

# JOURNALISM

# IS NOT A CRIME

Crackdown on media freedom in Turkey

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Freedom of expression in Turkey is under sustained and increasing attack. Since the failed coup attempt in July 2016, academics, journalists and writers who criticize the government risk criminal investigation and prosecution, intimidation, harassment and censorship. The severity of the Turkish government's repression of the media is such that it has been described by some as the "death of journalism".

At least 156 media outlets have been shut down by executive decree since July 2016. According to the Union of Journalists in Turkey (TGS), an estimated 2,500 journalists and other media workers have lost their jobs as a result. In addition, the Directorate General of Press and Information has revoked the press credentials of 778 journalists.

Vague anti-terrorism laws, such as those prohibiting making propaganda for and membership of a terrorist organization, are being used to prosecute journalists and media workers. These laws have long been used to unfairly prosecute conduct, including journalism, that is protected by the right to freedom of expression. All dissenting sections of the media have been targeted, including those focusing on the Kurdish issue; those accused of supporting the exiled cleric Fethullah Gülen, a former government ally and leader of what the authorities have called the "FETÖ" network, blamed by the government for the 2016 coup attempt; and the secular media.

More than 120 journalists and other media workers have been detained, some for up to nine months without trial. In 2016, the Committee to Protect Journalists described Turkey as the biggest jailer of journalists in the world.

Yet despite clear evidence to the contrary, the government continues to claim that there are no journalists in prison in Turkey for their journalistic work.

***"We asked for the list...It's very interesting. There is everyone on that list, from murderers to thieves, from child abusers to con men. The only people missing from the list are journalists."***

*President Erdoğan, speaking to members of the Anatolia Publishers Association about imprisoned journalists, 22 March 2017*

As the cases highlighted in this briefing show, such claims do not stand up to scrutiny.

Amnesty International believes that the routine and lengthy pre-trial detention of journalists and other media workers in Turkey is tantamount to punishment without conviction. It calls for their release and for charges against them to be dropped unless there is clear evidence that an internationally recognizable crime has been committed.

This clampdown on the media is taking place in the context of a purge of government critics from the public sector, credible allegations of torture and other

ill-treatment in police detention, and a significant rise in political tensions.

The cumulative effect of these actions has been to shrink the space for dissent dramatically and to intensify self-censorship in the increasingly compliant mainstream media.

## BACKGROUND

On 15 July 2016, a group within the Turkish military attempted to overthrow the government. The violent failed coup left more than 240 people dead. The night's events were broadcast live to millions in Turkey and around the world.

These images were a powerful reminder for many of a successful military coup in September 1980. That coup was followed by a long period of intense repression: mass imprisonment of dissidents, pervasive torture, executions following unfair trials and the shutting down of vast swathes of the media, civil society organizations and political parties.

However, the general sense of relief in Turkish society when the July 2016 coup failed proved to be short-lived.

On 20 July 2016, a three-month state of emergency was declared. This allowed the government to rule by decree, bypassing Parliament. At the time of writing, the state of emergency had been extended three times and 22 executive decrees enacted. The decrees have had a devastating effect on civil society.

- According to the Joint Platform for Human Rights (IHOP), 156 TV and radio stations, newspapers and magazines were closed by four

***"Journalism is not a crime... We are defending the very essence and ethics of journalism while [the government] is trying to destroy it."***

*Fatih Polat, editor-in-chief of the newspaper Evrensel*



*Demonstrators stop a tank in Istanbul during the night of the coup attempt of 15 July 2016.*

executive decrees between 21 July 2016 and 13 February 2017. A further 23 media institutions were closed down by the Radio and Television High Council (RTÜK) during the same period.

- Hundreds of NGOs have been closed down.
- More than 100,000 public sector employees, including teachers, academics, police officers, judges, prosecutors and army personnel, have been summarily dismissed.
- Over 47,000 people detained pending trial have been subjected to severe restrictions on their rights in detention, such as confidential access to a lawyer.

