS REPORT

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OBJECTIVE

The aim of this study is to address the book bans and blocking access to books that the ruling party has been applying since the 15 July 2016 military coup attempt, in violation of national and universal law, in order to intimidate and silence people and groups that it considers as opponents.

In the report, the activities carried out by the political power throughout the country in violation of the "Freedom of Expression and Thought" guaranteed by the Constitution and the law; The activities of banning, confiscating, prohibiting, printing and distribution of books and preventing the rights of detainees and convicts to access to books, although it is not within the scope of prohibited publication and considering possession as evidence of a crime are examined through selected examples.

The issues mentioned in the report and the selected examples reflect only a small part of the cases of prohibition/restriction of "Freedom to Express and Disseminate Thought" that have occurred throughout the country. However, it can be said that the report reveals important

data in terms of displaying the mental infrastructure of the prohibitions on freedom of expression under the pressure of the political power and the codes of conduct of the current judicial system.

DATA SOURCE AND METHODOLOGY

In the preparation of the report, judicial decisions made by the courts were used, in addition, in the atmosphere of fear created by the political power after July 15, 2016, quotations were made from the news in the local and national press about the efforts of those who had a book with banderol in their homes or workplaces to dispose of their books, magazines, written, visual and similar materials in order not to be accused of terrorism charges. The matters reflected in the court minutes were analyzed chronologically together with the news and comments in the open source report.

INTRODUCTION

The right to freedom of expression and thought is one of the main pillars of democracy and is essential for the

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protection of human dignity. The diversity of knowledge and information resources is a fundamental prerequisite for cultural diversity, creativity, well-being, tolerance and the development of societies around the world. Due to the undesirable effects of books on society, many books have been banned or restricted in the world and in Turkey over the years. (1)

Books and similar publications are prohibited on the basis of discourses that propagate any ideology, incite national or religious sentiments, mislead people, have a polarizing effect on society and pose a danger to national security. At the same time, the books are subject to jurisdiction, are confiscated by court orders, and even culminated in the arrest of their authors. The prohibition, confiscation and destruction of books and similar materials deemed objectionable by the state authorities emerge as an act of dictatorial and oppressive regimes.

Banning books in Turkey have been an activity that usually came to practice with military coups. This activity is not only carried out by the State, but is often carried out by the book owners to protect

themselves. During the military coup period of 12 March, especially during the search of every single house in Istanbul, many books were burned in stoves and basements by their owners, as they could be considered as criminal elements. After the September 12 Military Coup, tens of thousands of books were destroyed by both the state and their owners. The reason for this was a law enacted by the National Security Council during the 12 September period. Destruction of the confiscated books peaked based on the law in question. In the wake of the September 12 military coup, many journalists and writers were prosecuted, and 39 tons of newspapers (2) and magazines were destroyed (3) by the decision of the National Security Council.

After the bribery and corruption investigations dated 17-25 December 2013, the Government intervened directly in the judiciary, beyond dismissing prosecutors and judges, the government has made radical changes in its favor in the criminal procedure system. Basically, the regulations aiming to control measures such as search, wiretapping



and arrest also had consequences that directly affected the freedom of broadcasting. With the recently established Criminal Judgeships of Peace system, the judges appointed to this position in every courthouse have become those who give the decisions of "Denial of Access" and "Answer-Correction (refutation)". With the amendment, the supervisory authority of the Criminal Judges of First Instance, which is the upper court, was abolished and replaced by a system in which the decisions of the Criminal Judges of Peace are also supervised by a Criminal Judge of Peace.

Thus, the relevant provisions of the Turkish Penal Code and the Anti-Terror Law are frequently and arbitrarily used to silence dissident and critical voices and deter other individuals. Between 1959 and 2020, 387 of the 925 decisions made by the ECtHR for violation of Article 10 were filed against Turkey. (4) The vast majority of these ECtHR judgments relate to convictions under the "antiterrorism provisions" of the Turkish Penal Code and the Anti-Terror Law.

In the report "Türkiye'de Can Çekişen İfade Özgürlüğü" (Moribund freedom of expression in Turkey) human rights lawyer Assist. Assoc. Dr. Kerem Altıparmak and Prof. Dr. Yaman Akdeniz explains this situation as follows; "The main themes in the freedom of expression cases brought against Turkey before the ECtHR are terrorism and violence. Indeed, most of the ECtHR judgments are based on making propaganda on behalf of terrorist organizations (under Articles 6 and 7 of the Anti-Terror Law); publishing articles or books that incite hatred or hostility, or glorifying crime or criminals, or disseminating messages to the public (under Article 312 of the former Penal Code and Articles 215 and 216 of the

current Penal Code);

This relates to automatic convictions under Article 6/2 of the Anti-Terrorism Law for publishing the statements of a terrorist organization along with convictions for insulting and publicly defaming the Turkish nation, the Republic of Turkey, the Turkish Grand National Assembly or the spiritual personality of the state, state institutions and the armed forces (Article 159 of the former Penal Code and article 301 of the current Penal Code), regardless of the context or content of the statements in question. The ECtHR is generally of the view that these statements (in articles, books, publications, etc.) do not incite hatred or violence and therefore do not justify the interference with the applicant's freedom of expression."

After the 15 July 2016 coup attempt, the fight against terrorism was cited as the main reason for interfering with freedom of expression. After the election of Recep Tayyip Erdoğan as President in 2014, statements directed towards the President were also added to the category of frequently punished statements. Kerem Altıparmak explains: (5) "Turkey is going through a period in which almost everyone, from dissident academics to parliamentarians, artists, journalists and writers, can be interrogated, arrested and prosecuted on the grounds that they are making terrorist propaganda or being a member of a terrorist organization.

Turkey has been one of the worst performing countries in the world in recent years in terms of freedom of expression and press. This is also reflected in international reports. Reporters Without Borders (RSF) placed Turkey (6) in the 151st place in the press freedom ranking of 180 countries in 2016 and 155th in 2017.



ZAMAN



1. EVENTS BEFORE JULY 15, 2016; SEIZURE OF PRESS AND PUBLISHING ORGANIZATIONS BY THE MEANS OF GOVERNMENT TRUSTEE

1.1. Closing Of 23 Media Companies Associated With The IPEK Group

Within the scope of the operations launched against Koza İpek Holding, to which 23 media companies, including Today Newspaper and Kanaltürk TV are affiliated, the police raided the holding building one after another. The Holding was seized⁷ by the appointment of a trustee on October 26, 2015, by the decision of the Ankara 5th Criminal Court of Peace. (7)

1.2. Seizure of ZAMAN Publishing group

On March 4, 2016, with the decision of the Istanbul 6th Criminal Court of Peace, trustees entered the Zaman Newspaper, which has been operating since 1986,

and took over the management. (8) In the following days, other companies affiliated to Feza Yayıncılık A.Ş., to which Zaman is also affiliated, the administration of Meydan Newspaper, Today's Zaman, Cihan News Agency, Action Magazine, Zaman Book, Cihan Media Distribution, Irmak TV, Radio Cihan, Zaman America, Zaman Azerbaijan, Zaman Austria, Zaman Europe, Zaman Bulgaria, Zaman Kazakhstan, Zaman Romania and Zaman Turkmenistan were also transferred to trustees. (9)

1.3. Seizure of KAYNAK Publishing group

Trustees have been appointed (10) to 19 companies, 1 foundation and 1 association affiliated to Kaynak Holding, one of Turkey's most important publishing groups, with the decision of the Istanbul Anatolian Chief Public Prosecutor's Office, on the grounds that they are part of the "Fethullahist Terrorist organization/Parallel State Structure".



BUGÜN



On November 18, 2015, trustees entered the company's administrative buildings in Üsküdar, Bağcılar and Bayrampaşa in İstanbul, accompanied by the teams of the İstanbul Police Department Anti-Finance Crime Branch. Search and seizure procedures were carried out in company buildings. (11)

7 trustees, who were appointed to replace the managers of the companies, took office."The Report on Freedom of Publishing" of the Turkish Publishers Association dated June 2016 stated the following; "Among the seized companies, there were hundreds of bookstore chains, distribution companies and paper companies, as well as the most important publishing houses, especially in the field of education and exam preparation publishing. The state's seizure of these companies, which are known for their domestic activities, foreign exports and royalty sales, and their contribution to the growth of the publishing industry

and cultural life, has been interpreted (12) as an event that will undermine Turkish publishing. After the trustees took office, the publication of the "Simplified Risale-i Nur" works published by Ufuk Publishing affiliated with Kaynak Holding, was stopped by the order of the trustee, İmran Okumuş, in March 2016, and copies in 148 stores and all warehouses were confiscated. It has been reported in the press¹³ that the decision to confiscate the "Risale-i Nur" was given by AK Party Isparta Deputy Said Yüce and conveyed to the trustee Okumuş. Before the trusteeship, a total of 3,298 different book types belonging to 714 authors were published by the publishing houses of Kaynak Holding. According to the company report dated March 8, 2016, a total of 3,630,737 books belonging to 714 authors and containing religious works, family, children, literature, novels, travel, poetry and biography were destroyed by trustees.

