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# SILENCING TURKEY'S MEDIA

The Government's Deepening Assault on Critical Journalism





# **Silencing Turkey's Media**

**The Government's Deepening Assault on Critical Journalism**

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Printed in the United States of America

ISBN: 978-1-6231-3427

Cover design by Rafael Jimenez

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# Silencing Turkey’s Media

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## Summary

On the night of July 15, 2016, elements of the Turkish military staged an attempt to overthrow the democratically elected government. According to official figures, at least 241 citizens and security personnel were killed, and over 2,000 more injured during the clashes in the capital Ankara and Istanbul.

On July 21, President Recep Tayyip Erdoğan declared a three-month state of emergency that has since been extended until January 2017 and might be prolonged again. It gives the president and government the power to rule by decree, bypassing parliament and the potential to challenge decrees via Turkey's Constitutional Court. In one such emergency decree, issued on July 27, 2016, the government ordered the closure of 131 media outlets, including 45 newspapers, 16 TV channels, three news agencies, 23 radio stations, 15 magazines and 29 publishing houses with alleged ties to the movement of US-based Islamic cleric Fethullah Gülen whom the government accuses of masterminding the failed coup attempt.

On September 28, 2016, Turkish authorities used the same emergency decree to order the shut-down of 23 TV and radio stations popular among Kurds, Alevis and supporters of opposition parties; and on October 31, 2016, police detained 12 journalists and managers from one of the last remaining independent newspapers, *Cumhuriyet*. Ten were later formally arrested.

By December 2016, 140 media outlets and 29 publishing houses had been shut down via emergency decree, leaving more than 2,500 media workers and journalists unemployed. Hundreds of government-issued press accreditations have been cancelled and without accreditation journalistic activity in Turkey can be impeded. An unknown number of journalists had their passports revoked, thus banning them from all foreign travel.

Arrest warrants have been issued for more than 100 journalists, and, according to P24, an independent journalism platform, 149 journalists and media workers now languish in Turkish jails – all but 18 of them in pretrial detention pending trial – making Turkey once again the world leader in locking up journalists. Among these are several well-known writers and columnists, including Şahin Alpay, Nazlı Ilıcak, Ahmet and Mehmet

Altan, Ali Bulaç, Aslı Erdoğan, Kadri Gürsel, Necmiye Alpay and the editor-in-chief of the opposition daily Cumhuriyet, Murat Sabuncu.

The attacks on independent media after the attempted coup was defeated in July marked an intensification of a crackdown on media freedom that had already been going on for over a year. Censorship of journalism has been going on for much longer. The authorities use ever more creative ways to silence serious reporting and news coverage that President Recep Tayyip Erdoğan and the Justice and Development Party government disagree with.

Five trends stand out: first the use of the criminal justice system to prosecute journalists for terrorism, insulting public officials, or crimes against the state; second, threats and physical attacks on journalists and media outlets; third, government interference with editorial independence and pressure on media organizations to fire critical journalists; fourth, the government takeover or closure of private media companies; and fifth, fines, restrictions on distribution and closure of critical television stations. A sixth trend, the blocking of online news websites or internet access in general, is not discussed in this report. The large number of restrictions Turkey places on internet freedom constitutes an area of study in its own right.

This report aims to look at these five worrying trends by documenting some of the most egregious examples that illustrate how the Turkish government has been dismantling freedom of expression and speech. The report focuses on particular cases and new trends and does not aim to provide a comprehensive overview of all instances of violations of press freedom.

The journalists, editors and lawyers interviewed for this report all spoke about the stifling atmosphere in which they work and about the rapidly shrinking space for reporting on issues the government does not want covered. Journalists also spoke about limitations on access to geographical regions such as the predominantly Kurdish southeast where conflict has escalated since a ceasefire between the government in Ankara and the armed Kurdistan Workers' Party (PKK) broke down in July 2015, leaving a tentative two-and-a-half-year peace process in tatters.

One important effect of the crackdown and the restrictive media atmosphere it has created is to impede the ability of the media to hold government authorities to account or scrutinize their activities.

## **Use of Criminal Justice System against Journalists**

Turkey has long been using the criminal justice system to prosecute journalists simply for doing their work. Before the great increase in journalists imprisoned following the July coup attempt, the number in pretrial detention had significantly decreased between 2014 and 2016 mainly for reasons of international pressure on the issue of Turkey's jailed journalists. However, most of the released journalists' trials are still pending, and the Turkish authorities have found myriad other ways to silence the critical press.

While Turkey has a long tradition of misusing terrorism laws against journalists, the past year has seen journalists from mainstream media organs targeted. Many have been jailed or prosecuted on spurious terrorism charges or accused of espionage and other "crimes against the state" for legitimate reporting of leaked information the public has an interest in knowing about.

Human Rights Watch has also extensively documented the problem of arbitrary and abusive terrorism trials of mainly Kurdish political activists, journalists, lawyers, and students for their alleged links with the armed Kurdistan Workers' Party (PKK). Suspects under investigation on charges of membership of armed organizations are almost automatically placed in pretrial detention, due to the gravity of the charge. Courts, without providing compelling reasoning, have then repeatedly prolonged incarceration of defendants once their trials are underway and pending a verdict. A new trend has seen authorities jailing journalists under criminal investigation for spreading terrorist propaganda.

While it is Kurdish and leftist journalists who have been the principle victims of prolonged pretrial detention on terrorism charges, in the past two years editors, journalists and columnists associated with the Gülen movement as well as some journalists working for other mainstream media outlets have been jailed pending trial. The trend to prosecute journalists for association with the Gülen movement has peaked following the failed coup attempt with an estimated 80 journalists jailed pending trial for association with the coup attempt and the Gülen movement. The government has categorized the movement as a

terrorist organization, referring to it as the Fethullahist Terrorist Organization/Parallel State Structure (abbreviated to FETÖ/PDY).

The Turkish authorities have recently prosecuted a number of prominent journalists on terrorism and other “crimes against the state” charges. Can Dündar, former editor-in-chief of the independent daily *Cumhuriyet* and the paper’s Ankara bureau chief Erdem Gül received jail sentences for publishing a story on secret arms deliveries from Turkey to Syrian rebels by the Turkish National Intelligence Agency (MIT).

Journalist and Turkey representative of Reporters Without Borders Erol Önderoğlu is currently facing trial – along with many others - on charges of spreading propaganda for a terrorist organization after participating in a solidarity campaign in which he acted as a symbolic co-editor for a day with the pro-Kurdish daily *Özgür Gündem* in Istanbul. The paper was temporarily shut down by court order on August 16, 2016 and permanently closed down by emergency decree on October 29, along with 14 other media organizations, effectively wiping out all media with a following among the Kurdish minority in Turkey.

On the day *Ozgur Gundem* was closed down, employees of the paper detained included editor-in-chief Zana Kaya and editor İnan Kızılkaya, both formally arrested on August 23, 2016. In a move which drew international outrage, the award-winning writer and *Özgür Gündem* columnist and advisory board member Aslı Erdoğan, and prominent linguist, writer, and advisory board member Necmiye Alpay were also arrested. Along with Kaya and Kızılkaya, Erdoğan and Alpay will stand trial with five others on December 29, 2016 on charges of “spreading terrorism propaganda,” “membership of an armed organization” and “attempting to destroy the unity of the state and territorial integrity of the country.” If convicted on the latter charge they face a possible sentence of aggravated life imprisonment.

On August 29, 2016, Turkish police raided the office of Diyarbakir-based Kurdish language daily *Azadiya Welat* and detained at least 23 employees, six of whom were later formally arrested. The paper was one of those shut down entirely via emergency decree on October 29, 2016.

On October 31, police detained twelve senior staff members of the independent opposition newspaper *Cumhuriyet*, including the daily’s editor-in-chief Murat Sabuncu, prominent columnist Kadri Gürsel and cartoonist Musa Kart. Six days later all three of them were

formally arrested on terrorism charges and placed in pretrial detention, along with six of their *Cumhuriyet* colleagues. They are accused of committing crimes on behalf of both the PKK and the Gülen movement (referred to by the government as FETÖ/PDY). Akin Atalay, the paper's CEO, was detained at Istanbul's Atatürk airport after arriving from Germany on November 11, 2016.

## Threats and Physical Attacks

Journalists who have worked in the southeast over the past year have told Human Rights Watch that after a brief period during which the Kurdish issue could be reported with relative freedom due to the rapprochement between the government and the PKK, they face serious obstacles to their work in the region again. Access has become extremely difficult. Some of those interviewed said that threats, physical violence and criminal investigations against those reporting on the ongoing conflict have become increasingly common.

But violence, attacks and threats against journalists did not only occur in the southeast. Over the past year there have been a number of physical attacks on journalists by private individuals, by members of the security forces, or by individuals acting in collusion with state officials or politicians. The attacks have taken place in an environment in which smear tactics by politicians against critical journalists have become commonplace. Most journalists Human Rights Watch spoke to said that they received threats, either directly or via smear campaigns led against them, in some documented cases even by government officials themselves.

## Firing of Journalists Critical of Government

Many journalists have lost their jobs because of critical reporting or commentary. According to a report released by Turkey's Journalists' Association, 898 journalists were fired or forced to resign in the first five months of 2016 due to government interference and political pressure on editors or the owners of their media outlets. Calls by government officials to media outlets, putting owners and editors under pressure to curb critical reporting and to interfere with staff decisions, became routine over the past few years. Another problem is that many major media outlets in Turkey are owned by business people who rely on government contracts in other sectors of their work, and are therefore very susceptible to pressure and interference from the authorities.