## THE RIGHT TO FREEDOM OF EXPRESSION

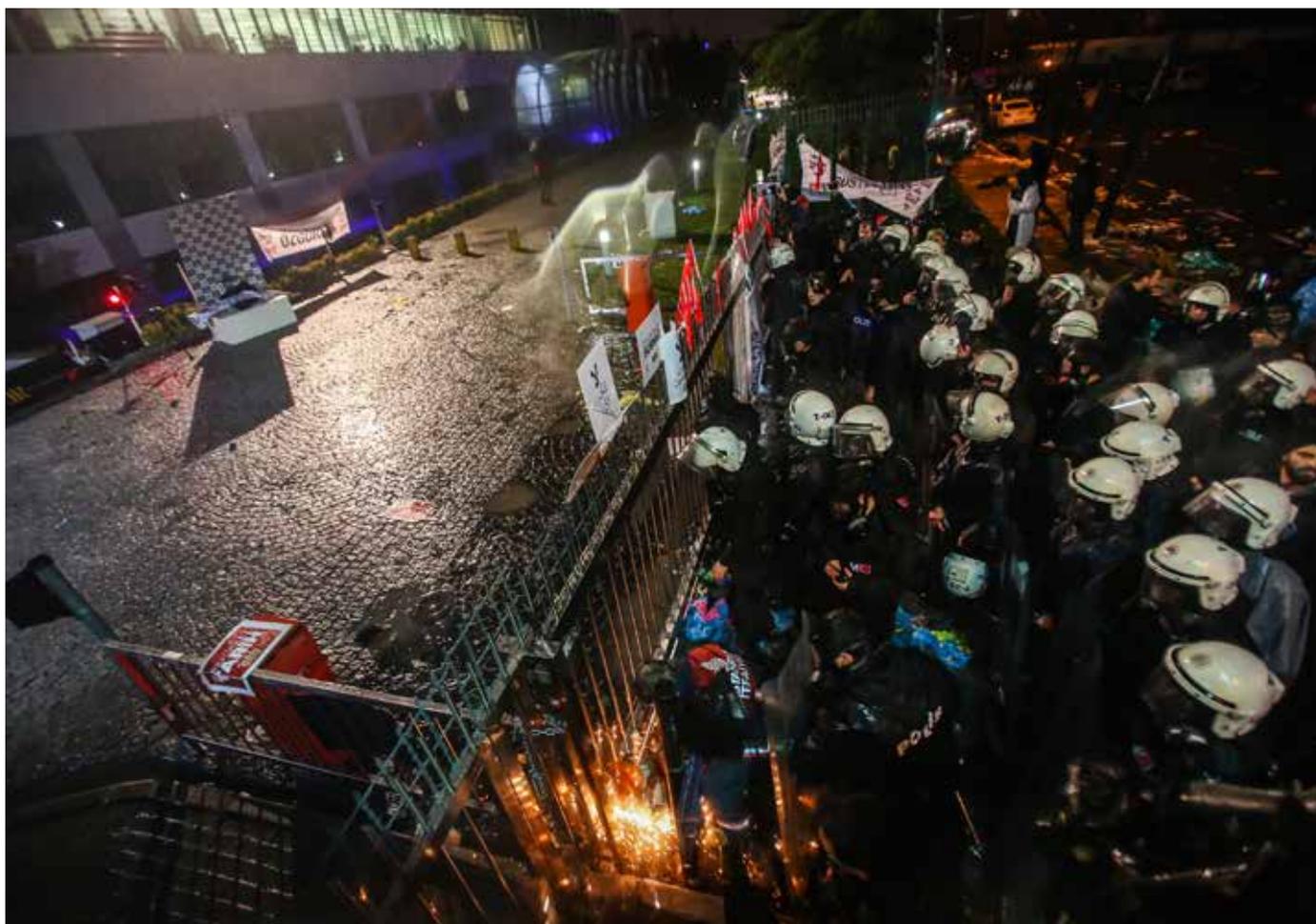
Turkey is a state party to the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR) and has an obligation to respect, protect and promote the rights set out in these binding treaties.

Article 19 of the ICCPR and Article 10 of the ECHR set out the right to freedom of expression; that is, the right of everyone to seek, receive and impart information and ideas of all kinds. The media play a key part in enabling people generally to exercise this right, in particular by conveying information, commenting on public issues and informing public opinion.

International law permits states to impose certain restrictions on the

exercise of freedom of expression, but only if such restrictions are set out in a clearly accessible and clearly formulated law, are only for certain specified legitimate purposes (which include national security and public order), are demonstrably necessary (that is, the least intrusive measure that will achieve the specified purpose) and proportionate, and do not jeopardize the right itself. While certain additional restrictions may be imposed in order to address a state of emergency, they must be only what is strictly required by the emergency situation and must reflect the same principle of proportionality.

The extent and depth of the crackdown on the media as described in this briefing go well beyond what is permitted under international law.



These latest draconian measures have their roots in attacks on freedom of expression that predate the 2016 attempted coup. The clampdown began in earnest during the 2013 Gezi Park protests that swept the country. Despite some improvements in law in 2013 and 2014, in practice restrictions of freedom of expression have persisted since then.