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2. VIOLATIONS OF FREEDOM OF EXPRESSION UNDER THE EVENTS AFTER JULY 15, 2016

"Freedom of Expression" and "Freedom to Express and Disseminate Thought" were severely affected by the unlawfulness that peaked after the military coup attempt of 15 July 2016. Some practices, which were not encountered even during the years of the September 12, 1980 Military Coup, gained a mass character after July 15, 2016 coup attempt. 301,878 books, many of which were legally published and most of them recommended by the Ministry of National Education Board of Education and Discipline, were banned, confiscated and destroyed. (15)

After the state of emergency (OHAL) declared across the country for six months by the Council of Ministers on 20 July 2016, a large number of Decree-Laws (KHK) were issued one after the other based on Article 121 of the Constitution. Until the end of the state of emergency on 18 July 2018, 37 Decree-Laws (KHK) were issued, and a total of 30 publishing houses and 116 media outlets were closed with the decrees. Hundreds of thousands of books published by publishing houses that were closed by decrees were put into "banned" status in a very short period of time. The people who had these publications in their homes were questioned and arrested. One news portal was shut down 62 times. (16)

2.1. PRACTICES AND DISCOURSE ON FREEDOM OF EXPRESSION AFTER JULY 15, 2016

Minister of National Education Ziya Selçuk announced that after the coup attempt of July 15, 301,878 books related to FETO were destroyed that were

among the sources in the directorates of institutions affiliated to the ministry, (17) libraries in schools and libraries.

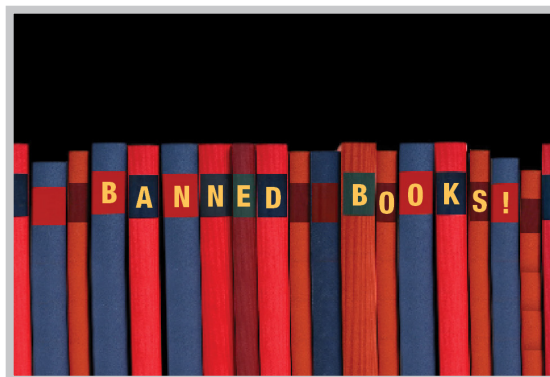
In his statement, on August 4, 2016, President Erdoğan said the following; "He (Fethullah Gülen) was writing so-called books, he had works of art. I instructed the Religious Affairs to have a look at these books. There are expressions in these books that are incompatible with our religion. From now on, make a book called 'FETO's Sin Gallery'". (18)

Celal Büyük, the Deputy Mufti of Erzurum, in his statement made to the press on 6 August 2016 said; "These books belonging to the leader of the FETO organization need to be winnowed out and cleaned so that they do not poison our children further". (19)

The Chairman of the Board of Education and Discipline of the Ministry of National Education, Alpaslan Durmuş, said that whether a subliminal message is given with the words frequently used by terrorist organizations and the publications of people whose connection and affiliation with terrorist organizations have been clearly identified will be determined (20) by the domestic and national software called "intihal.net"

2.2. VIOLATION OF ARTICLE 10 OF THE ECHR AND THE PRESS FREEDOM INDEXIS

Despite the pandemic conditions, the European Court of Human Rights (ECHR) has announced thousands of lawsuits and admissibility decisions regarding rights violation complaints. According to the 2020 balance sheet of the ECtHR, it was announced at a press conference at the Court's headquarters in Strasbourg



that Turkey is once again the European country where freedom of expression is violated the most, and that it ranks second after Russia in case applications made to the ECtHR (21) The ECtHR reported 80 violations of Article 10 of the ECHR on "freedom of expression" across Europe. (22) It has been seen that the most violated article in Turkey cases is the 10th article of the convention Turkey was convicted (23) of violating Article 10 in 31 cases and Russia in 23 cases.

ECHR, in the case of Director Duman vs Turkey (Application no. 15450/03) on 6 October 2015; the applicant was tried and sentenced only for having materials such as books, illegal publications, flags, etc in the party building, because this action was interpreted by the courts as supporting and respecting the illegal organization and its leader, however, the applicant's conduct could not be interpreted as supporting the unlawful acts, as neither the domestic court decisions nor the Government's submissions showed any indication that the materials in question advocated violence, resistance or an insurrection. (See Gerger v. Turkey [GC], no. 24919/94, § 50, 8 July 1999 and to the contrary, Halis Doğan v. Turkey, no. 75946/01, §§ 35 38, 7 February 2006). The domestic courts' reasons for deciding the applicant's conviction and sentence cannot be qualified as appropriate and sufficient to justify the interference with the applicant's freedom of expression. (See, among other judgments, Mouvementraëliensuisse v. Switzerland [GC], no. 16354/06, § 48, ECtHR 2012 (extracts) and Animal Defenders International v. the United Kingdom [GC], no. 48876/08, § 100, ECHR 2013) (quotes)). The Court decided that there had been a violation of Article 10 of the Convention. (24)

This situation is also reflected in international reports. Reporters Without Borders (RSF). In 2021, Turkey ranked (25) 153rd in the press freedom ranking of 180 countries. In Freedom House's 2021 Press Freedom Index, Turkey is included in the "non-free countries (26)" category, ranking 146th out of 195 countries.

2.3. BOOK AS EVIDENCE OF TERROR

Since its entry into force, the Antiterror Law has been the most damaging law to freedom of expression and publication. It has also laid the groundwork for a similar massacre. Especially the vague definition of "terrorism" it contains has always paved the way for arbitrary practices. Article 6/2, which regulates the crime of "printing or publishing the declarations or statements of terrorist organizations", which is directly related to the freedom of publication, and article 7/2, which regulates the crime of "making propaganda for a terrorist organization", lead to many violations with results contrary to the ECtHR case-law.

In a democratic society, the act of "propaganda" does not constitute a crime within the scope of "Freedom of Expression and Dissemination of Thought". In order for an act of propaganda to be considered a crime, the thought must be directed towards an unlawful result in terms of quality/content. However, in the decisions regarding the prohibition of legally printed books hundreds of times, no legal justification has been given other than the abstract statements such as; "It is thought that the terrorist organization leader Fethullah Gülen wrote with the aim to attract sympathy from the public and recruit personnel for the organization."

In the expert examination made

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by Prof. Dr. Çetin Özek on 04.04.2001, regarding some books, including the banned books; "For the characteristics of the Islamic belief to which he belongs and the moral understanding defined around it, to be adopted and to be accepted by the wider masses; in a completely peaceful and conciliatory manner, free from all kinds of conflicts and harshness; respecting and adhering to the truths presented by science; It offers religious and moral views and advice on not only national but also the whole world of humanity to come together on positive themes such as brotherhood, peace, reconciliation, and tolerance. While doing this, he sees it as a necessary condition to act in accordance with the limits of legality and legitimize. With these thoughts, Fethullah Gülen is not talking about "changing the basic order of the state", on the contrary, he is making references to the adoption of the established system and its further improvement and strengthening. It is seen that comments have been made that attribute sanctity to the existence and continuity of the state and want to avoid even the discussions within the framework of the concept of the state. He advises this not only for the Republic of Turkey, of which he is a citizen, but also for readers and those who adopt his thoughts in all countries where his message reaches in a wider geography. Theocracy is not reconciled with the religion of Islam; the absolute necessity of science even for the understanding of religion; that the primary meaning of jihad is spiritual training, not blood and conflict; the forcible propagation of religious beliefs is contrary to the essence of religion; constant repetitions and emphases on the preaching of fraternity, tolerance, reconciliation and peace among all peoples; are the conclusions to be reached when the

author's books are evaluated as a whole. Naturally, there is no obligation to share his thoughts and he is not uncriticised. However, it is not possible for him to be accused of not sharing his thoughts and beliefs.