## Government Takeover or Closure of Independent Media

Taking advantage of the state of emergency in force since July 21, 2016 the AKP government has permanently shut down over 160 media and publishing outlets via decree.

But the crackdown on private media companies precedes the July coup attempt. In the past year, the government effectively took over two private media companies İpek (part of the much larger Koza İpek group) and the Feza group, by appointing trustees to run them. As a result, the two companies, both of which had links to the Gülen movement, were compelled to change their editorial policies and reinvent their publications and television channels as pro-government organs. The trustees subsequently closed down İpek media while the circulation of the Feza group's *Zaman* newspaper dropped dramatically before it too was closed down with over 100 other media outlets with alleged Gülenist ties following the abortive coup.

## Closure of Critical TV Channels

The government has also clamped down on critical television stations, closing them down or ensuring that they lose their distribution on satellite and cable providers. After the July 2016 coup attempt, 16 TV channels with alleged affiliations to the Gülen movement were closed down entirely. Pro-Kurdish TV channels were taken off Turkey's main satellite provider, and several TV channels faced fines after airing critical coverage, or coverage at odds with the government. This crackdown intensified as the government moved to shut down 23 pro-Kurdish TV and radio stations in September under emergency decree No.668. The decree, issued on July 27 under the state of emergency, allows the government to shut down publishers and media outlets if they are deemed to "entertain links to a terrorist organization" and to be a "threat to national security". One channel closed down but subsequently allowed to broadcast again in November was Zarok TV that translated popular cartoons such as "The Smurfs" into Kurmanji Kurdish and Zazaki.

One of the essential pillars of a functioning democracy, free and independent media help promote the free flow of ideas, opinions and information necessary for political processes to function, and serve as a critical check on executive authorities and powerful actors linked to them.

The Turkish government's erosion of media freedom and continuing readiness to limit freedom of expression damages Turkey's democratic credentials and international reputation and violates its obligations under human rights law.

The Turkish government's intensifying crackdown is decimating the country's media organizations and its community of independent journalists. As one journalist told Human Rights Watch: "In the past journalists were killed in Turkey. This government is killing journalism in its entirety."

# Recommendations

## To the Turkish Government

- Ensure prompt and effective criminal investigations for acts of violence and threats against journalists, and publicly and unequivocally condemn all attacks against journalists and media;
- Halt executive interference with independent news organizations including in relation to editorial decisions, dismissals of journalists and editors, pressure and intimidation against critical news outlets and journalists;
- Issue clear guidance to police and prosecutors about the importance of media freedom and ensure that any decision to pursue criminal investigations into journalists or news organizations is based on clear evidence of criminal wrongdoing, meets the test of public interest and does not violate obligations to respect freedom of expression;
- End prosecutions and detention of journalists simply on the basis of the content of their journalism or alleged affiliations, absent any compelling evidence of criminal activity;
- Ensure that pre-trial detention remains the exception and that the maximum time permitted in pre-trial detention is further limited in accordance with the principle of reasonableness, and speed up trial proceedings;.
- Closure of media including during state of emergency should only ever take place as a last resort and on the decision of an independent authority, following rigorous due process, subject to appeal. Any closure decisions should provide the reason and evidence supporting the decision so that decisions can be scrutinized for improper interference with the process that would constitute violations of freedom of expression;
- End the misuse of penal code provisions to appoint trustees to private media organizations;
- Bring the Penal Code and Anti-Terror Law into compliance with Turkey's international human rights obligations, implementing the decisions of the

European Court of Human Rights concerning Turkey's obligation to protect and uphold freedom of expression and media freedom;

### **To the United States, European Union and its member states**

- Emphasize in their relations with Turkey the importance of respect for media freedom and freedom of expression; encourage Turkish authorities to implement reforms of criminal law needed to bring Turkey into compliance with its international human rights obligations;
- Use every opportunity to urge the relevant authorities in Turkey to immediately cease all intimidation of journalists and media outlets and to take necessary steps to improve investigations into attacks and threats against journalists and to bring perpetrators to justice;

### **To the Organization for Security and Cooperation in Europe (OSCE)**

- The OSCE Representative on Media Freedom should continue to highlight violations of media freedoms in Turkey as part of her work, and make concrete recommendations to the relevant authorities in Turkey for steps needed to address the problems identified;
- Other OSCE bodies and participating states should urge the relevant authorities in Turkey to thoroughly investigate and prosecute all cases of attacks and threats, including online, against journalists and media outlets in order to bring perpetrators to justice;

### **To the Council of Europe**

- The Secretary General, the Commissioner for Human Rights, the Parliamentary Assembly and other relevant Council of Europe bodies should urge the relevant authorities in Turkey to end prosecutions and detention of journalists simply on the basis of the content of their journalism or alleged affiliations and to ensure thorough investigations and prosecutions of all cases of attacks and threats, including online, against journalists and media outlets in order to bring perpetrators to justice and make clear that violence and threats against journalists will not be tolerated;

- The Parliamentary Assembly of the Council of Europe should reinstate formal monitoring of Turkey (“the monitoring procedure”) in light of the severity of the assault on freedom of expression and media freedom in Turkey and in view of the dramatic nature of the on-going crackdown on human rights in many other areas.

**To the UN Human Rights Council**

- Members and observers of the UN Human Rights Council should urge Turkey to implement the recommendations of the UN Special Rapporteur on the right to freedom of opinion and expression and other special procedures, and press Turkey to address the dramatic crackdown on rights in all other areas.

## **Methodology**

This report is primarily based on face-to-face and phone interviews carried out by two Human Rights Watch researchers in Turkey between February 2016 and October 2016. Human Rights Watch conducted 61 in-depth interviews with journalists, editors, lawyers, politicians, and press freedom activists and carried out various follow-up interviews in person, by phone, and over email. In some cases face-to-face interviews were impossible for capacity reasons or because the interlocutors were in prison at the time of writing. We documented those cases with the help of information provided by lawyers and data made available by non-governmental organizations and media reports.

Human Rights Watch interviewed 20 male and 16 female journalists. In researching this report Human Rights Watch also reviewed court documents and data provided by local and international non-governmental organizations advocating press freedom and freedom of expression. We also spoke to several local media experts.

All interviews were conducted in Turkish. None of the people interviewed received compensation for answering questions and providing information, and all were informed of the purpose of the interview and the goal and public nature of our reports. In some cases names and other identifying details have been withheld on the interviewees' wishes or for their own safety.

This report does not focus on problems faced by international journalists or media outlets in Turkey for reasons of scope and capacity.

# I. Background

## History of State Interference with Media Freedom

Since the early days of the Turkish Republic journalists have been threatened, censored, fired from their jobs, and imprisoned for criticizing the government of the day and bringing to light issues that powerful actors would have preferred to remain in the dark.

From 2003 to 2009 various Justice and Development Party (*Adalet ve Kalkınma Partisi*, AKP) governments introduced positive legal reforms that aimed to increase legal protection of political, social and cultural rights of Turkey's citizens, including freedom of expression, irrespective of their ethnic and religious origins. Since 2011 however, there has been a worrying rollback of human rights, with the AKP showing an increasing intolerance of dissent, opposition, and critical media.

During the summer of 2013 when one mainstream broadcaster, instead of covering ongoing protests around Gezi Park, aired a documentary on penguins, such evidence of growing government interference with the media was met with ridicule and humor. But in 2016 there is little left to laugh about regarding the rapid deterioration of press freedom in Turkey. And those that still dare to laugh risk arrest.

Reporters Without Borders now ranks Turkey 151<sup>th</sup> out of 180 countries surveyed for freedom of the media, below Russia and Myanmar/Burma.<sup>1</sup> The non-governmental organization, Freedom House, classified Turkey as “not free” in its 2016 press freedom index for the third consecutive time, and the country saw its Freedom House Press Freedom Score slip by twenty points from 51 in 2010 to 31 in 2016.<sup>2</sup>

In 2016, the European Parliament expressed serious concerns over the country's “backsliding” on democracy, the rule of law and human rights with a special emphasis on the rapid decline of the right to freedom of expression in Turkey.<sup>3</sup> The last five EU progress

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<sup>1</sup> Reporters Without Borders, “World Press Freedom Index 2016,” <https://rsf.org/en/turkey>, (accessed June 20, 2016).

<sup>2</sup> Freedom House, “Freedom of the Press 2016,” <https://freedomhouse.org/report/freedom-press/2016/turkey>, (accessed June 21, 2016).

<sup>3</sup> “Turkey: need of urgent reforms in key areas, say MEPs”, EU parliament news release, April 14, 2016,

reports for Turkey, a country that has been officially seeking accession to the European Union since 1987, highlighted continued pressure on the media by government officials and the authorities, the prosecution of journalists on charges of terrorism and criminal defamation as well as the intimidation of media workers and lack of transparent media ownership structures that in combination led to widespread self-censorship and the firing of critical journalists.<sup>4</sup>

The annual US Department of State Human Rights reports have identified government interference with freedom of expression and press as one of the most pressing human rights violations in Turkey for five consecutive years.<sup>5</sup>

## Government Action Against the Gülen Movement Before and After the July Coup Attempt

Much of the government action against journalists in Turkey in the last three years is linked to its efforts to dismantle the religious network around US-based cleric Fethullah Gülen. Gülen was previously an important ally of the Justice and Development Party, but President Recep Tayyip Erdoğan now accuses Gülen and the movement of plotting against him and seeking to overthrow the government including by orchestrating the failed coup attempt in July 2016. The Turkish government refers to the Gülen movement as the Fethullahist Terror Organization (*Fetullahçı Terör Örgütü*, or FETÖ).