During the two-year peace process between the government and the Kurdistan Workers' Party (PKK), there were few prosecutions targeting those speaking out on the Kurdish issue. However, this changed with the collapse of the peace process in July 2015, which triggered another wave of censorship. Social media sites were blocked and websites shut down. The government exerted direct editorial interference over media outlets and took over media groups perceived to be close to Fethullah Gülen, such as Feza and Ipek. A number of individuals who expressed critical views were subjected to criminal prosecutions.



*Anti-riot police officers try to open a chained gate at the Zaman daily newspaper headquarters in Istanbul on 4 March 2016. The newspaper had been ordered into administration by an Istanbul court on that day.*

### SILENCING DISSENTING VOICES

In an increasingly compliant media, dissenting voices are finding it more and more difficult to be heard. Anyone expressing views seen as critical by the government risks being on the receiving end of threats, intimidation and harassment online, criminal proceedings, detention, dismissal from their post or censorship.

***“Very frankly, it affects you. I was very active on Twitter before I was imprisoned. Now, I am not as courageous, I feel I am self-censoring and this disturbs me. If you cannot write or say things, it’s a kind of illness, a kind of death.”***

*Necmiye Alpay, a linguist, who was detained for almost four months between 31 August and 29 December 2016 for taking part in solidarity action by becoming a symbolic guest editor of the now closed Kurdish daily Özgür Gündem*



Metin Yoksü, journalist and photographer for the now closed Dicle News Agency. He was held in police detention for 24 days.



İrfan Değirmenci, television presenter for Kanal D who was dismissed from his job after announcing on Twitter that he would vote “no” in the constitutional referendum on 16 April 2017.

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For example, in February 2017, Kanal D presenter **İrfan Değirmenci** was dismissed after he announced on Twitter that he intended to vote “no” in the April 2017 constitutional referendum. By contrast, *Hürriyet* columnist Fatih Çekirge, who announced his intention to vote “yes”, kept his position. Both Kanal D and *Hürriyet* are owned by the Doğan Media Group.

Journalists working for foreign media outlets and foreign freelance journalists have not been spared. Some have been deported or denied entry to Turkey while others saw their state-issued press credentials revoked. For example, **Dion Nissenbaum**, foreign correspondent for *The Wall Street Journal*, was detained on 27 December 2016 and held in police detention for two and a half days without access to his lawyer, family or anyone else in the outside world. And on 14 February 2017, the Turkey correspondent for the German newspaper *Die Welt*, **Deniz Yücel**, became the first foreign journalist to be remanded in pre-trial detention since the attempted coup (see page 13).

## POLICE DETENTION

Police stations, unlike prisons, are not designed to hold detainees for lengthy periods of time. Before the 2016 attempted coup, the law set the maximum period for which people could be held in police custody at four days.

However, on 23 July 2016, the first executive decree issued under the state of emergency increased the maximum length of police custody to 30 days. It also allowed detainees to be denied access to a lawyer for the first five days.

On 23 January 2017, another executive decree reduced the maximum period of pre-charge police detention to seven days, renewable for a further seven days. The 23 January decree also lifted the ban on access to lawyers during the first five days of detention. However, this came too late to protect a number of media workers arrested earlier, such as those detained during the so-called “Red Hack” investigation (see page 12).

**Metin Yoksü**, a journalist and photographer with the now closed Dicle News Agency, described the conditions in which he was held for 24 days during pre-charge detention:

*“We were all held separately, but with other detainees, four or five people held in a space adequate only for a couple of people. There were no windows, no air, no beds...The food was awful, many of us had diarrhoea. We had about four toilets for about 150 people detained there, and no access after midnight. We often used plastic water bottles at night.”*



## PRE-TRIAL DETENTION

The routine detention for lengthy periods of media workers who have not been convicted of any crime is punitive and undermines the right to liberty and the presumption of innocence.

More than 120 media workers are currently in pre-trial detention. Among them is **Şahin Alpay**, a journalist for

over 30 years, most recently employed as a columnist in the now closed *Zaman* newspaper. He was detained on 27 July 2016, accused of membership of “FETÖ”. Since 30 July, Şahin Alpay has been held pending trial in Silivri high security prison near Istanbul.

Months of pre-trial detention under the restrictive measures permitted by

the state of emergency are taking their toll. Imprisoned journalists are allowed visits only from their closest relatives and for just one hour a week. During visits, relatives are usually separated from detainees by a glass screen and communication is via a phone. Open visits are rare.

Detainees are allowed one weekly hour-long consultation with their lawyer, which is monitored by prison officials, in violation of their right to confidential communication with counsel. Those in Silivri prison, where many journalists are held, are not allowed to send or receive letters, and association with other prisoners is limited to the two other individuals in their cell.