Each of these publications, which were written by the accused in the light of the above criteria, considering the unity of meaning expressed by its contents, it does not disturb the peace of society, on the contrary, it is an advice inspired by religious values based on tolerance and dialogue. While advising them to fulfill their humanitarian, legal and religious duties both as individuals, as citizens and as believers in these publications, the care for the preservation of social peace has not been neglected. In other words, no statements were made that impair public security, provoke or incite to commit a crime. As a matter of fact, considering all the works that are the subject of the study, it is seen that peace, tolerance, dialogue and reconciliation are constantly inculcated. Again, the views put forward in the works in question are rather moral recommendations for the individual, and no explanation is made regarding the change of the state regime. These moral recommendations, on the other hand, are an activity performed by the accused as a religious official and a writer, and this activity should be accepted within the scope of the freedom of thought and opinion guaranteed in our Constitution."

Contrary to the 2001 report, a report from an expert on why the books were banned and destroyed is not included in the court files on terrorism charges, nor is there any mention of a report in this context in open sources.

2.4. BOOK PROHIBITION

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T.C.
KASTAMONU VALİLİĞİ
İl Emniyet Müdürlüğü

Sayı : 66051088-18625-(12220)-2016/S.N: 06
Konu : Şenol DEMİR
Aramalarda elde edilen kitaplar Hk.

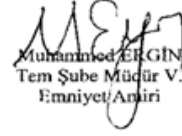
19/09/2016

GÜVENLİK ŞUBE MÜDÜRLÜĞÜNE

İlgi : Kastamonu C.Başsavcılığının 2016/3866 sayılı Soruşturması.

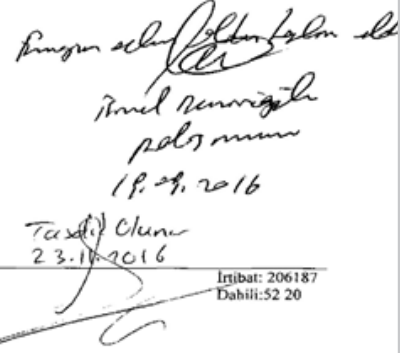
Kastamonu C.Başsavcılığının 2016/3866 sayılı soruşturması kapsamında Kastamonu Sulh Ceza Hakimliği 24/07/2016 tarih ve 2016/968 D.İş sayılı arama ve el koyma, inceleme kararına istinaden şüpheli 44563910888 T.C. nolu Şenol DEMİR' e ait ikametle yapılan arama sonrasında elde edilen ve O.Y.C.I-2014-252033 numaralı ağız kapalı bulgu poşeti içerisinde bulunan kitaplar yazı ekinde gönderilmiş olup, gerekli incelemenin yapılarak yasaklı yayınlardan olup olmadığının rapor halinde tarafımıza bildirilmesini.

Arz ederim.


Muhammed ERGİN
Tem Şube Müdür V.
Emniyet Amirii

EK :

- 1- O.Y.C.I-2014-252033 numaralı ağız kapalı bulgu poşeti (1 adet)
- 2- Teslim ve Tesellüm Tutanağı (1 sayfa)


İsmail Demirgözü
poliz memuru
19.09.2016
Taslatılı Çıkmış
23.10.2016

19/09/2016 Büro Memuru : Cevat TÜRKELİ 8

Emn.Müdürlüğü TEM Şb. Müdürlüğü
TEL:0366 214 246 47 Faks:0366 214 24 64

İrtibat: 206187
Dahili:52 20

IN COURT FILES

After July 15, 2016, the most basic legal principles were ignored and decisions were made against fundamental rights and freedoms by Prosecutor's Offices and Courts. In this context, upon the investigation letter of Bakırköy Public Prosecutor's Office dated 29/07/2016 and numbered 2016/68394, the decision of the Bakırköy 3rd Criminal Court of Peace, dated 29/07/2016 and numbered 2016/3189, printing and distribution books, CDs, DVDs and other electronic materials belonging to Fetullah Gülen and 672 books about Gülen were banned and their sales were banned.

In the decision it was stated; "It has been decided to prohibit printing, distribute and sale of the CD, DVD and other electronic materials in the attached list,

which is thought to have been written by the terrorist organization leader Fetullah Gülen in order to attract sympathy among the people and recruit members to the organization, in accordance with Article 7/2 of the Anti-Terror Law and Article 25/2 of the Press Law No. 5187, and to confiscate the books seized..." However, no concrete justification has been presented to justify its consideration in the decision.

The publication dates of the books that have been banned are before 2010, including those that were published in the 1990s.

The press release of the Istanbul Bakırköy Chief Public Prosecutor's Office and the decision of the Bakırköy 3rd Criminal Court of Peace are as follows.



T.C.
BAKIRKÖY
CUMHURİYET BAŞSAVCILIĞI
(Basın Sözcülüğü & Medya İletişim Bürosu)

Basın No :2016/11

29/07/2016

BASIN AÇIKLAMASI

Cumhuriyet Başsavcılığımızca yürütülen soruşturma kapsamında; 15 Temmuz 2016 günü Türkiye Cumhuriyeti Anayasasının öngördüğü düzeni cebir ve şiddet kullanmak suretiyle ortadan kaldırmaya teşebbüs eden FETÖ/PDY terör örgütü lideri olduğu suçlaması ile hakkında Ankara ve İstanbul Cumhuriyet Başsavcılıkları tarafından soruşturma yürütülen Fethullah Gülen'in halk üzerinde din adamı kisvesi altında sempati toplamak, örgüte eleman kazandırmak amaçları ile yazdığı düşünülen toplam 672 adet kitap, CD, DVD ve diğer elektronik materyallerin 3713 sayılı terörle mücadele yasasının 7/2 maddesinde düzenlenen terör örgütü propagandası yapmak suçunu oluşturabileceği değerlendirilmesi ile 5187 sayılı Basın Kanununun 25/2 maddesi uyarınca basımı ve dağıtımının yasaklanması, satış yasağı konulması, elde edilen kitap, CD, DVD ve diğer elektronik materyallere el konulması yönünde nöbetçi sulh ceza hakimliğinden talepte bulunulmuş;

Bakırköy nöbetçi sulh ceza hakimliğince Cumhuriyet Başsavcılığımızın talebi doğrultusunda Fethullah Gülen tarafından yazılmış kitaplar ile dijital ortamda hazırlanmış CD, DVD ve diğer elektronik materyallerin basımı ve dağıtımının yasaklanması, elde edilen kitap CD, DVD ve diğer dijital materyallere 3713 sayılı terörle mücadele yasasının 7/2, 5187 sayılı Basın Kanununun 25/2 maddeleri uyarınca el konulmasına karar verilmiş,

Söz konusu mahkeme kararı gereğinin ifası için İstanbul Emniyet Müdürlüğüne gönderilmiştir.

Kamuoyuna saygıyla duyurulur.

Mehmet DEMİR
Cumhuriyet Başsavcısı Vekili
Basın Sözcüsü

DAĞITIM:

- Bakırköy CBS Bilgi İşlem Şefliği (web sayfasında yayımlanması için),
- Tüm Haber Ajanslarına ve Tüm Medya Kuruluşlarına(Bilgilendirme amacıyla).

Ayrıntılı bilgi için: Adalet Sarayı 5. Kat No: 538 - 34144 - Bakırköy/İstanbul
Telefon No: 0 212 414 56 61 Birim Faks 0 212 414 56 61
Kurum E-Posta bakirkoycbs@adalet.gov.tr Kurum E-Ağ www.bakirkoy.adalet.gov.tr



T.C.
BAKIRKÖY
3. SULH CEZA HAKİMLİĞİ

DEĞİŞİK İŞ NO : 2016/3189 D.İş

DEĞİŞİK İŞ KARAR

HAKİM : ŞEHSUVAR KOÇAK 37354
KATİP : GÖKHAN AKARSLAN 141422

Bakırköy CBS' nin 29/07/2016 tarih 2016/68394 soruşturma sayılı yazısı ile 15 Temmuz 2016 günü Türkiye Cumhuriyeti Anayasasının öngördüğü düzeni cebir ve şiddet kullanmak suretiyle ortadan kaldırmaya teşebbüs eden ve hakkında İstanbul Cumhuriyet Başsavcılığı ile Ankara Cumhuriyet Başsavcılığı tarafından soruşturma yürütülen FETÖ/PDY terör örgünü lideri Fethullah Gülen'in baki üzerinde sempati toplamak, örgüte eleman kazandırmak amaçlarıyla yazdığı düşünülen ekli listedeki CD, DVD ve Diğer elektronik materyallerin Terörle Mücadele Yasasının 7/2, 5187 Sayılı Basın Yasasının 25/2 maddesi uyarınca BASIM, DAĞITIM ve SATIŞ YASAĞI GETİRİLMESİ, elde edilen kitaplara EL KONULMASINA ilişkin karar verilmesi talep edilmiş olmakla;