The Turkish government's crackdown on the Gülen movement followed the eruption of a major corruption scandal in December 2013 that implicated the president's closest

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<http://www.europarl.europa.eu/news/en/news-room/20160407IPR21789/Turkey-need-of-urgent-reforms-in-key-areas-say-MEPs> (accessed May 25, 2016). On October 27, 2016 the European Parliament passed a resolution on the situation of journalists in Turkey, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0423+0+DOC+XML+Vo//EN&language=EN> (accessed December 2, 2016).

<sup>4</sup> For most recent progress reports, see: "European Commission Turkey Progress Report 2012," COM(2012) 600, October 10, 2012, [http://www.ab.gov.tr/files/tr\\_rapport\\_2012\\_en.pdf](http://www.ab.gov.tr/files/tr_rapport_2012_en.pdf), (accessed June 15, 2016); "European Commission Turkey Progress Report 2013," COM(2013)700, October 16, 2013, [http://www.ab.gov.tr/files/2013%20ilerleme%20raporu/tr\\_rapport\\_2013\\_en.pdf](http://www.ab.gov.tr/files/2013%20ilerleme%20raporu/tr_rapport_2013_en.pdf), (accessed June 15, 2016); "European Commission Turkey Progress Report 2014," COM(2014) 700, October 8, 2014, [http://www.ab.gov.tr/files/ilerlemeRaporlari/2014\\_progress\\_report.pdf](http://www.ab.gov.tr/files/ilerlemeRaporlari/2014_progress_report.pdf), (accessed June 15, 2016); "European Commission Turkey Progress Report 2015," COM(2015) 611, November 10, 2015, [http://www.ab.gov.tr/files/5%20Ekim/2015\\_turkey\\_report.pdf](http://www.ab.gov.tr/files/5%20Ekim/2015_turkey_report.pdf), (accessed June 15, 2016); "European Commission Turkey Progress Report 2016," SWD(2016) 366, November 9, 2016, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2016/20161109\\_report\\_turkey.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_turkey.pdf) (accessed December 2, 2016).

<sup>5</sup> See U.S. State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices," <http://www.state.gov/j/drl/rls/hrrpt/>, (accessed June 15, 2016).

associates and his family and resulted in the detention of several people, including the sons of government ministers.

Accusing Gülen of having established a “parallel structure” within the state exercising control over the judiciary, the police and parts of bureaucracy, Erdoğan viewed the arrests and the investigation in connection with the corruption allegations as a Gülen-linked plot against him. His government responded to the corruption allegations by reassigning thousands of police officers, prosecutors and judges suspected of being Gülen supporters, and tightening control over the judiciary. Since the scandal, the AKP government has taken legal steps against journalists, media workers and media executives with alleged ties to the Gülen movement based on anti-terrorism legislation which Human Rights Watch has repeatedly warned is often arbitrary and abusive.

Turkish government action against the media with suspected links to Gülen has intensified in the wake of the violent and lethal July 15-16, 2016 attempted coup by elements of the Turkish military.

At least 241 civilians, police officers and military personnel were killed as they tried to resist soldiers in the streets of Ankara and Istanbul, and over 2,000 more were injured. President Erdoğan and the AKP government have blamed Gülen and his followers for the coup attempt.

In the weeks following the failed putsch, tens of thousands of soldiers, police officers, judges, prosecutors, academics, teachers, and other civil servants with suspected ties to the Gülen movement were dismissed from their jobs, and at time of publication over 37,000 had been formally arrested.

But these purges did not remain limited to state institutions. On July 21, 2016, Erdoğan declared a three-month state of emergency for the whole country that was renewed for another three months on October 19, which gives the cabinet, headed by the Erdoğan, the power to rule by decree, leaving the executive without any meaningful checks either by parliament or the Constitutional Court.<sup>6</sup> The first decree, passed on July 23, 2016, ordered

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<sup>6</sup> Human Rights Watch, “Dispatches: Turkey’s State of Emergency. New Governmental Powers Allow for Unchecked Executive Action”, Human Rights Watch dispatch, July 22, 2016, <https://www.hrw.org/news/2016/07/22/dispatches-turkeys-state-emergency>.

the closure of thousands of private educational institutions, hospitals, clinics and associations suspected of Gülenist links.<sup>7</sup> The second, decree No. 668, ordered 131 newspapers, news agencies, publishers, television and radio stations, and distribution companies to close down.<sup>8</sup> On September 28, 2016, Turkish authorities used the same emergency decree to order the shut-down of 23 TV and radio stations popular among Kurds, Alevis and supporters of opposition parties.<sup>9</sup> On October 29, decree 675 closed down another 15 media organs and, on November 22, decree 677 closed down a further nine.<sup>10</sup>

After July 15, Turkish authorities issued, over a period of several days, detention warrants for 116 journalists, media workers and executives with alleged Gülenist ties. They also revoked hundreds of government-issued press cards,<sup>11</sup> without which journalistic work in Turkey can be impeded, and more than 30 news websites were shut down.

By December 9, 149 journalists and media workers were in jail. Of 149, 131 were in pretrial detention after being formally arrested by a court on suspicion of committing crimes such as spreading terrorist propaganda, assisting a terrorist organization, membership of a terrorist organization and involvement in the coup attempt. (The remaining 18 have been convicted in the past and are serving sentences.) An unknown number of media workers and journalists have left the country. Hanım Büşra Erdal, formerly the court reporter for the now defunct daily *Zaman* who was interviewed for this report, is amongst the journalists who have been arrested as part of the controversial coup probe.

On July 21, police raided the offices of the pro-Gülen daily *Meydan* and sealed the building. One day later, Orhan Kemal Cengiz, a prominent human rights lawyer and long-time columnist - most recently for the now-defunct pro-Gülen dailies *Bugün* and *Özgür Düşünce* (and previously for *Radika*) - was detained at Istanbul Atatürk airport on suspicion of

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<sup>7</sup> "Turkey: Rights Protections Missing From Emergency Decree," Human Rights Watch news release, July 26, 2016, <https://www.hrw.org/news/2016/07/26/turkey-rights-protections-missing-emergency-decree>.

<sup>8</sup> "Turkey: Media Shut Down, Journalists Detained," Human Rights Watch news release, July 28, 2016, <https://www.hrw.org/news/2016/07/28/turkey-media-shut-down-journalists-detained>.

<sup>9</sup> "Independent Television Silenced," Human Rights Watch news release, October 7, 2016.

<sup>10</sup> For details see <http://bianet.org/english/media/180160-new-statutory-decrees-issued-10-newspapers-2-news-agencies-3-magazines-closed> and <http://bianet.org/english/law/180965-375-associations-9-media-outlets-closed-15-726-people-discharged> (accessed December 8, 2016).

<sup>11</sup> "İptal edilen basın kartı sayısı 330'a ulaştı," („The number of cancelled press cards reaches 330“), Milliyet, July 29, 2016, <http://m.milliyet.com.tr/iptal-edilen-basin-karti-sayisi-gundem-2286174/>, (accessed July 30, 2016).

being a member of a terrorist organization. He was released four days later, but is still under investigation.<sup>12</sup>

With the government's almost complete closure of pro-Kurdish media after the coup and the huge pressure exerted on *Cumhuriyet*, an independent daily associated with the support base of the secular opposition Republican Peoples' Party (CHP), independent media critical of the government across the political spectrum have become the target of the government's crackdown.

The UN Special Rapporteur on the right to freedom of opinion and expression, David Kaye, and the OSCE Representative on Freedom of the Media, Dunja Mijatović, have voiced grave concern over the crackdown on journalism and the media following the failed coup attempt.<sup>13</sup> In his preliminary conclusions and observations following his November country visit, Kaye described the situation as follows:

Media freedom in the country was already in crisis prior to the attempted coup, including closure of critical media, media associated with Gülenists, and broad use of anti-terror legislation against journalists. In response to the failed coup, the breadth and scope of the crackdown on media freedom has intensified dramatically, with measures of an unprecedented scale being justified on grounds of ensuring stability.<sup>14</sup>

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<sup>12</sup> Human Rights Watch interview with Ali Koç, lawyer, August 1, 2016.

<sup>13</sup> "UN Special Rapporteur and OSCE Representative on Freedom of the Media deplore crackdown on journalists and media outlets in Turkey", OSCE press release, July 28, 2016, <http://www.osce.org/fom/256836> (accessed August 22, 2016).

<sup>14</sup> See Preliminary conclusions and observations by the UN Special Rapporteur on the right to freedom of opinion and expression to his visit to Turkey, 14-18 November 2016: <http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20891&LangID=E#sthash.6IsTmL7W.dpuf> (accessed November 23, 2016).

## II. Prosecutions of journalists

Turkey's pattern of prosecuting journalists over the past decade became internationally known through the repeated use of the notorious Article 301 of the Turkish Penal Code. Article 301 criminalizes the "denigration of the Turkish nation" and has been used to investigate and prosecute hundreds of people for peacefully voicing opinions and to punish dissent. Journalist Hrant Dink was murdered in 2007 after repeated prosecutions and conviction under the article.