## RIGHT TO LIBERTY

Under international human rights law and standards, there is a presumption that people charged with a criminal offence will not be detained pending trial.

Anyone detained on a criminal charge has the right to trial within a reasonable time or be released pending trial and to have an independent and impartial court or other judicial authority review the lawfulness of the

detention at reasonable intervals, with the burden on the authorities to prove that detention is still necessary and proportionate and that they are conducting the investigation with special diligence.

Failure to comply with these requirements is tantamount to punishment without conviction, which is contrary to universally recognized general principles of law.



*A woman holding a newspaper walks past a row of police in Istanbul in August 2016.*



Kadri Gürsel, columnist for the newspaper *Cumhuriyet*, who has been in detention since 31 October 2016.

## SECRECY ORDERS

Fundamental guarantees of fair procedure require that anyone detained pending trial for a criminal offence must have access to the information necessary to enable them to challenge the allegations against them.

However, in Turkey the use of secrecy orders during the investigation stage means that lawyers are not able to test whether the authorities hold sufficient evidence to justify pre-trial detention. Secrecy orders can be applied if “a review into the content of the file, or copies taken, hinder the aim of the ongoing investigation” (Article 153 of the Code of Criminal Procedure). Although the law states that secrecy orders must not be imposed at the expense of defence rights (Article 157 of the Code of Criminal Procedure), in practice, many defence lawyers for journalists held in lengthy pre-trial detention are being denied access to the information they need to effectively challenge their clients’ detention.

**“In my journalistic career spanning 30 years, I have always acted on the basis of my own free will and the principles and ethics of my profession. I maintained my ethical integrity. I have never written anything on the orders of someone else.”**

*Kadri Gürsel’s statement to the court, 5 November 2016*



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## RATCHETING UP PRESS REPRESSION: THE CASE OF CUMHURİYET

**“Had there been evidence to support the accusations levelled against us, the trial process would have already started... Time is passing, our imprisonment is turning into punishment.”**

*Kadri Gürsel, Cumhuriyet journalist*

On 31 October 2016, 13 columnists and executives of the opposition daily newspaper *Cumhuriyet* were detained by police. *Cumhuriyet*, meaning “republic” in Turkish, has been an independent secular voice since it was established shortly after the founding of the Turkish Republic in 1923. The targeting of

*Cumhuriyet* is seen by many as a symbol of a new frontier in media repression.

On 5 November, four of the 13 were released pending trial. The remaining nine, and two people detained later in the year, remain in pre-trial detention in Silivri prison. Lawyers have applied to the European Court of Human Rights on behalf of the 10 detained *Cumhuriyet* journalists and executives for violation of Articles 5 (right to liberty) and 10 (right to freedom of expression) of the ECHR.

Among those detained were the newspaper’s editor-in-chief, **Murat Sabuncu**; veteran columnist **Kadri Gürsel**; and cartoonist **Musa Kart**. After five days in police custody, the prosecutor requested that they be remanded in prison pending trial on charges of acting on behalf of a terrorist organization and making the organization’s propaganda (Articles 220/6 and 220/8 of the Penal Code). At the centre of the prosecutor’s argument was the allegation that *Cumhuriyet*’s editorial line and content were directed by “FETÖ” in order to undermine the state.

**MEHMET ALTAN**

**AHMET ALTAN**

Schiedamse Vest

Witte de  
Wijkkwartier

**ZANA BİLİR KAYA**

**MURAT SABUNCU**

**ŞAHİN ALPAY**

**ZEHRA DOĞAN**

**AHMET ŞIK**

THE HAGUE  
PEACE  
PROJECTS

**JOURNALISM IS NOT A CRIME**

**BERİTAN CANÖZER**

**NEÇMİYE ALPAY**

**KADRI GÜRSEL**

**NAZLI ILICAK**

**MUSA KART**

**HUMAN RIGHTS WATCH**

**NVJ** Nederlandse Vereniging van Journalisten

**PEN** FEDERATION

**ASLI ERDOĞAN**



© Musa Kart

**“The prosecutor who opened this investigation, collected the so-called evidence and decided to detain us is himself facing a prosecution for FETÖ membership... It is clear that such a person cannot investigate us... I believe our right to a fair trial is being violated and that our freedom is being unlawfully stolen from us.”**

*Court deposition of Murat Sabuncu, Cumhuriyet’s editor-in-chief, 5 November 2016*

**Kadri Gürsel** was questioned about his column dated 12 July 2016 - that is, three days before the attempted coup. In the column, entitled “Erdoğan wants to be our father”, he wrote: “Given that Erdoğan wants to force himself on us as our father, then all Turkey needs is a rebellious son like Muhammed Bouazizi, who created the spark for the toppling of the dictator in Tunisia. I don’t want it to be misunderstood: I am not suggesting [this rebellious son] should immolate himself like Bouazizi, he should light a cigarette and not put it out.” The prosecutor argued that these comments “pointed at the [imminent] coup attempt in a covert way or by way of a subliminal message”. Kadri Gürsel denies the allegation.