GEREĞİ DÜŞÜNÜLDÜ:

3713 sayılı Terörle Mücadele Kanunu'nun 7/2. Maddesinde Terör örgütünün; cebir, şiddet veya tehdit içeren yöntemlerini meşru gösterecek veya övecek ya da bu yöntemlere başvurmayı teşvik edecek şekilde propagandasını yapan kişi, bir yıldan beş yıla kadar hapis cezası ile cezalandırılır. Bu suçun basın ve yayın yolu ile işlenmesi hâlinde, verilecek ceza yarı oranında artırılır. Ayrıca, basın ve yayın organlarının suçun işlenmesine iştirak etmemiş olan yayıncı sorumluları hakkında da bin günden beş bin güne kadar adli para cezasına hükümlenir. Aşağıdaki fiil ve davranışlar da bu fıkra hükümlerine göre cezalandırılacağı belirtilmiş olup, Basın Kanunu'nun 25/2. Maddesinde Soruşturma veya kovuşturmanın bağlatılmış olması şartıyla 25/07/1951 tarihli ve 5816 sayılı Atatürk Aleyhine İşlenen Suçlar Hakkında Kanunda, Anayasanın 174 üncü maddesinde yer alan inkılap kanunlarında, 765 sayılı Türk Ceza Kanununun 146 nci maddesinin ikinci fıkrasında, 153 üncü maddesinin birinci ve dördüncü fıkralarında, 155 inci maddesinde, 311 inci maddesinin birinci ve ikinci fıkralarında, 312 nci maddesinin ikinci ve dördüncü fıkralarında, 312/a maddesinde ve 12/04/1991 tarihli ve 3713 sayılı Terörle Mücadele Kanununun 7 nci maddesinin ikinci ve beşinci fıkralarında öngörülen suçlarla ilgili olarak basılmış eserlerin tamamına hakim kararıyla el konulabileceği belirtilmiştir. 1982 Anayasasının 28. Maddesinde "Devletin iç ve dış güvenliğini, ülkesi ve milletleriyle bölünmez bütünlüğünü tehdit eden veya suç işlemeye ya da ayaklanma veya isyana teşvik eder nitelikte olan veya Devlete ait gizli bilgilere ilişkin bulunan her türlü haber veya yazıyı, yazanlar veya bastırılanlar veya aynı amaçla, basınlar, başkasına verenler, bu suçlara ait kanun hükümleri uyarınca sorumlu olurlar. Tedbir yolu ile dağıtım hakim kararıyla; geçikmesinde sakınca bulunan hallerde de kanunun açıkça yetkili kıldığı mercinin emriyle önlenemez. Dağıtım önleyen yetkili merci, bu kararını en geç yirmidört saat içinde yetkili hakime bildirir. Yetkili hakim bu kararın en geç kırksekiz saat içinde onaylamazsa, dağıtım önleme kararını hükümsüz sayılır." hükmüne dikkate alındığında Bakırköy C. Başsavcılığının Basın, Dağıtım ve Satış yasağı getirilmesi ve elde edilen kitapları el konulması yönündeki talebinin kabulüne dair aşağıdaki şekilde karar verilmiştir.

**HÜKÜM: Yukarıda açıklanan nedenlerle;
Talebin KABULÖNE,**

BANNED BOOKS REPORT

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After this decision, the list of the books that were banned was written in the file named "Confiscation Orders" created by the Security Department of the Turkish National Police on the POLNET system, and the books in this list began to be accepted as evidence of a crime. When the books obtained during the detention processes are not on the list, a new decision is taken and added to the list.


1435 Bkoy Obs Bası 02124145893


T.C. BAKIRKÖY 3. SULH CEZA HÂKİMLİĞİ D. İy. No : 2016/3189 D İs

Ekli Hakimlik mühürü ile onaylı listede belirtilen CD, DVD ve Diğer elektronik materyaller hakkında Terörle Mücadele Yasası'nın 7/2 Basın Yasası'nın 25/2 ve Anayasanın 28. Maddeleri uyarınca Basın, Dağıtım ve Satış yasağı getirilmesine, ele geçirilen CD, DVD ve Diğer elektronik materyallere **EL KONULMASINA,**

Dosyanın gereği için C.Savcılığına **İADESİNE,**

Dair dosya üzerinden yapılan inceleme sonucunda kararın tebliğinden itibaren 5271 sayılı CMK'nun 268. Maddesi uyarınca 7 günlük süre içerisinde hakimliğimize verilecek dilekçe veya zabıt katibine beyanda bulunmak suretiyle 4.Sulh Ceza Hakimliğine itiraz yolu açık olmak üzere karar verildi.29/07/2016

Katip 141422  e-imzalıdır

Hakim 37354  e-imzalıdır

Following these decisions, "possession" of books that were banned from being published and sold were accepted as evidence of "membership in a terrorist organization".

BANNED BOOKS REPORT

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With the Judgment No: 2017/145 and Decision No: 2018/236, Elazığ 2nd High Criminal Court decided to confiscate the books, CDs, and other materials seized in the houses of 19 defendants who were on trial for "membership of an armed terrorist organization" on the grounds that they were criminal evidence.

Emniyet Genel Müdürlüğü Güvenlik Denetim Başkanlığının 1 Ocak 2018 tarihinde Cumhuriyet yasası (toplatma) yayın listesinden 28.05.2020 günü gerekli kontroller yapılmış, haklarında yasaklama ve ekoyma kararı olan kitaplarla ilgili mahkeme ve KHK kararları aşağıda karşlarına yazılmıştır.

S. NO	YAYININ ADI	YAZARI	YAYINEVİ	TOPLATMA KARARI	AD ET	DURUMU
1	SAHİH-İ MÜSLİM TERCÜME VE ŞERHİ (Cilt-1-2-3-4-5-6)	AHMED DAVUTOĞLU	IŞIK YAYINLARI	668 Sayılı KHK ile kapatılan yayinevine ait kitap	6	İMHA

u

[1] R

M

2	GÜLEN HAREKETİNİN ANALİZİ GELECEĞİN MODERN ÇAĞA TANIKLIĞI	M. ENES ERGENE	YENİ AKADEMİK YAYINLARI	668 Sayılı KHK ile kapatılan yayinevine ait kitap	2	İMHA
3	MÜJDELENER KUMUTAN FATİH SULTAN MEHMET	ŞEMSETTİN YAPAN	GONCA YAYINLARI	668 Sayılı KHK ile kapatılan yayinevine ait kitap	1	İMHA
4	SULH PEYGAMBERİ	PEYGAMBER YOLU ARAŞTIRMA HEYETİ	IŞIK YAYINLARI	668 Sayılı KHK ile kapatılan yayinevine ait kitap	1	İMHA
5	MISIRDA ŞAHLANIŞ	ALİ AHMED BAKESİR	KAYNAK YAYINLARI	668 Sayılı KHK ile kapatılan yayinevine ait kitap	1	İMHA
6	HİZMET REHBERİ	ALİ ÜNAL	ŞAHDAMA R YAYINLARI	668 Sayılı KHK ile kapatılan yayinevine ait kitap	1	İMHA
7	EZVAC-I TAHİRAT	SALIHA AKGÖL	GÜL YURDU YAYINLARI	668 Sayılı KHK ile kapatılan yayinevine ait kitap	1	İMHA
8	KOPRUDEN ÖNCE SON ÇIKIŞ	ALİ ÜNAL	UFUK YAYINLARI	668 Sayılı KHK ile kapatılan yayinevine ait kitap	1	İMHA
9	HİCRETE GELİN GİDEN ÖNCÜLER	ZEYNEP KAMEZ KAYA	IŞIK YAYINEVİ	668 Sayılı KHK ile kapatılan yayinevine ait kitap	1	İMHA
10	GÖZÜMÜ HARAMDAN NASIL KORURUM	M. YUSUF GÜVEN	IŞIK YAYINEVİ	668 Sayılı KHK ile kapatılan yayinevine ait kitap	1	İMHA
11	İKİ CİHAN BİR GÜNEŞ	ÖZGEN KESKİN	IŞIK YAYINLARI	668 Sayılı KHK ile kapatılan yayinevine ait kitap	1	İMHA
12	BİR MÜSLÜMANIN YOL HARİTASI	AKADEMİK ARAŞTIRMA HEYETİ	IŞIK YAYINLARI	668 Sayılı KHK ile kapatılan yayinevine ait kitap	1	İMHA

BANNED BOOKS REPORT

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DOSYA NO : 2017/145 Esas
KARAR NO : 2018/236
C.SAVCILIĞI ESAS NO : 2017/538

GEREKÇELİ KARAR T Ü R K M İ L L E T İ A D I N A

BAŞKAN : Suat ALACA 40914
ÜYE : Özcan İNAN 196010
ÜYE : Abdullah BOYRAZ 189665
C. SAVCISI : RESUL NARİN 98118
KATİP : Serpil TUNCEL 60051

DAVACI : K.H.