Legal changes implemented as part of a reform package in 2008 changed the original version of the article from "insulting Turkishness" to "denigrating the Turkish Nation, the State of the Turkish Republic or the Grand National Assembly of Turkey and the judicial institutions of the State." The European Court of Human Rights has found that the changes were not sufficient to make the article compatible with the right to freedom of expression.<sup>15</sup>

In March 2016, the Venice Commission, the legal advisory body of the Council of Europe, asked Turkey to amend Article 301, which, it observed, "due to its vague wording, remains incompatible with Article 10 ECHR. This may lead individuals, and especially the media, to applying self-censorship, which may have a very serious impact on the free flow and exchange of information and opinions."<sup>16</sup> The use of article 301 to criminalize free speech remains to this day and is emblematic of the resistance of Turkish governments to making basic legal reforms – in this case repealing the article in its entirety – that would end the prosecution of journalists.

Today much more widely used than article 301 are Turkey's overly broad anti-terror laws to prosecute journalists and others who voice criticism of the government of the day and its actions. Human Rights Watch has repeatedly criticized the arbitrary use of antiterrorism

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<sup>15</sup> European Court of Human Rights, *Altuğ Taner Akşam v. Turkey*, judgement of October 25, 2011, Series A no. 27520/07, available at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-107206>, para.77.

<sup>16</sup> Council of Europe Venice Commission, "CDL-AD(2016)002-e Opinion on articles 216, 299, 301 and 314 of the Penal Code of Turkey, adopted by the Venice Commission at its 106th plenary session (Venice, 11-12 March 2016)", Strasbourg, March 15, 2016, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)002-e) (accessed August 22, 2016).

legislation in Turkey to punish non-violent activities, including journalism and critical writing, in violation of the right to freedom of expression.<sup>17</sup>

While the state has traditionally targeted mainly Kurdish and leftist journalists, in recent years it has also pursued those affiliated with the Gülen movement and other government critics. Another major development is the application of charges of other crimes against the state, such as espionage and revealing state secrets, to suppress critical reporting that the government does not like.

## Prosecutions for Espionage and Revealing State Secrets

The most prominent recent example of the prosecution of journalists for espionage is that of Can Dündar, the then editor of the daily newspaper *Cumhuriyet*, and Erdem Gül, *Cumhuriyet*'s Ankara bureau chief. The two were charged with espionage, but ultimately convicted of the lesser offense of obtaining and revealing state secrets that might harm state security or Turkey's domestic and foreign interests. The court determined that it had not been able to prove intent to spy.

On May 6, 2016, the Istanbul 14th Heavy Penalty Court sentenced Dündar to five years and 10 months and Gül to five years in prison. The evidence cited against them consisted of a news report and photographs that appeared in their own paper on May 29, 2015 when *Cumhuriyet* published a front-page news story alleging Turkish involvement in weapons transfers to the armed opposition in Syria, a story of legitimate public interest.

Both journalists were acquitted on charges of trying to overthrow the government, whereas charges of aiding an armed organization were separated out from the main case file and may turn into a separate trial against Dündar and Gül in the future.

The article in question appeared under Dündar's byline and included photographs and a link to an online video purporting to show large quantities of mortar shells, grenade launchers, and ammunition hidden in a Turkish truck bound for Syria in January 2014.<sup>18</sup> In

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<sup>17</sup> Human Rights Watch, "Turkey's Human Rights Rollback. Recommendations for Reform," September 2014, <https://www.hrw.org/report/2014/09/29/turkeys-human-rights-rollback/recommendations-reform#9e65fo>, Human Rights Watch, "World Report 2015: Turkey", <https://www.hrw.org/world-report/2015/country-chapters/turkey#803bf5>, Human Rights Watch, "World Report 2016: Turkey", <https://www.hrw.org/world-report/2016/country-chapters/turkey#803bf5>.

<sup>18</sup> "İşte Erdoğan'ın yok dediği silahlar," ("These are the weapons Erdoğan said did not exist"), Cumhuriyet TV, May 29, 2015, video clip, Dailymotion, <http://www.dailymotion.com/video/x2rvuve> (accessed June 20, 2016).

publishing the story and images, the newspaper challenged Turkish government claims over more than a year that the trucks had been part of a humanitarian assistance operation to Syria run by Turkey's National Intelligence Agency (MİT).

In January 2014 public prosecutors in Turkey's southern city of Adana attempted to investigate allegations that trucks had transferred weapons through Turkey to Syria. Those prosecutors were first dismissed or reassigned, and in 2015, a court ordered their arrest for "attempting to overthrow the government and attempting to obstruct the work of government officials." Because the government had not sought parliamentary authorization to supply weapons to Syrian opposition groups, the whole incident sparked controversy and raised questions about the extent of Turkey's involvement in the conflict in Syria.

Following *Cumhuriyet's* publication of the report and photographs, both then Prime Minister Ahmet Davutoğlu and President Erdoğan accused *Cumhuriyet* and its editor Dündar of spying, and Erdoğan repeatedly vowed that the author of the report would "pay a heavy price."<sup>19</sup>

Can Dündar and Erdem Gül were formally arrested on November 26, 2015 and released on February 26, 2016 after spending 92 days in pretrial detention because the Constitutional Court ruled that the detention was unlawful, arbitrary, and disproportionate, and interfered with their right to freedom of expression.<sup>20</sup> Erdoğan strongly criticized the court's decision, and said that he did "not respect it."<sup>21</sup> The two journalists are at liberty pending the appeal of their sentences. On August 15, 2016, Dündar, who is currently residing abroad, announced in a column published in *Cumhuriyet* that he was stepping down from his position as editor-in-chief of the newspaper. He said that he would not return to Turkey as he no longer had faith in the Turkish justice system to hear his appeal. "To trust such a judiciary would amount to putting one's head under the guillotine," he wrote in his final column entitled "Time to say good-bye."<sup>22</sup>

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<sup>19</sup> "Cumhurbaşkanı'ndan Can Dündar'a: Bu haberi yapan kişi bunun bedelini ağır ödeyecek öyle bırakmam onu," ("The President to Can Dündar: The person who made these news will pay a heavy price, I will not just let this go"), T24, May 31, 2015, <http://t24.com.tr/haber/cumhurbaskanindan-can-dundara-bu-haberi-yapan-kisi-bunun-bedelini-agir-odeyecek-oyile-birakmam-onu,298368> (accessed July 2, 2016).

<sup>20</sup> "Court Rules Release of Can Dündar, Erdem Gül", Bianet English, February 26, 2016, <http://bianet.org/english/media/172472-court-rules-release-of-can-dundar-erdem-gul> (accessed July 2, 2016).

<sup>21</sup> "Turkey's Erdogan says does not respect court ruling on journalists", Reuters, February 28, 2016, <http://www.reuters.com/article/us-turkey-media-erdogan-idUSKCN0W10E6> (accessed July 2, 2016).

<sup>22</sup> "Dundar quits as Cumhuriyet editor after Turkey coup", DW, August 15, 2016, <http://www.dw.com/en/dundar-quits-as-cumhuriyet-editor-after-turkey-coup/a-19476428> (accessed August 21, 2016).

Similar charges have recently been brought against Yasemin Çongar, formerly the deputy editor-in-chief at the daily *Taraf* and co-founder of the independent journalism platform *P24*, Ahmet Altan, *Taraf*'s former editor-in-chief and now *P24* board member, as well as former *Taraf* journalist and writer Mehmet Baransu. Journalist Tuncay Opçin and former *Taraf* journalist Yıldırım Oğur have also been charged. In the indictment, prepared in June 2016 and seen by Human Rights Watch, Ahmet Altan, Yasemin Çongar, and Yıldırım Oğur are charged with "obtaining, publishing and destroying secret state documents" that Turkish authorities say are linked to an alleged coup d'état planned against then Prime Minister Erdoğan's government in 2003. These documents were used in a widely publicized investigation into what became known as the Sledgehammer plot.<sup>23</sup> Baransu and Opçin have additionally been charged with "founding and running a terrorist organization."

Baransu, Çongar, Altan and Oğur were all working at *Taraf* in 2010, when the newspaper published a series of articles claiming that a number of high military officers were plotting a coup d'état against the AKP government, which included plans to bomb mosques and shoot down a Turkish warplane in order to ignite a conflict with Greece.<sup>24</sup> Tuncay Opçin and Mehmet Baransu published a book detailing a number of alleged military conspiracies against the AKP. Baransu, the prime suspect in the case, has been in pre-trial detention since March 2015. On May 18, 2016 Turkey's Constitutional Court rejected Baransu's petition for release, a move condemned by press freedom organizations such as the Committee to Protect Journalists (CPJ).<sup>25</sup>

In September 2012 an Istanbul court had sentenced 331 of the 365 suspected coup-plotters, all members of the military, to jail time, including three retired Turkish generals who were handed life sentences that were later reduced to 20 years each. Thirty-four

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<sup>23</sup> "Turkish journalist arrested over evidence in Balyoz case", *Hurriyet Daily News*, March 2, 2015, <http://www.hurriyetdailynews.com/turkish-journalist-arrested-over-evidence-in-balyoz-case.aspx?pageID=238&nID=79047&NewsCatID=338> (accessed August 22, 2016).

<sup>24</sup> "Turkish journalist arrested over evidence in Balyoz case", *Hurriyet Daily News*, March 2, 2015, <http://www.hurriyetdailynews.com/turkish-journalist-arrested-over-evidence-in-balyozcase.aspx?pageID=238&nID=79047&NewsCatID=338> (accessed August 22, 2016).

<sup>25</sup> Committee to Protect Journalists, "Turkish High Court denies journalist's petition for release from pretrial detention," CPJ alert, Istanbul, May 18, 2016, <https://cpj.org/2016/05/turkish-high-court-denies-journalists-petition-for.php> (accessed August 22, 2016).

suspects were acquitted.<sup>26</sup> The Court of Cassation upheld the majority of the sentences in October 2013.