**Musa Kart**, whose daily cartoons have appeared on *Cumhuriyet*’s front page for some 15 years, was questioned about comments made by former executives of the newspaper, headlines and articles by other journalists writing for the paper and even about a protest outside the newspaper’s offices on 3 November 2016, when he was already in police detention.

Further detentions of people linked to *Cumhuriyet* followed.

**Akın Atalay**, a board member and lawyer for the paper, was detained on 11 November 2016. He had been issued with an arrest warrant and had gone to present himself to the authorities on his return from a holiday abroad.

Investigative journalist **Ahmet Şık** was detained on 29 December and remanded in custody the next day. He was initially accused of making propaganda for both “FETÖ” and the PKK. The latter allegation was based on his interview of a PKK leader in March 2015.

No stranger to politically motivated prosecution and imprisonment, Ahmet Şık was held from March 2011 in pre-trial detention for more than a year for writing



*Cartoon by Musa Kart, an imprisoned cartoonist for Cumhuriyet newspaper, published on 16 July 2016. The text reads “the history of democracy”.*



*Musa Kart, who has been in detention since 31 October 2016.*



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*Previous page: Activists from Amnesty International Netherlands and other organizations protest for press freedom in front of the Turkish consulate in Rotterdam, The Netherlands, on 24 February 2017.*



Investigative journalist Ahmet Şık is accused of “assisting a terrorist organization” as part of the trial against journalists and executives from Cumhuriyet newspaper.



Journalist Nazlı Ilıcak in Muğla on 26 July 2016 after being detained by police.



**“I reject the accusations that are made against me. The subject of the investigation concerns my professional activities, in other words, journalism.”**

*Ahmet Şık’s court deposition, 30 December 2016*

a book, *The Imam’s Army*, detailing the alleged infiltration of state structures by those loyal to the cleric Fethullah Gülen, at that time an ally of the governing Justice and Development Party (AK Party). He was acquitted of all charges in this case on 12 April 2017.

In 2014, Ahmet Şık successfully challenged his detention at the European Court of Human Rights which found that his rights to liberty, to challenge the legality of his detention and to freedom of expression had been violated.

On 30 January 2017, Ahmet Şık’s lawyers made an application to the Constitutional Court challenging the legality of his current detention and the violation of his right to freedom of expression. A decision by the Court was pending at the time of writing.

On 4 April 2017, a 306 page indictment against the *Cumhuriyet* journalists and executives was finally published. A total of 19 people, including those in Silivri prison, are charged under Article 220/7 of the Penal Code with “assisting a terrorist organization”. Cartoonist Musa Kart and board member and lawyer Akın Atalay are also charged with “abusing trust” (Article 155/2 of the Penal Code).

The indictment typically lacks evidence of actual links to terrorist organizations or any acts in support of their goals. The vast majority of the indictment lists articles and tweets criticizing the government, or investigative stories that are wholly covered by the right to freedom of expression. For example, eight tweets, two interviews and an article by Ahmet Şık are presented as evidence of his aiding the PKK/KCK, the DHKP-C and FETÖ/PDY: three separate proscribed groups that have totally different, often opposing, agendas.

### JOURNALISTS TARGETED FOR ALLEGED LINKS TO FETHULLAH GÜLEN

**“Nowadays, to be a journalist in Turkey is to be very unlucky.”**

*Mikail Hasbek, Nazlı Ilıcak’s lawyer*

**Nazlı Ilıcak**, a prominent journalist and political commentator, was on holiday in south Turkey when she saw in the media on 25 July 2016 that an arrest warrant had been issued for her. According to her lawyer, Nazlı Ilıcak was stopped and detained by police as she was on her way to present herself at a police station on 26 July. She was taken to Istanbul and

held in police detention at the Gayrettepe Security Directorate.

On 29 July, the court remanded her in prison pending trial on the grounds that she could not be found at her holiday home on the day the arrest warrant was issued and that as a result there was a risk of absconding as well as tampering with evidence and pressuring witnesses during the investigation.