KADER isimli kitap, ÖRNEKLER KENDİNDEN BİR HAREKET isimli kitap, ÖLÇÜ veya YOLDAKİ IŞIKLAR isimli kitap, İLKİNDİ YAĞMURLARI isimli kitap, CEMRE BEKLENTİSİ isimli kitap, BUHRANLI GÜNLER ve ÜMİT ATLASIMIZ isimli kitap, İRŞAD EKSENİ isimli kitap, KALBİN ZÜMRÜT TEPELERİ isimli kitap, KURANLAR İDRAKE YANSIYANLAR isimli kitap, zaptolunmuştur.

-KIRIK TESTİ 1-2 ibareli; 3-4, 5-6, 7-8, 9-10, 11-12 ibareli 6 adet kitap, PIRLANTA ÖLÇÜLER isimli seri halinde 16 adet kitap, PIRLANTA ÖLÇÜLER isimli 2-3-4 seri halinde 3 adet kitap, NURLARDAN SEÇMELER isimli 1-2-2-3-4 seri halinde 5 adet kitap, GENÇLERLE NUR DERSLERİ isimli kitap, HİDAYET YILDIZLARI isimli kitap, PRATİK İLMİHAL isimli 2 adet kitap, ŞUALAR isimli 2 adet kitap, SÖZLER isimli kitap, BARLA LAHİKASI isimli kitap, NAMAZ TESBİHATI isimli 5 adet kitap, SABAH AKŞAM DUALARI isimli 2 adet kitap, CEVŞEN-İ KEBİR isimli 3 adet kitap, YAKARIŞ isimli kitap, BİR KIRIK DİLEKÇE isimli 2 adet kitap, Diğer zaptolunmuştur.

T.C. ELAZIĞ 2. AĞIR CEZA MAHKEMESİ

Dosya-Karar No: 2017/145 Esas - 2018/236

-ASAYI MUSA isimli 2 adet kitap, LEM? alar isimli kitap, SÖZLER isimli 2 adet kitap, KÜÇÜK SÖZLER isimli 2 adet kitap, MEKTUP isimli kitap, HOCA ANNE VE AİLELERİ isimli kitap, MEKTUBAT isimli kitap, ASAYI MUSA isimli kitap, LEM? ALAR isimli kitap, UHUVED RİSALESİ isimli kitap, SEYDA isimli kitap, NAMAZ AŞIKLARI isimli 3 adet kitap, KÜÇÜK SÖZLER isimli kitap, EFENDİMİZİN RAMAZANI isimli kitap, TARİHÇE-İ HAYAT isimli kitap, İBRET LİK HATİRALAR isimli kitap, RIZAYU?S SALİHİN isimli kitap, İÇ DERİNLİKLERİ İLE HİZMET İNSANI isimli kitap, 6 adet SIZINTI dergisi, AK KÜHEYLAN VE ALAATTİNİN LAMBASI isimli kitap, GÜNE BAKAN ÇİÇEKLERİ isimli kitap, YAVUZ SULTAN SELİM isimli kitap, NURLARDAN SEÇMELER İSİMLİ 6 adet kitap, ALTIN NESİL isimli 3 adet kitap, LEMALAR isimli kitabın TCK'nun 54 maddesi uyarınca Müsaderesine

Written and digital materials found in the residence and workplace searches made on the grounds of "terrorism" investigation after 15 July 2016 were confiscated by law enforcement units. Legally published books and similar materials that do not constitute a crime were recorded in the report as evidence of a crime and sent to the relevant units.

BANNED BOOKS REPORT

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T.C
KAYSERİ VALİLİĞİ
İl Emniyet Müdürlüğü

Sayı : 33265687-19011.(63044)1755
Konu: Basın, Dağıtım Ve Satış Yasağı,

09/11/2016

KAYSERİ CUMHURİYET BAŞSAVCILIĞINA

İlgi :a)Bakırköy 4. Sulh Ceza Hakimliğinin 28/07/2016 tarih ve 2016/3610 D. İş No'lu Kararı.
b) 03.10.2016 tarih ve 33265687- 19029- (12220)-2016/Suç No:60 sayılı yazısı.

İlgi (a) sayılı kararda, FETÖ/PDY terör örgütü lideri M.Fethullah GÜLEN'in halk üzerinde sempati toplamak, örgüte eleman kazandırmak amaçlarıyla yazdığı düşüncülen tüm yayınlar hakkında Terörle Mücadele Yasası' nın 7/2 Basın Yasası' nın 25/2 ve Anayasanın 28. Maddeleri uyarınca **basın, dağıtım ve satış yasağı getirilmesine, ele geçirilen kitap ve elektronik materyallere el konulmasına** karar verilmiştir.

İlgi (b) yazıda Kayseri Cumhuriyet Başsavcılığınca (Anayasal Düzene karşı İşlenen Suçlar Bürosu) yürütülmekte olan bir soruşturma kapsamında; Kayseri Terörle Mücadele Şube Müdürlüğünce FETÖ/PDY soruşturmasının yakalanan elde edilen yayınların tetkikinin yapılarak yasak yayınlardan olup olmadığının tespit edilmesi istenilmiştir.

Konu ile ilgili olarak 08.11.2016 günü saat 10.00 sıralarında Güvenlik Dairesi Başkanlığı'nın polnet-4 sayfasında bulunan **Toplatma Kararları isimli/klasörden** yapılan sorgulamada;

FETÖ/PDY Terör örgütü lideri M. Fethullah GÜLEN'in yazarı olduğu kitaplar.

- 1- Anne ve Baba "Yayınevi Işık Yayınları."
- 2- Hazreti Muhammed "Yayınevi Nil A.Ş."
- 3- Sabah Akşam Zikirleri "Yayınevi Define Yayınları."
- 4- Kur'an-ı Hakim'e yaklaşımı "Yayınevi Nil A.Ş."
- 5- Ufuk Turu "Yayınevi Mega Basın Yayın tarafından basılan kitaplar hakkında;

Yasaklama ve toplatma kararı olmadığı tespit edilmiştir.

Bahse konu kitaplar Terörle Mücadele Şube Müdürlüğü tarafından Kayseri Cumhuriyet Başsavcılığının 2016/37791 nolu soruşturma sayılı dosyası delil olarak gönderildiğinden fiziki olarak gönderilememiştir.

İlgi (a) sayılı yazıda, FETÖ/PDY terör örgütü lideri Fethullah GÜLEN'e ait kitaplara Bakırköy 4. Sulh Ceza Hakimliğince "Basım, Dağıtım ve Satış Yasağı Getirilmesi ve Ele Geçirilen Kitaplara El Konulması" kararı verildiği tespit edilmiştir.