In June 2014, Turkey's Constitutional Court ruled that the rights of most of the suspects in pretrial detention had been violated resulting in the release of all Sledgehammer coup plot detainees. A December 2014 expert report found that part of the evidence presented by the prosecution in the case had been fabricated. After a retrial in March 2015, all 236 military suspects were cleared of all charges.<sup>27</sup> Many of them are now plaintiffs in the case against the *Taraf* journalists. To date there has been no criminal investigation into the identity of the whistleblower who handed the suitcase of documents to the journalists now on trial.<sup>28</sup>

*Taraf* newspaper's editors and journalists say that they were acting in accordance with the journalistic principle of publishing material with a clear public interest in Turkey. They bore no responsibility for the flawed trial against the military which followed.

The first hearing of the case took place on September 2, 2016 and a second hearing on November 23. If convicted, Altan, Çongar and Oğur face up to 52 years and six months in jail, and Baransu and Opçin up to 75 years.

Unrelated to the *Taraf* trial, on September 23, 2016 Ahmet Altan was jailed pending trial on suspicion of involvement in the July coup attempt and membership of an armed organization (FETÖ). As in most recent cases against journalists the prosecutor's office has presented no compelling evidence of any criminal wrongdoing by Altan though the media has suggested that he conveyed "subliminal messages" in support of a coup in a TV interview with his university professor brother, Mehmet Altan, who was also jailed in September.<sup>29</sup> Both the Altan brothers remain in detention.

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<sup>26</sup> "Turkish journalist arrested over evidence in Balyoz case", *Hürriyet Daily News*, March 2, 2015, <http://www.hurriyetdailynews.com/turkish-journalist-arrested-over-evidence-in-balyoz-case.aspx?pageID=238&nID=79047&NewsCatID=338> (accessed August 22, 2016).

<sup>27</sup> "Turkish 'Sledgehammer' coup plot trial collapses," BBC, March 31, 2015, <http://www.bbc.com/news/world-europe-32136809> (accessed August 22, 2016).

<sup>28</sup> Human Rights Watch telephone interview, Yavuz Baydar, P24, July 7, 2016 and Human Rights Watch interview with Veysel Ok, lawyer, 13 July 2016.

<sup>29</sup> See "Detention of the Altan brothers for subliminal messages," *Hürriyet*, September 10, 2016: <http://www.hurriyet.com.tr/altan-kardeslere-subliminal-mesaj-gozaltisi-40221465>.

## Prosecutions for Terrorist Propaganda and Membership

During 2016, many journalists have been prosecuted on terrorism propaganda charges. The crime of spreading propaganda has been used in Turkey for decades against journalists, political activists, students and protesters associated with the left or the Kurdish political movement.<sup>30</sup> Also used against journalists and writers is the charge of “membership of an armed organization.” Examples are discussed below.

Under article 7/2 of the Anti-Terrorism law, propaganda on behalf of a terrorist organization is punishable by a prison sentence of between one and five years. “Propaganda” is defined in the law as “portraying a terrorist organization’s use of force, violence or methods including threats as legitimate or praising them or inciting people to use these methods.”<sup>31</sup> For journalists the potential penalties are higher since publicizing or broadcasting propaganda via the media increases the penalty by one half.

Over the years the law has been amended and re-amended several times depending on the political climate. For example, in April 2013 at the start of talks between the Turkish government and the imprisoned leader of the PKK certain provisions relating to propaganda crimes in the Anti-Terror Law were softened.<sup>32</sup> But in March 2015 tougher provisions were introduced to criminalize activities such as covering the face during “demonstrations that turned into propaganda for a terrorist organization.”<sup>33</sup>

A recent example of the arbitrary use of Article 7/2 is the prosecution of Erol Önderoğlu, editor of independent online news site Bianet and Turkey representative for Reporters Without Borders.<sup>34</sup> Önderoğlu is currently on trial on charges of spreading propaganda for a terrorist organization for participating in a solidarity campaign in which he acted as a symbolic co-editor for a day with the pro-Kurdish daily *Özgür Gündem* in Istanbul.

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<sup>30</sup> “Turkey: Terror Laws Undermine Progress on Rights,” Human Rights Watch news release, January 31, 2013, <https://www.hrw.org/news/2013/01/31/turkey-terror-laws-undermine-progress-rights>

<sup>31</sup> “Terörle Mücadele Kanunu,” (Law to Fight Terrorism), Law No. 3713, April 12, 1991, <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.3713.pdf> (accessed August 22, 2016).

<sup>32</sup> In 2013, Turkish parliament narrowed the definition of what amounts to “terrorist propaganda”. According to the reformed law, only “direct incitement to violence” fell under the terrorism propaganda offense. See: “Turkey passes anti-terrorism law reform”, Reuters, April 12, 2013, <http://www.reuters.com/article/us-turkey-terrorism-idUSBRE93Bo6V20130412> (accessed August 22, 2016).

<sup>33</sup> “Terörle Mücadele Kanunu,” (Law to Fight Terrorism), Law No. 3713, April 12, 1991, <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.3713.pdf> (accessed September 19, 2016).

<sup>34</sup> Bianet is an independent non-profit news website that also monitors press freedom in Turkey.

Participants in the solidarity initiative, launched by *Özgür Gündem* on May 3 – World Press Freedom Day - attended editorial meetings at the newspaper for one day in protest against the legal harassment the paper regularly faced. The European Court of Human Rights has ruled on several occasions that Turkey's prosecution of the editors and journalists of similar newspapers violated Article 10 of the ECHR that protects freedom of expression.<sup>35</sup>

Since May 2016, Turkish authorities have opened more than 50 criminal investigations into the journalists, writers, politicians and human rights lawyers involved in the solidarity campaign, at least 16 of whom have been referred to trial. Önderoğlu told Human Rights Watch that it was the first time in his professional career of 21 years that he had been prosecuted for terrorism.

In 20 years I have put my name to thousands of articles and texts, but I never managed to spread terrorist propaganda. Unfortunately that is what I am now being accused of. I participated in the campaign because media diversity, indispensable in a democracy, is under serious threat in Turkey. The mainstream media are firmly under the government's control, and there are only a handful of small daily newspapers left that publish critical news and features, and they need support. I wanted to protest the government's use of repressive laws to silence the press and criticism.<sup>36</sup>

On June 20, 2016, an Istanbul court ordered the formal arrest of Önderoğlu, together with prominent human rights defender Şebnem Korur Fincancı and writer Ahmet Nesin, both of whom had also participated in the *Özgür Gündem* solidarity campaign, on charges of spreading terrorist propaganda. The three were the first to be placed in pretrial detention during the investigations into the campaign participants. Their imprisonment prompted international condemnation, with UN secretary-general chief Ban Ki Moon calling for

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<sup>35</sup> See for example: European Court of Human Rights, *Demirel and Ateş v. Turkey* (nos 10037/03 and 14813/03), judgment of November 29, 2007 available at [http://hudoc.echr.coe.int/eng#{"itemid":\["001-83632"\]}](http://hudoc.echr.coe.int/eng#{) and European Court of Human Rights, *Ürper and others vs. Turkey*, judgement of October 20, 2009, Series A nos. 14526/07, 14747/07, 15022/07, 15737/07, 36137/07, 47245/07, 50371/07, 50372/07 and 54637/07, available at: <http://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=001-95201&filename=001-95201.pdf> (accessed December 2, 2016).

<sup>36</sup> Human Rights Watch interview with Erol Önderoğlu, Turkey Representative Reporters without Borders, 17 June 2016.

Önderoğlu's release in a meeting with Reporters Without Borders.<sup>37</sup> Fincancı and Önderoğlu were released pending trial on June 30, 2016, and Ahmet Nesin a day later.

On August 16, 2016, the Istanbul 8<sup>th</sup> Court of Peace ordered the “temporary shutdown” of *Özgür Gündem* newspaper on the grounds that the newspaper was under investigation for spreading terrorist propaganda.<sup>38</sup> Only hours later on the same day, police violently raided the newspaper's offices and detained 24 people. Twenty-two of those detained were released 48 hours later, but the paper's editor-in-chief Zana Kaya and editor İnan Kızılkaya were formally arrested on August 23, 2016.<sup>39</sup> Also jailed in August in the same criminal investigation were Aslı Erdoğan and 70-year-old Necmiye Alpay, two well-known writers who served on the newspaper's advisory board. Erdoğan and Alpay have been indicted for “spreading terrorism propaganda,” “membership of an armed organization,” and “attempting to destroy the unity of the state and territorial integrity of the country.” Kaya and Kızılkaya, as well as book publisher Ragıp Zarakolu, journalist Filiz Koçali, human rights lawyer and columnist Eren Keskin face the same charges. Conviction for “attempting to destroy the unity of the state and territorial integrity of the country” carries a sentence of aggravated life imprisonment. All seven along with two others will attend their first trial hearing on December 29, 2016.

*Özgür Gündem* newspaper was shut down by decree on October 29, 2016.

The case of Hamza Aktan provides another example of the use of terrorist propaganda charges. Aktan, the news editor for the independent television station İMC TV, currently faces trial and, if convicted, up to five years in jail for posting a number of tweets and several retweets about the deteriorating situation in the Kurdish southeast on his personal Twitter account. None of the tweets promote violence. He told Human Rights Watch that he has not authored, or ever seen, nine out of the 16 tweets listed in the indictment and

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<sup>37</sup> Readout of the Secretary-General's meeting with Reporters Without Borders, June 21, 2016: <http://www.un.org/sg/offthecuff/index.asp?nid=4586> (accessed July 4, 2016).