On 4 October, in addition to charges of membership of “FETÖ”, Nazlı Ilıcak was questioned by the prosecutor for “attempting to bring down the government or to prevent it from carrying out its duties”, which carries a sentence of life imprisonment without parole (Article 312 of the Penal Code), and producing “propaganda for a terrorist organization” (Article 7/2 of the Anti-Terrorism Law). She was asked about a TV programme she hosted the day before the coup attempt.

**“I started working at Can Erzincan TV [now closed by executive order for alleged links to ‘FETÖ’] after trustees were appointed to Bugün TV [now also closed] and I was sacked from my post there. On 14 July 2016, I co-hosted a programme with Mehmet Altan on which Ahmet Altan was a guest. During the programme I didn’t say anything to legitimize a coup attempt... In the period prior to the coup attempt there were rumours of a possible coup. In May, I remember the Chief of General Staff himself dismissing the rumours and stating he was in control of the command structure within the army... My job at the TV station was to present a programme – nothing more, nothing less.”**

*Nazlı Ilıcak*



The daughter of jailed journalist Mahir Kanaat holds a banner reading "freedom for Mahir Kanaat - journalism is not a crime" during a demonstration for press freedom in Istanbul on 9 April 2017.

At the time of writing, Nazlı Ilıcak remained in the Bakırköy women's prison where she had been held for over nine months; repeated applications for release on bail had all been rejected. The indictment against 17 defendants, including Nazlı Ilıcak, was published on 11 April 2017. She cannot send or receive letters and visiting is restricted to very close relatives once a week for an hour. Her application to the European Court of Human Rights on the grounds of violations of the rights to liberty (Article 5 of the ECHR) and freedom of expression (Article 10 of the ECHR) was pending.

**Şahin Alpay**, a journalist of 30 years' standing and former *Zaman* newspaper columnist, is 73 years old and in poor health. He has been remanded in

prison pending trial since 30 July 2016 charged with membership of a terrorist organization ("FETÖ").

*"When I was asked to write in Zaman, the Gülen movement was seen in a positive light in political circles... I wrote about our need to establish a civilian government system and a democracy... I was also curious about the attraction of Fethullah Gülen so I looked into it. I concluded that he represented a modern version of Islam, until the most recent events."*

*Şahin Alpay's deposition to the court on 30 July 2016*

An application to the Constitutional Court for interim measures to secure Şahin Alpay's release on grounds of his poor health was denied. An application for priority review by the European Court of Human Rights remains pending. At the time of writing, Şahin Alpay has been held in prison for over eight months. The indictment against 30 defendants, including Şahin Alpay, was published on 10 April 2017.

## THE 'RED HACK' INVESTIGATION

*"My hands were tied behind my back and a 'special team' [police officer] was on top of me. I shouted 'my wife is nine months' pregnant, why are you making her lay down' and tried to get up. There was a scuffle, I was kicked in the face."*

*Mahir Kanaat, describing his arrest at 4am on 25 December 2016*

**Mahir Kanaat** is a journalist with the left-wing *Birgün* newspaper. He was one of six journalists detained on 25 December 2016 and held in police custody for 24 days in Vatan Avenue Security Directorate in Istanbul. His wife gave birth to their second child while he was in police detention.

According to his lawyer, during their time in police custody, Mahir Kanaat and the other journalists were not questioned or told the reasons for their detention. When he was finally questioned by a police inspector after 24 days, he was asked whether he knew those involved



People take part in a convoy protest for the release of Die Welt journalist Deniz Yücel in Berlin on 28 February 2017.

in Red Hack, a group of hackers who, in September 2016, published tens of thousands of emails including some they allegedly obtained by hacking the email account of Berat Albayrak, the Minister for Energy and Natural Resources and President Erdoğan's son-in-law. The emails were widely reported on at the time, including in *Birgün*.

Mahir Kanaat and the five other detained journalists had been added to a Twitter group used to share the hacked emails. His lawyer told Amnesty International that Mahir Kanaat had not himself written about the hacked emails, but had shared on Twitter a news article published in *Birgün*. On 17 January 2017, Mahir Kanaat and the other five were questioned by a prosecutor.

***"We were finally in front of the prosecutor, who didn't have the record of my questioning by the police. My lawyer gave it to the prosecutor who asked me the same questions, in addition asking me about my links to the MLKP [the Marxist-Leninist Communist Party]. He didn't ask me about the [hacked] emails which was the reason for our detention. It took the prosecutor 15, at most 20, minutes to read all the depositions and write the request for our remand in prison."***

The court ordered that three of the six journalists – Mahir Kanaat; Tunca Öğreten, former Diken website editor; and Ömer

Çelik, Diyarbakır News Director with the Dicle News Agency – be detained, accused of membership of a terrorist organization; the other three journalists were released.