BANNED BOOKS REPORT

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**T.C.
İSTANBUL
CUMHURİYET BAŞSAVCILIĞI
Terör ve Örgütlü Suçlar Soruşturma Bürosu**

Soruşturma No : 2016/125152
Konu : Arama, El Koyma ve İnceleme Talebi

İSTANBUL NÖBETÇİ SULH CEZA HAKİMLİĞİNE

Cumhuriyet Başsavcılığımızca FETÖ/PDY Silahlı Terör Örgütüne Üye Olmak suçundan yürütülmekte olan adli soruşturmaya esas olmak üzere;

30.07.2016 tarihinde saat 10:15 sularında yapılan ibbara göre, Eserkent Mah. Gülner Sk. ta FETÖ/PDY Silahlı Terör Örgütü sözde liderinin yazını olduğu kitapların bulunduğu, CD, DVD ve sair delil ve materyallere CMK'nın 123 ve devamı maddeleri ile Adli ve Önlleme Aramaları Yönetmeliğinin 10. maddesi uyarınca ispat aracı olarak yurarı görülmesi ve esya müsaderesinin konusuna teşkil edebilecek durumda olması halinde **EL KONULMASINA**,

El konulan suç esyası, delil ve materyaller üzerinde, başka suretle delil elde etme imkanının bulunmaması nedeni ile Kriminal Polis Laboratuvarında, Siber Suçlarla Mücadele Şube Müdürlüğünde, Adli Tıp Kurumunda veya inceleme hususunda uzmanlığı yetkili makamlarca belirlenmiş kurum veya kişiler tarafından, bilgisayar ve bilgisayar kütüklerindeki bütün verilerin yedeklenmesi yapılarak, şüphelinin ve aynı çatı altında yaşayanların kullandığı bilgisayar, bilgisayar programları ile bilgisayar kütüklerinde, hard disk, cep telefonu, hafıza kartı, flash disk, sim kart ve benzer veri depolamaya yarayan bilişim araçlarında arama yapılmasına, bilgisayar kayıtlarından kopya çıkartılmasına, bu kayıtların çözülerek metin haline getirilmesine, gerektiğinde bilgisayar, bilgisayar programları ve bilgisayar kütüklerine şifrenin çözülmemesinden dolayı girilememesi veya gizlenmiş bilgilere ulaşılmasının halinde çözümün yapılabilmesi ve gerekli kopyaların alınabilmesine, belge ve kağıtlar üzerinde **İNCELEMELER YAPILMASINA** karar verilmesi CMK'nın 67. ve devamı maddeleri, 122. maddesi ile 134. ve devamı maddeleri uyarınca kamu adına talep olunur. **09/03/2018**

OSMAN SAĞLAM 125950
İstanbul Cumhuriyet Savcısı
 e-izim

With the effect of the atmosphere of fear created by the political power after the "witch hunt" started after the 17 December 2013 Corruption and Bribery operations and the 15 July 2016 coup attempt, people wanted get rid of legally printed books and all kinds of publications belonging to banned publishing houses, in their homes or work-places in order not to be considered a "terrorist organization member". However, even these efforts have resulted in criminal prosecution. As can be seen in the decision of the Prosecutor's Office below, the trashed books became the subject of "denunciation", and the "criminals" were reached by fingerprinting from the books. A lawsuit was filed against people whose fingerprints were found on the books, on charges of membership in a terrorist organization.



3. BOOK BAN/DISPOSAL IN THE PRESS

Many decisions of the Judiciary, which was reshaped by the intervention of the political power on 17 December 2013 and afterwards, violated the freedom of expression and dissemination; It has led to lawsuits and penalties for membership of a terrorist organization against people who have Gülen's books at home, at work or even in their car. Citizens who wanted to get rid of books and other materials that were later included in the scope of "banned books" became victims of the government with its indoctrination, encouragement, and support, which demonized their political opponents in the eyes of the public. Below are examples compiled from the news in the press. From the contents of the news, it is seen that the possession of a book is accepted as evidence of the accusation of a terrorist organization, and people are accused and exposed by ignoring the presumption of innocence.

Takvim; "Caught and arrested for taking Gülen's books out of his house"

"Yılmaz Yazgeldi, 60, who was caught removing Fethullah Gülen's books from his house in Düzce to destroy them, was arrested by the court he was brought to. A person, who saw Yılmaz Yazgeldi while taking out the books from his house in boxes and sacks and put them in his car, informed the police. In the examination carried out by the incoming police teams, it was determined that the books belonged to Fethullah Gülen, the leader of the Fethullahist Terrorist Organization/ Parallel State Structure. While Yazgeldi was taken into custody, 1 bag, 1 parcel and 2 sacks of books and nearly 100 CDs were confiscated. It was determined that some of the CDs contained Gülen's sermons. Yazgeldi, who said that he took out the books to destroy, was sent to the courthouse after the procedures at the police station and was arrested by the court he was brought to." (21.07.2016) (27)

BANNED BOOKS REPORT

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TRT NEWS; "FETO BOOKS FOUND IN GARBAGE IN ADIYAMAN"

"A large number of books, CDs and newspapers belonging to the Fetullahist Terrorist Organization/Parallel State Structure (FETÖ/PDY) were found in a garbage container in Adiyaman." (26.08.2016) (28)



OMEDYAM; "MANY BOOKS BELONGING TO FETO WERE SEIZED"

"Many books belonging to FETO were seized. Within the scope of the ongoing investigation into the coup attempt, 9 people were detained in the operations carried out in the dormitories determined to be affiliated with FETO in the towns of Gelendost and Keçiborlu, and hundreds of books belonging to the leader of the terrorist organization were seized."(26.07.2016) (29)



OMEDYAM; GULEN'S CDS AND BOOKS SEIZED UNDER THE BRIDGE

Evaluating a report received by Keskin District Gendarmerie Command, Provincial Gendarmerie Command teams searched under the bridge of Yenialibudak village. In the search they made in line with the instructions of the public prosecutor, the teams found 400 books, 80 CDs, 5 cassettes and 20 pocket cevsens belonging to FETO leader Gülen, which were thrown under the bridge. While the investigation initiated by the security teams continues, it is evaluated that the seized books, CDs and cassettes were used in the training of the members of the organization in the dormitories and associations of the organization. (13.08.2016) (30)



İLERİ NEWS; AZERI POLITICIAN WHO HAS FETULLAH GÜLEN'S BOOKS IN HIS HOUSE HAS BEEN ARRESTED

Faig Amirov, one of the leading figures of the Azerbaijan Popular Front, was sentenced to prison on the grounds of Fethullah Gülen's books found in his car. (22.08.2016) (31)



TRT NEWS; FINGERPRINTS OF POLICE FOUND IN FETO BOOKS

A police officer and a logistics company employee, whose fingerprints were found in the examination of the books belonging to FETO, thrown on the land in Samsun, were detained.(23.09.2016) (32)



KARS MANŞET; FETÖ'S WAREHOUSE WAS TOUCHED OFF!

In the investigation carried out under the coordination of Kars/Kağızman Public Prosecutor's Office, it was determined that the organizational documents of FETO members were kept in a warehouse. In the search carried out in the warehouse, approximately 10 thousand books, including books belonging to FETO ringleader Gülen, one dollar bill stored in a steel safe, many computers, CDs and organizational documents were found. The confiscated books and documents were taken to the police department for examination. (17.11.2016) (33)



CUMHURİYET; A UNIVERSITY STUDENT WHOSE FINGERPRINTS WERE FOUND IN THE FETO BOOK WAS TAKEN INTO CUSTODY

A university student, who allegedly had fingerprints on FETO's books that were thrown in the trash in Samsun, was detained by the police. According to the information obtained, the citizens, who noticed that the books belonging to FETO were thrown into the garbage container, informed the police. Samsun Police Department Crime Scene Investigation Branch determined that the fingerprint obtained as a result of the fingerprint study they carried out on the book in the trash belonged to a 22-year-old university student named AEA. She was caught and detained by Samsun Police Department Anti-Terrorism Branch (TEM) teams.(11.07.2017) (34)



YENİ DÜZEN; ARRESTED FOR FETHULLAH GÜLEN'S BOOK

He was arrested because of Fethullah Gülen's book. A.A got into trouble because of the 5 volumes of "Sonsuz Nur" book written by Fethullah Gülen. AA forgot to take them when moving out of the rental house in Yeni Boğaziçi village. (09.09.2017) (35)



ANTALYA HÜRSES; FETO BOOKS IN THE FOREST

FETO Books in the Forest. Alanya Police Department Anti-Smuggling and Organized Crime teams started a study on the information that there are books, CDs, cassettes and newspapers belonging to the leader of FETÖ/PDY in the forest area in Taşatan. During the search in the region, many books, CDs, cassettes and newspapers belonging to the organization were found in the forest area. The collected documents were taken to the police station.(26.09.2017) (36)



BİLECİK NEWS; FETO BOOKS SEIZED

In Bilecik, Gendarmerie teams seized 70 books belonging to FETO in two sacks on an empty field.(26.12.2017) (37)



HABERLER.COM; BOOKS AND CDS BELONGING TO THE RINGLEADER OF FETO IN BALIKESIR WERE FOUND IN THE SEA

According to the statement made by the governor's office, S.E, who was fishing off Marmara Island, noticed that a big black bag was caught in his net while fishing shrimp. Seeing that there were books and CDs belonging to Fetullah Gülen in the bag, S.E reported the situation to the police. Police teams, who detected 93 books, 12 CDs and 2 cassettes, most of which belonged to Gülen, started a search to identify the person or persons who threw these materials into the sea.(26.02.2019) (38)



MILLİYET; FOUND IN THE HAYLOFT!