<sup>38</sup> Elif Akgül, “Özgür Gündem Newspaper Shut Down,” *Bianet*, August 16, 2016, <http://bianet.org/english/media/177853-ozgur-gundem-newspaper-shut-down> (accessed August 23, 2016).

<sup>39</sup> “Özgür Gündem Daily's Editor-in-Chief Kaya, Chief Editor Kızılkaya Arrested,” *Bianet*, August 23, 2016, <http://bianet.org/english/media/178061-ozgur-gundem-daily-s-editor-in-chief-kaya-chief-editor-kizilkaya-arrested> (accessed August 23, 2016).

seen by Human Rights Watch.<sup>40</sup> Several of the alleged tweets also exceed the 140-character limit imposed by Twitter on users.

Aktan was detained on April 30 by masked policemen in an early morning raid on his Istanbul home. Aktan told Human Rights Watch that the police questioned him about four tweets and five retweets he had posted on Twitter in 2015. The police told him that he was under investigation for having committed “crimes against the state” and spreading “propaganda for a terrorist organization,” in particular because of his translating into Turkish and retweeting of the BBC’s call for eyewitnesses and residents to send in photos and information from the predominantly Kurdish town of Cizre, then under military curfew.

They asked me: ‘Why did you write these things?’, and it was both a question and an accusation. The police officers accused me of having provided ‘intelligence’ to the BBC, and said that I had made Turkey look bad in the eyes of the world. I told them that my activity on social media was an important and integral part of my work as a journalist, that criticizing acts of the state was normal journalistic activity, but they said that I was trying to direct public opinion.<sup>41</sup>

On the day he was detained prosecutors asked for Aktan to be remanded in custody pending trial on charges of “spreading propaganda for a terrorist organization”, but the judge ordered his release on probation, which means that he must register at a police station once every two weeks.

Aktan told Human Rights Watch that he was now “more careful” about the things he wrote and shared on social media.<sup>42</sup>

I am more careful about what I write [on social media], since I am now on trial for something I did not even share on Twitter. If a journalist can be put

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<sup>40</sup> Human Rights Watch phone interview with Hamza Aktan, news editor, IMC TV, 28 June 2016.

<sup>41</sup> Human Rights Watch interview Hamza Aktan, 10 May 2016.

<sup>42</sup> Human Rights Watch phone interview with Hamza Aktan, 6 July 2016.

on trial for things he didn't even write, one of course worries about the things one does write.<sup>43</sup>

Arzu Demir, author and journalist for the pro-Kurdish news agencies ANF and ETHA and a contributor to the socialist weekly *Atılım* newspaper, told Human Rights Watch that she had no more time to do her job as a journalist because of the regular court summonses she receives. She is currently on trial in Istanbul Heavy Penalty Court No. 13 on charges of spreading propaganda for a terrorist organization, together with 15 other journalists working at or contributing to the newspaper.

Evidence cited against her in the indictment, seen by Human Rights Watch, consists of only one interview with a Kurdish politician about the concept of regional autonomy, published in August 2015 in *Atılım* magazine.

Demir is on trial on four separate charges of propaganda, two of which related to books she wrote on the Kurdish issue and the role of women in the Syrian-Kurdish armed movement.<sup>44</sup> The fourth concerns a separate text published in *Atılım*. She is also one of 46 journalists still on trial for alleged links to the Union of Kurdistan Communities (KCK), a body connected with the armed Kurdistan Workers' Party (PKK).

She told Human Rights Watch:

I have worked as a journalist for almost 20 years, and I can barely even do journalism anymore because of regular summonses. All I do lately is to give my statements at the prosecutor's office or in court.<sup>45</sup>

On December 16, 2015, Beritan Canözer, a journalist working for the women's news agency JINHA, was detained in Diyarbakir while reporting on an unauthorized march protesting the curfew and security operations in the historic Sur district of the city.<sup>46</sup> According to the

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<sup>43</sup> Human Rights Watch phone interview with Hamza Aktan, 4 July 2016.

<sup>44</sup> "Gazeteci Arzu Demir hakkında 2 dava 3 soruşturma açıldı," ("2 court cases and 3 criminal investigations launched against journalist Arzu Demir"), *Evrensel*, May 8, 2016, <https://www.evrensel.net/haber/279538/gazeteci-arzu-demir-hakkinda-2-dava-3-sorusturma-acildi> (accessed 22 August, 2016).

<sup>45</sup> Human Rights Watch interview with Arzu Demir, journalist, ETHA, 12 May 2016.

<sup>46</sup> Human Rights Watch phone interview with Beritan Canözer, journalist, JINHA, May 18, 2016.

police report seen by Human Rights Watch, Canözer was displaying “suspicious behavior” and looked “too excited.” Three days later a court ordered her to be jailed pending trial on charges of being a member of and spreading propaganda for an armed terrorist organization. Evidence cited against her consisted of her own reporting notes and of items she had posted on her personal Twitter and Facebook accounts, none of which incited violence. Canözer was released on bail on 29 March 2016.

On May 10, 2016, the Diyarbakır 4th Heavy Penalty Court sentenced Canözer to one year and three months in prison on charges of “propaganda for an armed organization”, acquitting her on membership charges. The court deferred the sentence and released her on condition that she be on probation for five years.

Her lawyer Cemile Turhallı Balsak told Human Rights Watch that another criminal investigation has been opened against Canözer since the end of that trial for an interview with a Kurdish politician in Turkey that was broadcast live on television.<sup>47</sup> According to Balsak:

When the government says that she should not commit another crime over the next five years, they are really saying that she should not do any journalism. They are sending a very clear message.<sup>48</sup>

JINHA news agency for which Canözer worked was closed down by decree under the state of emergency on October 29, 2016.

## **Prosecutions for “Incitement to Hate and Hostility”**

Article 216(1) of the Turkish Penal Code makes it a criminal offence to “openly provoke a group of people belonging to a different social class, religion, race, sect, or coming from another origin, to enmity or hostility against another group”, and provides for between 1 and 3 years’ imprisonment if the act “poses a risk to public safety.”

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<sup>47</sup> Human Rights Watch phone interview with Cemile Turhallı Balsak, lawyer, July 6, 2016.

<sup>48</sup> Human Rights Watch phone interview with Cemile Turhallı Balsak, June 2, 2016.

In 2013, journalist and writer Sevan Nişanyan received a 13-month sentence under article 216(1) for denouncing the AKP government's attempts to prohibit criticism of the Muslim prophet Muhammad in a blog post published on September 22, 2012.<sup>49</sup> The Court of Cassation overturned the conviction and a retrial is underway.<sup>50</sup> Nişanyan remained at liberty during his first trial but was imprisoned on January 2, 2014, after receiving an additional conviction for alleged building regulation infringements. There are no cases of people serving long prison sentences for infringing building regulations in Turkey and Human Rights Watch believes that Sevan Nisanyan has been targeted for his controversial writings and political views regarding freedom of speech and the freedom to criticize religion. He remains in prison.<sup>51</sup>

On April 28, 2016, a criminal court in Istanbul sentenced Ceyda Karan and Hikmet Çetinkaya, both journalists for the daily *Cumhuriyet*, to two years in prison on charges of “openly encouraging hate and enmity among people via the media” for reprinting the cover image of the satirical French weekly *Charlie Hebdo* depicting the Islamic prophet Mohammed holding a *#JeSuisCharlie* sign beneath the headline “All is forgiven.” The two journalists were acquitted of charges of “openly insulting religious values” and remain at liberty pending the appeal of their sentence.<sup>52</sup>

On January 14, 2015, *Cumhuriyet* had published a four-page *Charlie Hebdo* pullout translated into Turkish to mark the *Charlie Hebdo's* first edition following the 2015 terrorist attack on its Paris offices that killed 12 people. *Cumhuriyet's* pullout did not include the contentious front cover featuring Prophet Mohammed, but both Karan and Çetinkaya decided to run a smaller version of the cartoon alongside their columns inside the newspaper.<sup>53</sup>

A total number of 1,280 people, listed on the indictment seen by Human Rights Watch, filed a criminal complaint against the two journalists, including two daughters and one son of Turkish President Recep Tayyip Erdoğan, as well as his son-in-law Energy Minister Berat

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<sup>49</sup> Sevan Nişanyan, “Turkish Court Defends Prophet Against Yours Truly,” post to “Sevan Nisanyan. The Official Website of Sevan Nisanyan” (blog), May 22, 2013, <http://www.sevannisanyan.info/#!Turkish-Court-Defends-Prophet-Against-Yours-Truly/caq9/ibxm9h7p17> (accessed August 20, 2016).

<sup>50</sup> Information provided to Human Rights by Sevan Nişanyan's lawyer Ergin Cinmen, November 29, 2016,

<sup>51</sup> Freedom House, “Freedom of the Press 2016,” <https://freedomhouse.org/report/freedom-net/2015/turkey> (accessed July 20, 2016).

<sup>52</sup> Human Rights Watch interview with Ceyda Karan, journalist, *Cumhuriyet*, 11 May 2016.

<sup>53</sup> Human Rights Watch interview with Ceyda Karan, 11 May 2016.