**Deniz Yücel**, Turkey correspondent for *Die Welt*, was initially detained on 14 February 2017. He was one of the journalists who had been added to the Twitter group with which the hacked emails had been shared. After 13 days in police detention, Deniz Yücel was questioned by the prosecutor who requested that he be remanded in prison pending trial for "making propaganda for a terrorist organization" and "inciting the public to hatred".

In fact, Deniz Yücel was questioned by the prosecutor and the court about seven articles on a range of issues unrelated to the hacked emails. In his deposition in court on 27 February, he pointed out that the questions he was asked were based on erroneous translations and partial readings of his articles.

***"I am treated well but being held on my own is a kind of torture... When I look out of the window all I see is a 6m wall. But my health and spirit are good, despite everything."***

*Message sent by Deniz Yücel via MP Şafak Pavey, 5 March 2017. Parliamentarians are the only people other than close relatives and lawyers allowed to visit prisoners held under the state of emergency.*

Deniz Yücel remains in Silivri prison. His lawyers' application for his release was turned down on 13 March 2017, in a ruling displaying a blatant disregard for the presumption of innocence. The court stated "the suspect's writings, which are the subject of the investigation, are in fact acts that are wilful and conscious distortions of the truth to assist the aims of unlawful armed organizations."

### CRUSHING THE KURDISH MEDIA

In July 2015, the fragile peace process between the Turkish government and the PKK collapsed. In the ensuing context of armed clashes and 24-hour curfews in dozens of towns and cities, reporting from the southeast region was very difficult.

The post-coup clampdown on freedom of expression was felt acutely by all those concerned about the Kurdish issue and human rights. Almost all Kurdish newspapers, TV and radio stations and news agencies have been closed down.



***“They tell you ‘I believe you were making propaganda, now defend yourself’. It seems you have to prove you were not breaking the law, they don’t have to prove that you were.”***

*Beritan Canözer, JINHA journalist*



*Beritan Canözer, a journalist with the JINHA news agency, was detained while covering a protest against the curfew in Diyarbakır and later sentenced to 15 months’ imprisonment, suspended for five years.*

## JINHA

**Beritan Canözer** was detained while covering a protest against the curfew in Diyarbakır on 16 December 2015. Initially, she was accused of “acting suspiciously and moving with the unlawful demonstration”. She was taken to Diyarbakır Anti-Terrorism Branch where she was held for three days and then remanded in Diyarbakır prison for “membership of” and “making propaganda for a terrorist organization”. The decision to imprison her was based on notes she had written in her notebook and on the fact that she was employed by JINHA, a news agency run exclusively by women journalists and accused by the authorities of making propaganda for the PKK. JINHA was closed down by executive decree on 29 October 2016.

On 13 March 2016, after almost three months in pre-trial detention, Beritan Canözer was transferred to Bakırköy women’s prison in Istanbul. She told Amnesty International: “The transfer to Istanbul took 25 hours in a van. There were four others with me. We were

handcuffed throughout. In fact, one of the others was still receiving treatment for the damage caused by the handcuffs a month later. We stopped only twice in that time. It was terrible.”

Beritan Canözer was released on 29 March at the start of her trial. On 10 May the court acquitted her of “membership” but convicted her of “propaganda for a terrorist organization” on the basis of her notes, social media shares and photos on her phone. The judgment states that her social media shares amounted to “legitimizing and praising the violent methods of the terrorist organization”. None of these social media shares contained incitement to violence. She was sentenced to 15 months’ imprisonment suspended for five years.

**Zehra Doğan**, the editor of JINHA, was detained on 21 July 2016 in Mardin, south eastern Turkey, and remanded in pre-trial detention on 23 July on charges of “membership of” and “making propaganda for a terrorist organization”.

***“I was strip-searched [by two women police officers] when I was detained in Mardin. When they took me to the Anti-Terrorism branch, I was strip-searched again. Police officers told me ‘there is a state of emergency now, all the rights are ours, we can do whatever we want.’ They threatened me with torture. One of them suggested I should become his lover, that if I did so, he would save me. It was awful. I kept on saying I am a journalist.”***

*Zehra Doğan*

The case against Zehra Doğan was based on witness statements from nine people who alleged they had seen her speaking to members of YPS, the youth wing of the PKK in the town of Nusaybin, Mardin province, during the curfew. Her questioning by the prosecutor lasted no more than 10 minutes. She said: “The prosecutor had already decided to refer me to the judge to be sent to prison.”

In Mardin prison, Zehra Doğan was held with 51 others in a wing designed to hold



© Refik Tekin

30 women. For months, she slept on the floor on blankets. Access to water was limited to three one-hour slots a day. She noticed her hands shaking and hair loss, which she thinks was due to the lack of nutritional value in the food they were given.