Banned books and organizational documents belonging to the Fetullah Terrorist Organization (FETO) were seized in a village in the Tavsanlı district of Kütahya. (10.10.2019) (39)

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BURSA HAKİMİYET; HE WAS CAUGHT WITH THE WATCH SIGNED BY FETÖ LEADER GÜLEN!

Operation against FETÖ/PDY in Mersin. A watch signed by FETÖ leader Fethullah Gülen, 51 banned publications, digital materials and notebooks in which some notes were written were seized in the suspect's home.(15.06.2020) (40)



ESKISEHIR EXPRESS; FINGERPRINT OF FETO SUSPECT LAWYER DETECTED IN ESKISEHIR

It was determined that İbrahim Temur, the lawyer of Orhan Karakuş, who was tried on the grounds that he was a member of FETÖ/PDY, was also sentenced for the same crime, and his file is at the Supreme Court. The court board banned the lawyer from acting as a defendant's lawyer for a period of one year. It was determined that Karakuş's fingerprints were also found in the book of Fetullah Gülen, the leader of the organization, who was seized in the basement of Eskişehir Odunpazarı. (07.12.2020) (41)

The events mentioned above are just a few of the examples, and the books in question are the ones that were printed and offered for sale with the permission of the relevant state institutions long before the 15th of July. The books and other publications are those purchased within the scope of the right to freedom of

information, which is guaranteed by the Constitution and International Conventions. Until a short time ago, these publications were advertised, promoted and even praised in pro-political newspapers. 64 books signed by Fetullah Gülen were found in the library of the Turkish Grand National Assembly. (42)



4. BOOK BANS AND OBSTRUCTIONS IN PRISONS

Letters and lawyers' statements about book restrictions, confiscation and return practices from many prisons in Turkey were reflected in the press, reports of the Human Rights Association and the Civil Society Association in the Penal Execution System. It has been brought forward that although there is no ban on them, some books were not taken inside by the prison administrations, and that the demands of the detainees and convicts for these books were rejected without giving any reason.(43)

The letter of the Ministry of Justice, dated 25 November 2016 and numbered 66708689-204.08.00-E.3260/135460, sent to all prisons, is used to prevent the admission of books into prisons. In the content of the letter; " only educational publications can be delivered to detainees and convicts, the content of all foreign language publications will be inspected and delivered if appropriate, written legislation such as the Constitution, TCK, CMK or the legislation that can be printed

out from the computer environment such as books that are not in the institution's library and the OHAL decree can be delivered through the Penitentiary Institution, provided that the fees are paid from the depository money account of the convicts and detainees." With the broad interpretation of this instruction by some prisons, the restriction of access to the book began to be used as a sanction.

Some examples of the cases reflected in the press and reports about book bans;

In Silivri Prison;

■ "The Time of the Kurds in Rojava (Rojava Kürtlerin Zamanı)" by Fehim Taştekin and "The Enemy on the Bridge (Köprüdeki Düşman)" by Murat Türk. (44),

■ Dan Brown's best-selling book "The Da Vinci Code." (As a result of Silivri Prison confusing the publisher "Golden Books" with the "Golden Generation" associated with FETO) (45),

■ Books sent to CHP PM member, former Istanbul Deputy Eren Erdem in Silivri Prison for his defense (46),



In Diyarbakır D Type Prison;

■ "I Was Gonna Tell You That Too (Ben de Sana Onu Söyleyecektim)" and "German Ideology (Alman İdeolojisi)" books (47)

■ The story book "Seher", which is on the bestseller list, written by HDP Chairman Selahattin Demirtaş. This book was brought to Diyarbakır Prison by a transferred prisoner. (48),

■ The books named; "Karanlık Çökerken (As Darkness Comes)", "Umutsuzluğa Karşı İyimserlik (Optimism Against Despair)", "İktidar Seçkinleri (Power Elites)", "Robinson Crusoe", "The Little Prince", "Ali baba ve Kırk Haramiler (Ali Baba and the Forty Thieves)", "Peter Pan", "Tom Sawyer" and "kanatların Gölgesinde (In the Shadow of the Wings)", and "Şengal Dile Gelirse" (If Shengal Comes to Language) (49),

In Tekirdağ T Type Closed Prison;

■ Prof. Dr. Arman Kırım's "Mor İneğin Akıllısı" (Wise of the Purple Cow), Honore de Balzac's world classic "Goriot Baba", Hans Magnus Enzensberger's "Havana Trial", Manuel Tiago's "Tomorrow is Ours, Comrades", John Steinbeck's "Martin Eden", Nadiye Çobanoğlu's "Guerrilla Tanya", Che Guevara's "War Memoirs", Ernst Peter Fischer's "Leipzig Trial" and Fyodor Gladkov's "Cement" and other confiscated books. (50),

In Tekirdağ No. 2 F Type Prison;

■ Books sent from abroad (with the request to be purchased by paying money, through the prison administration) (51)

In Antalya L Type Prison;

■ Books brought by relatives for detainees (52),

■ "Umuda Bir Ülke" (A Country of Hope) and "Mavi Ülke" (Blue Country) books written by the author Firat Can in prison (53),

In Bafra T Type Closed Execution

Institution;

■ Adil Okay's book "Arkası Yarın" (Cliffhanger) sent to the author Haydar Demir (54),

In Siverek Prison;

■ "Turkish dictionary", "Les Miserables" by Victor Hugo and "Ottoman History" books that the transferred prisoner brought with him. (55),

In Elazığ Prison;

■ German and English books sent to the imprisoned German researcher who does not speak Turkish (56),

In Van High Security Prison;

■ The book named "Diren Sol Yanım" (on the grounds that it was written in a socialist literary style) (57),

In Kırkkale F Type Prison;

■ Books and magazines brought by family, lawyers and visitors (58),

In Tokat T Type Prison;

■ Books and magazines, Kurdish-Turkish dictionaries brought by the families, sent by mail, transported prisoners (59),

In Düzce Prison;

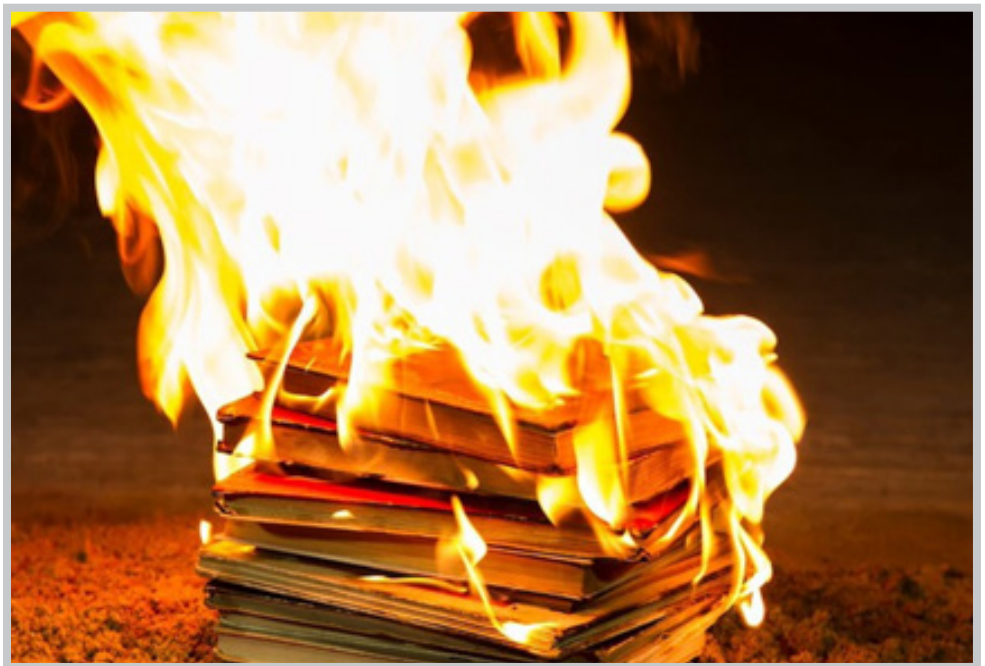
■ Dissenting books and publications and all books that do not bear the "seen" stamp of another prison (60),

In Denizli T Type Prison;

■ The "Prisoner Rights Handbook" prepared by the Civil Society Association in the Penal Execution System with the contributions of the Human Rights Equality Institution of Turkey and the European Union, which explains the rights of prisoners and what they should do in case of violation. (61),

Kocaeli T Tipi Cezaevi'nde;

■ The prayer book and vocational textbook brought to the person named A.C. (62), As it can be understood from the news reflected in the media, prison administrations impose bans on books for various reasons.