Albayrak. Turkey's then Prime Minister Ahmet Davutoğlu called the journalists' decision to republish the cartoon a "serious provocation" and said that "freedom of expression does not mean the freedom to insult." Karan told Human Rights Watch that she and her colleague Çetinkaya had received death threats and that she has needed the protection of a bodyguard since January 2015.<sup>54</sup>

## Prosecutions and Convictions on Charges of Insulting the Turkish President and Public Servants

Criminal defamation has increasingly been used by high-ranking politicians in Turkey to penalize critical and dissenting views, and over the past 18 months there has been a clear trend to charge people critical of President Recep Tayyip Erdoğan with the criminal offence of "defamation of the President." Since Erdoğan was elected president in August 2014 his lawyers have filed almost 2,000 criminal cases on charges of insulting the president, hundreds of which were directed at journalists.

Defined as a criminal offence under Article 125 of the Turkish Penal Code, defamation carries a maximum sentence of two years in prison. Defamation of the president, as defined in Article 299 of the Turkish penal code, allows for a higher maximum sentence of four years. The offence has existed in Turkey for many years, but it has been used far more often by President Recep Tayyip Erdoğan than by previous presidents.

According to the 2015 Bianet media monitoring report, on the basis of the cases their researcher had been able to identify, there had been a tenfold increase of punitive and compensation lawsuits for defamation compared to the previous year, with 19 journalists and two cartoonists on trial for insulting the president. The Bianet report on the first three months of 2016 recorded 86 persons, 53 of whom are journalists, facing legal action on charges of defamation or violation of personal rights of the former Prime Minister (Article 125(3) of the Turkish penal code) and the President (Article 299 of the Turkish penal code) via the media.<sup>55</sup> Erol Önderoğlu, journalist at Bianet and Turkey representative for Reporters

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<sup>54</sup> Human Rights Watch interview with Ceyda Karan, 11 May 2016.

<sup>55</sup> "Erdoğan's 'New Turkey' Cancels Out Critical Journalism", BIA Media Monitoring Report January-February-March, Bianet, Istanbul, May 3, 2016, <http://bianet.org/english/media/174441-erdogan-s-new-turkey-cancels-out-critical-journalism> (accessed July 16, 2016).

Without Borders, told Human Rights Watch that he believes the rapid increase of defamation lawsuits is connected to a reduction in the independence of the judiciary in the country:

... there is no independent judiciary left in Turkey to investigate unlawful proceedings initiated by the president. Those that make use of their right to freedom of expression experience the application of Article 299 in favor of an already untouchable president as a weapon aimed at them.<sup>56</sup>

Murat Belge, academic, writer, and columnist for the online news portal *T24*, currently stands trial on charges of insulting the Turkish president over a September 12, 2015 column in the daily *Taraf* in which he suggested that Erdoğan had reignited the conflict with the PKK for his own electoral benefit. Belge denied the charges, and his next hearing is in March 2017.

Journalist and columnist Hasan Cemal who also writes for the news website *T24* currently stands trial in two separate lawsuits on charges of insulting the president in two columns published in *T24*. One October 2015 column criticized the president for his silence over a September 2015 attack on *Hürriyet* newspaper and journalist Ahmet Hakan; the other January 2016 column accused the president of violating the constitution. If convicted, Hasan Cemal could face up to eight years and eight months in prison, according to his lawyer Veysel Ok. During a hearing at Istanbul's 12<sup>th</sup> Criminal Court of First Instance on May 20, Cemal told the panel of judges that “those in power have to be more resilient in the face of criticism.” Both trials continue on December 20.

On June 9, 2016, an Istanbul court sentenced journalist Mustafa Hoş to 11 months and 20 days in prison on charges of insulting the president for his unauthorized biography of Erdoğan entitled *Big Boss*. The court changed the verdict to a fine of 10,500 Turkish liras (approximately US\$ 3,500). He told Human Rights Watch that he faced five different lawsuits on charges of insulting the president for the Erdoğan biography, and that the above sentence was the only case in which a verdict had been reached by the court. The other four cases were ongoing at the time of writing.<sup>57</sup>

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<sup>56</sup> Human Rights Watch interview with Erol Önderoğlu, June 17, 2016.

<sup>57</sup> Human Rights Watch phone interview with Mustafa Hoş, journalist, 22 August 2016.

In March 2016, the Venice Commission, the legal advisory body of the Council of Europe, asked Turkey to repeal Article 299 noting that its use had dramatically increased amidst a crackdown on freedom of expression:

Having regard to the excessive and growing use of this article, the commission considers that, in the Turkish context, the only solution to avoid further violations of the freedom of expression is to completely repeal this Article and to ensure that application of the general provision on insult is consistent with these criteria.<sup>58</sup>

On July 29, 2016, Erdoğan announced that he would withdraw all lawsuits dealing with insult against him as a “one off” gesture of goodwill following the coup attempt.<sup>59</sup> The full impact on existing prosecutions is not yet known but since these are criminal cases (kamu davası) they will not automatically drop because the president has signalled his readiness to forgive. Since then, several people, including journalists, have been charged with defamation of President Erdoğan in new cases. For example, journalist and activist Ayhan Karahan was arrested in Bodrum in November for having insulted the head of state at a rally protesting the jailing of several prominent HDP politicians.<sup>60</sup>

The Turkish authorities have repeatedly argued that laws similar to Article 299 exist in other European countries and that Turkey needs such a law. Many European Union countries do still have criminal libel laws and convict people of speech offenses, and media freedom organizations campaign for the repeal of criminal libel laws.<sup>61</sup>

But the existence of abusive laws in other countries should not obscure the specific problems in Turkey, where the rapidly rising number of defamation lawsuits has a chilling

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<sup>58</sup> Council of Europe Venice Commission, “CDL-AD(2016)002-e Opinion on articles 216, 299, 301 and 314 of the Penal Code of Turkey, adopted by the Venice Commission at its 106th plenary session (Venice, 11-12 March 2016)”, Strasbourg, March 15, 2016, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)002-e) (accessed August 22, 2016).

<sup>59</sup> “Erdoğan to withdraw insult lawsuits”, DW, July 29, 2016, <http://www.dw.com/en/erdogan-to-withdraw-insult-lawsuits/a-19438213> (accessed August 17, 2016).

<sup>60</sup> “Ayhan Karahan, Cumhurbaşkanı Hakaretten Tutuklandı!” (“Ayhan Karahan arrested on charges of insulting the President!”), Kent TV, November 8, 2016, <http://www.kenttv.net/haber.php?id=36083> (accessed November 12, 2016).

<sup>61</sup> International Press Institute, “IPI special investigation: The application of criminal defamation laws in Europe,” September 15, 2015, <http://legaldb.freemedia.at/2015/09/15/ipi-special-investigation-the-application-of-criminal-defamation-laws-in-europe/> (accessed August 22, 2016).

effect on press freedom and freedom of expression. Several of the journalists interviewed for this report told Human Rights Watch that they were carefully monitoring their writing and their activity on social media in order not to risk legal action against them.

### III. Threats and Physical Attacks Against Journalists and Media Outlets

All but four of the 36 journalists interviewed for this report told Human Rights Watch that they had been subject to threats and intimidation. Eight of them had been victims of violent attacks on their person which they attributed to the fact they were journalists.

There was skepticism on the part of those interviewed about whether the authorities were willing to investigate threats and physical attacks thoroughly. Where the alleged assailants were members of the military or the police, those interviewed were very doubtful they would receive any justice or protection, and journalists reporting from the predominantly Kurdish southeast or on the Kurdish issue in general said they felt especially vulnerable to threats and violence from state actors.

#### Campaign against *Hürriyet* Newspaper

In early September 2015 a number of pro-government journalists and columnists joined an aggressive smear campaign against the newspaper *Hürriyet* after President Erdoğan criticized the paper and its owner, Aydın Doğan, claiming that it misrepresented a statement in which he suggested that if his party had won an outright majority in the June 7, 2015 general election, violence in the pre-dominantly Kurdish southeast would not have increased as much.<sup>62</sup> The Doğan Media Group, which includes CNN Türk TV station, was up to that period in general more willing to run news coverage critical of the government and before the June 2015 election had given airtime to the leader of the pro-Kurdish Peoples' Democratic Party (HDP).

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<sup>62</sup> During a live interview broadcast by A Haber TV on September 6, 2015, the presenter asked President Erdoğan about an attack on a military convoy by the outlawed Kurdistan Workers' Party (PKK) in Dağlıca, in the province of Hakkari: "At the inauguration of [the] metro line you said that that you 'wanted 400 deputies' [for the AKP]. It is said that these words played a role in the coming of this conflict period." Erdoğan replied: "If a political party could have got 400 deputies or [a parliamentary majority] to write a new constitution, the situation would be different today." *Hürriyet*, reporting the full text of the broadcasted interview, tweeted: "Dağlıca comment from Erdoğan: 'This would not have happened if 400 deputies had been granted.'", see: "Details of attack on *Hürriyet* in 11 points", *Hürriyet Daily News*, September 7, 2016, <http://www.hurriyetdailynews.com/details-of-attack-on-hurriyet-in-11points.aspx?pageID=238&nID=88136&NewsCatID=509> (accessed August 21, 2016).

On September 6, 2015, well-known pro-AKP commentators took to Twitter to accuse *Hürriyet* of supporting the outlawed Kurdistan Workers' Party (PKK), and of spreading terrorist propaganda and disinformation about the government's security operations in the southeast. They also called on AKP supporters to show "their democratic will" and to stage protests in front of the *Hürriyet* building.<sup>63</sup>

Hours later, a crowd of around 200 people that included AKP parliament member and head of the AK Party's Youth Branch Abdurrahim Boynukalın, attacked the newspaper's headquarters in Istanbul, assaulting security personnel at the outer gates before breaking windows and trying to get into the building. *Hürriyet* later said that a number of desks and computers on the ground floor were damaged as protesters threw stones at the glass entrance doors. During the attack, government supporters continued to send messages on social media urging on the assailants.