Zehra Doğan was released on 9 December 2016. On 3 March 2017, she was acquitted of “membership” but convicted of “making propaganda for a terrorist organization” on the basis of shares on social media, none of which contained incitement to violence. She was sentenced to two years, nine months and 22 days in prison. At the time of writing she was at liberty pending the outcome of an appeal.

### **ÖZGÜR GÜNDEM**

Turkey’s main Kurdish daily newspaper for some 25 years, *Özgür Gündem*, was closed down temporarily on 16 August 2016 and then permanently on 29 October by executive decree. The daily was the only national newspaper to report from a leftist Kurdish perspective

and to publish statements made by the PKK in Turkish.

The closure in August was accompanied by the arrest of 24 journalists and other staff, including writer Aslı Erdoğan and linguist Necmiye Alpay, who had taken part in the *Özgür Gündem* solidarity campaign. Editor-in-chief Zana Kaya and editor İnan Kızılkaya were detained and remanded in prison on 22 August. Zana Kaya, Aslı Erdoğan and Necmiye Alpay were released at the first hearing in their case on 29 December 2016. However, at the time of writing, İnan Kızılkaya remained in prison. Nine people were charged in the case; they are accused of planning and preparing a newspaper published “under the direction of the terrorist organization, speaking on its behalf and openly making its propaganda”. The evidence in the indictment includes a list of over 100 articles without specifying which aspects of the articles constitute the alleged criminal offences.



*Zehra Doğan, editor with JINHA news agency, was sentenced to two years, nine months and 22 days’ imprisonment for “making propaganda for a terrorist organization”. She is appealing her conviction.*



*An Özgür Gündem staff member is detained outside the offices of the newspaper in Istanbul during a raid on 16 August 2016.*



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## CONCLUSION

A vibrant and pluralistic media is essential to the enjoyment of other human rights by all members of society. The right to freedom of expression is not limited to the right to speak freely; it also encompasses the right to seek and receive information and ideas and to develop opinions on the basis of information that is freely available.

The impact of the sharply deteriorating situation regarding freedom of expression is felt far beyond the lives of those in the front line of the government's attacks on the media. The prolonged detention of

media workers silences their voices, has a chilling effect on others and creates a huge void in public debate. Securing the release of imprisoned media workers is therefore a key part of creating a better future for human rights in Turkey.

Outspoken criticism by the Council of Europe's Commissioner for Human Rights, the UN Special Rapporteur on the right to freedom of opinion and expression and the OSCE (Organization for Security and Co-operation in Europe) Representative on Freedom of the Media has helped highlight the scale and severity of violations of freedom of

expression in Turkey. However, criticism from other states has been slow and limited, with a few important exceptions such as the German Chancellor's robust response to the imprisonment of *Die Welt* journalist Deniz Yücel.

All those in positions of influence, both within Turkey and outside, have a responsibility to put pressure on Turkey to reverse the catastrophic and spiralling repression of the media in recent months and years.

## RECOMMENDATIONS

To the Turkish government:

1. Drop all charges against, and release, journalists and media workers who have been detained for simply carrying out their legitimate journalistic or other media work and cease detaining and prosecuting journalists and media workers for these reasons.
2. Ensure that media workers can carry out their function of commenting on public issues, informing public opinion, and conveying information and ideas without threats, harassment or intimidation, and are not prosecuted for expressing views that do not constitute incitement to violence.
3. Ensure that any criminal charges brought against media workers are solely for recognizably criminal offences defined in laws which are sufficiently clearly formulated to enable people to know what is permitted and what is not, and do not involve unnecessary or disproportionate interference with freedom of expression.
4. End the routine use of lengthy pre-trial detention and ensure that any such detention is regularly reviewed by an independent and impartial court and that detainees have access to sufficient information to be able to effectively challenge their detention.
5. Ensure that media workers are able to carry out their journalistic functions without threat or harassment.
6. Revoke executive decrees Nos. 668, 675, 677 and 683 that led to the closure of 156 media outlets and enable them to reopen. Any closures or other restrictions on media outlets must comply with Turkey's obligations to respect freedom of expression and be open to appeal before an independent and impartial court.
7. Amend Article 7/2 of the Anti-Terrorism Law ("making propaganda for a terrorist organization") so as to ensure that it is precisely and clearly formulated and only prohibits acts amounting to incitement to violence.
8. Ensure that any restrictions on freedom of expression during the state of emergency are limited to what is strictly required by the exigencies of the situation and comply with Turkey's other obligations under international human rights law.

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