5. LEGAL STATUS

According to the Article 15 of the Turkish Constitution; the suspension of five rights in the form of the right to life, the prohibition of torture and ill-treatment, the principle of not forcing the expression of religion, conscience, thoughts and convictions and not being condemned, the principle of non-retroactivity of crimes and punishments and the presumption of innocence is prohibited. According to the provisions of the article, even in cases of war, mobilization, martial law or emergency, a person cannot be compelled to express his thoughts and opinions and cannot be accused of them.

Article 25 of the Constitution titled "Freedom of thought and opinion" does not include any reason for restriction in terms of freedom of opinion. Therefore, it cannot be limited due to a special limitation.

Although it is possible to suspend

obligations in terms of some rights in emergency administrative procedures, it is possible to take such a step "to the extent strictly required by the exigencies of the situation" according to Article 15 of the ECHR.

According to Article 30 of the Constitution titled Protection of Media Tools; (Amended: 7/5/2004-5170/4 art.); "The printing house and its annexes and press tools established as a press business in accordance with the law cannot be seized, confiscated or prevented from being operated on the grounds that they are tools of crime." According to Article 31, which regulates the right to benefit from nonpress mass media in the hands of public legal entities; "Individuals and political parties have the right to benefit from non-press mass media and broadcasting tools owned by public legal entities. The conditions and procedures of this benefit are



regulated by law. (Amended: 3/10/2001-4709/11 art.) The law cannot impose any restrictions that prevent the public from receiving news, reaching thoughts and opinions, and freely forming public opinion, except for reasons of national security, public order, public morality and protection of health."

In violations of freedom of expression and dissemination and freedom of the press, the examination of certain expressions by the judicial authorities by taking them out of context may lead to erroneous results in the application of the principles in Articles 13, 26 and 28 of the Constitution and in making an acceptable assessment of the findings. In this framework, the fact that a statement of opinion poses a danger to "national security" when taken out of the context in which it was expressed does not by itself justify an intervention in this expression. In the settled case-laws of the ECtHR; the court always emphasized that it would be appropriate to consider the terms used in the words and statements and the context in which they were written, in order to determine whether the words or texts related to the statements of opinion, when taken as a whole, encourage violence. (Özgür Gündem/Türkiye, B. No: 23144/93, 16/3/2000 P 63; Süre/Türkiye, B. No: 24762/94, 8/7/1999 P 12, 58) (63)

One of the factors that ensure the proper administration of justice is that courts and tribunals give sufficient justification for their decisions. In the justification of Article 141 of the Constitution, "it is important to specify the basis of the decision clearly enough to ensure the control of fairness". Another basis of the obligation to make a reasoned decision is that it

is important for the parties to know whether the claims have been examined in accordance with the rules in terms of ensuring the trust in the Courts.

The scope of the duty to give justifications varies according to the nature of the decision, and the scope of this duty can be determined by evaluating the circumstances of the concrete case. The third paragraph of Article 141 of the Constitution obliges the courts to give justifications for their decisions. (64)

In the Salihoğlu/Türkiye65(Application no: 1606/03) case where; as a result of the search made in the building of the association by the law enforcement officers affiliated to the Muş Police Department, regarding the weekly newspaper called "Yedinci Gündem" dated 15 - 21 September 2001 and the newspaper supplement dated 29 September - 5 October 2001, the seizure orders of the Istanbul State Security Court dated 16 September 2001 and 29 September 2001, fine the applicant for possession of prohibited publications and sentence the applicant to three months' imprisonment, ECtHR argued that his freedom of information, which is guaranteed by the Constitution and the ECHR, had been violated. In the circumstances of the present case, the ECtHR found that the applicant failed to foresee to a "reasonable extent" that possession of controversial publications could lead to a penalty under Article 526 of the former Turkish Penal Code, that in these circumstances the requirement of foreseeability was not complied with and, as a result, it concluded that the interference was not prescribed by "law" and held that there had been a violation of Article 10 of the ECHR.



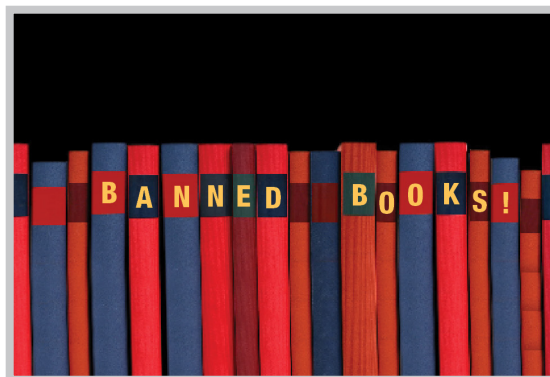
While the ECtHR is auditing allegations of violation of freedom of expression, it wants to investigate whether the statements of expression incite violence or rebellion or whether there is any hate speech. Again, when evaluating expression explanations, the circumstances should be taken into account. (See *Süreç-Türkiye* (66), *Gerger-Türkiye* (67) judgments).

Regarding the individual application (Application No: 2013/409) filed on the grounds that Articles 25, 26, 90 and 141 of the Constitution were violated to the Constitutional Court by Abdullah Öcalan; As a result of the Court's decision to confiscate his book in print and the rejection of his objection to this decision; In the decision of the Constitutional Court on 25/06/2014, it was decided that the applicant's freedom of expression and dissemination of thought, which is guaranteed in Articles 26 and 28 of the Constitution, and the freedom of the press were violated. (68)

In the reasoning of the relevant

decision; "It is clear that there was an interference with the applicant's freedom of expression and dissemination due to the confiscation and destruction of the book in question. On the other hand, the freedom of the press to be able to publish news, thoughts and information freely and without prior control is an integral part of the freedom of the press, as well as the free distribution of printed works.

For this reason, an interference was made with the prohibition of the distribution of the printed work and its confiscation, as well as the freedom of expression and dissemination of thought, and within this scope, the freedom of the press. When the book is examined as a whole; According to the conceptualization of the applicant, it was not evaluated as inciting and encouraging people to adopt terrorist methods, in other words to use violence, to hate, to take revenge or to armed resistance, or to praise violence. On the contrary, in an environment where there have been no armed conflicts with the security forces for a while, the



applicant analyzes the Kurdish issue from his own perspective; demands an end to the armed conflict and an agreement on a democratic solution.

It should be noted that the authorities exercising public authority have a very narrow margin of appreciation in limiting political statements of public interest or discussions on social problems, such as the issues raised by the applicant in the book. Unpleasant thoughts for public authorities or a segment of society cannot be limited unless they incite violence, justify acts of terrorism and support the generation of hatred (see P 105).

For this reason, it was concluded that the reasons cited for the confiscation of the book subject to the application were the applicant's freedom of expression and dissemination, and in this context, the interference with the freedom of the press was not necessary and proportionate in a democratic society. Considering the above issues, it has been concluded that the collection of the books in question and the destruction of some of the collected books without following the procedure prescribed by the law, based on the seizure decision as a protective measure, is disproportionate in terms of the intended objectives, and in this context, it is not necessary in a democratic society and is not in accordance with the principle of proportionality.

"For these reasons, it must be decided that the applicant's freedom of expression and dissemination, which is guaranteed in Articles 26 and 28 of the Constitution, and freedom of the press have been violated." The

expressions in the form show that, in the occurrence of the sequential actions that are the subject of the report, all of the legal criteria taken as a basis by the Constitutional Court, the highest authority of domestic law, were ignored, leading to a series of violations.

6. CONCLUSION

Ideas and thoughts cannot be limited as long as they do not promote violence, justify acts of terrorism and support the formation of hatred. Banned publications, which are the subject of the report, fall within the scope of freedom of expression and dissemination, which is a constitutional right.

All of the banned publications have religious, social, historical and cultural content and do not constitute incitement and/or encouragement to coercion and violence. For this reason, there is no doubt that there is an interference with the freedom of expression and dissemination of thought, since the reason for banning the publications in question is clearly unlawful.

The crisis of freedom of expression has now become directly related to the constitutional crisis that started with the rule of law crisis in Turkey and the non-implementation of the recent Constitutional Court decisions. Therefore, it must be accepted that the solution to the problem is to return to the rule of law as soon as possible.

Accepting the possession and reading of books that do not encourage coercion and violence as evidence of membership in a terrorist organization the practice of punishing individuals for this reason should be stopped immediately.

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