Following the attack video footage emerged of MP Boynukalın addressing attackers in front of the building, expressing regret over not having "beaten up [*Hürriyet* journalists] before."<sup>64</sup>

While the government kept silent over the incident, the Istanbul chief prosecutor's initial response was to initiate an investigation into *Hürriyet* for "insulting President Erdoğan." Two days later Erdoğan rounded on the paper for a second time, criticizing *Hürriyet* journalists for misquoting him on Twitter. His comments were followed by another violent attack on the newspaper's offices only two days later on September 8, 2015, drawing expressions of concern from the EU Council President, Donald Tusk, during a visit to Turkey.<sup>65</sup>

While Boynukalın was excluded from the AKP's candidate list prior to national elections on November 1, 2015, he had been promoted to deputy minister of youth and sports shortly after the second attack on the *Hürriyet* newspaper. In October 2015, speaking at an AKP youth branch meeting in Mersin, he said the attack had served to "lift [*Hürriyet*'s]

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<sup>63</sup> "Details of attack on *Hürriyet* in 11 points", *Hürriyet Daily News*, September 7, 2016, <http://www.hurriyetdailynews.com/details-of-attack-on-hurriyet-in-11points.aspx?pageID=238&nID=88136&NewsCatID=509> (accessed August 2, 2016).

<sup>64</sup> "VIDEO: AKP MP complains of 'not beating' *Hürriyet* journalists in past", *Hürriyet Daily News*, September 15, 2016, <http://www.hurriyetdailynews.com/akp-mp-complains-of-not-beating-hurriyet-journalists-in-past.aspx?pageID=238&nID=88534&NewsCatID=509> (accessed July 25, 2016).

<sup>65</sup> "Remarks by President Donald Tusk after his meeting with President of Turkey, Recep Tayyip Erdoğan", European Council press release, September 9, 2015, <http://www.consilium.europa.eu/en/press/press-releases/2015/09/09-tusk-remarks-turkey-president-Erdoğan/> (accessed July 18, 2016).

perceived immunity.”<sup>66</sup> Despite clear video evidence of his role in the September 7 attack on the *Hürriyet* building, Boynukalın is not among the 26 suspects listed in the indictment prepared on December 15, 2015 in connection with the attack.<sup>67</sup>

The prosecution demands up to nine years of imprisonment for the suspects on charges of “inciting criminal activity,” “depriving people of their freedom,” “membership in an illegal organization,” “creating fear and panic among the public” and “damaging property.”

However, then Prime Minister Ahmet Davutoğlu dismissed Boynukalın’s threat that “some journalists should have been beaten up before” during the attack as a “spat amongst friends” and argued that his words “should not be generalized.”<sup>68</sup> In a speech in December 2015, Davutoğlu expressed “gratitude” to Boynukalın for his work as the head of the AK Party’s Youth Branch.<sup>69</sup> Such impunity, granted publicly by a high member of the government sends the wrong message to possible assailants and has a chilling effect on press freedom as journalists will feel that they do not have the protection of the government in the case of an attack.

## Physical Attack on Ahmet Hakan

On the night of September 30, 2015, Ahmet Hakan, a prominent journalist, *Hürriyet* newspaper columnist and TV political talkshow host, was violently assaulted near his home in Istanbul. He sustained multiple injuries, including a broken nose and ribs. Four men in a car had followed Hakan on his way home from the Doğan Media Group’s CNNTürk TV station where he had presented a weekly political debate program that evening. Hakan’s bodyguard was also injured in the attack.

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<sup>66</sup> “Boynukalın Hürriyet’e saldırıyı böyle savundu: Bir dokunulmazlığı kaldırdık,” (“Boynukalın defended attack on Hürriyet like this: we lifted their immunity”), *Hürriyet*, October 21, 2015, <http://www.hurriyet.com.tr/boynukalin-hurriyete-saldiriyi-boyle-savundu-bir-dokunulmazligi-kaldirdik-40004294> (accessed August 22, 2018).

<sup>67</sup> “AKP MP who threatens journalists enjoys impunity”, *Hürriyet*, video clip, [n.d.], <http://www.hurriyetdailynews.com/Default.aspx?pageID=428&VideoID=762> (accessed August 20, 2016).

<sup>68</sup> “Davutoğlu, gazete basıp gazetecileri tehdit eden Boynukalın’a ‘şükran sundu’,” (“Davutoglu ‘presents thanks’ to Boynukalın who attacked a newspaper and threatened journalists”), *Diken*, December 20, 2015, <http://www.diken.com.tr/davutoglu-hurriyeti-basip-Erdoğan-i-baskan-yaptiran-boynukalina-sukran-sundu/> (accessed August 22, 2016).

<sup>69</sup> Ibid.

Three of the alleged perpetrators were immediately detained by the police, and the fourth was apprehended the next morning. Later three more suspects, under suspicion of having assisted in the planning of the attack, were also detained to be questioned by the police.

The OSCE Freedom of Media Representative, Dunja Mijatović, condemned the attack and urged Turkish authorities to bring the perpetrators swiftly to justice, in order to “demonstrate that violence against critical voices is unacceptable.”<sup>70</sup> She welcomed the condemnation of the assault by leading government figures, including then Deputy Prime Minister Numan Kurtulmuş and Ömer Çelik, the current Minister of European Union Affairs and then spokesperson for the AK Party.

On October 4, 2015, six of the suspects were released on bail, while the seventh was formally arrested by an Istanbul court on charges of “willful injury.” The court said that while the injury was “basic” it did take into account that the attack had been on “the profession of journalism and on the freedom to express an opinion, both of which are indispensable components of a democratic society” and was therefore unacceptable in a state governed by the rule of law.<sup>71</sup> On January 27, 2016, the last detainee was also released pending trial.

During the police interrogation Uğur Adıyaman, one of the suspects in the case, said that he had been offered “a teahouse business” by a former special forces police officer in return for attacking Ahmet Hakan. He said the police officer had told him that he and the other suspects needed to beat up the journalist “in a way that he [Hakan] would not write again.” The former police officer allegedly also told Adıyaman that he did not need to fear punishment since the order had come “from up high,” and was “state business.”<sup>72</sup>

The prosecutor’s request to arrest all seven suspects on counts of “founding and being a member of a criminal organization” was rejected by the court on the grounds of insufficient evidence. Hakan’s lawyer Aslı Kazan Gilmore told Human Rights Watch that this decision

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<sup>70</sup> “OSCE media freedom representative condemns attack on journalist Ahmet Hakan, and calls for improved safety of journalists in Turkey,” OSCE press release, October 1, 2015, <http://www.osce.org/fom/188216> (accessed August 22, 2016).

<sup>71</sup> “Mahkeme, Ahmet Hakan’a saldırınlari tutuklamak için delilleri yetersiz buldu,” (“Court did not find sufficient evidence to arrest attackers of Ahmet Hakan”), *Radikal*, October 5, 2015, <http://www.radikal.com.tr/turkiye/mahkeme-ahmet-hakana-saldiranlari-tutuklamak-icin-delilleri-yetersiz-buldu-1445617/> (accessed August 22, 2016).

<sup>72</sup> Minutes of police interrogation of Uğur Adıyaman by officer Yusuf Erkan, CMK MD. 147, October 2, 2015, p.3f.

was questionable in light of the defendants' police statements and evidence of arms and antiques smuggling retrieved from their phones.<sup>73</sup>

Gilmore also told Human Rights Watch that the suspects have changed their statement, claiming that they suffered ill-treatment and torture at the hands of the police, and that they had in fact acted alone and without orders from a fifth person.<sup>74</sup> However, she claims that the role of the former police officer in directing the four defendants has been established by the discovery of phone messages sent from his phone.

The court case against seven suspects was ongoing at the time of writing.<sup>75</sup>

Hakan had received several serious threats preceding the attack. On September 9, 2015, Cem Küçük, a well-known Erdoğan supporter working for the pro-government daily *Star*, wrote in his daily column, in reference to Hakan: "Like schizophrenia patients, you think you are still living in the days when *Hürriyet* was running the country. If we want, we can squash you like a fly. You are only still alive because we have showed mercy so far."<sup>76</sup>

A prosecutor launched an investigation into Küçük for his threats against Hakan on charges of "insult," "libel," and "threatening a person's life" for the column he wrote. Making his statement to the prosecutor, Küçük said he had not meant to threaten Hakan, that his comments had been "ironic," and that he had exercised his right to freedom of expression.<sup>77</sup> A court case for "threats" had since been opened against Küçük and was ongoing, lawyer Aslı Kazan Gilmore told Human Rights Watch.<sup>78</sup>

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<sup>73</sup> Human Rights Watch interview with Aslı Kazan Gilmore, lawyer, 12 August 2016.

<sup>74</sup> Human Rights Watch phone interview with Aslı Kazan Gilmore, 3 July 2016.

<sup>75</sup> Human Rights Watch phone interview with Aslı Kazan Gilmore, 3 July 2016.

<sup>76</sup> Cem Küçük, "Portrait of a schizophrenic and PKK thief: Ahmet Hakan," *Star* newspaper, September 9, 2015, <http://www.star.com.tr/yazar/sizofrenik-ve-pkkli-bir-hirsiz-portresi-ahmet-hakan-yazi-1055333/> (accessed December 3, 2016).

<sup>77</sup> "Küçük claims his threats against journalist Ahmet Hakan were ironic," Cihan news agency, October 21, 2015, <https://www.cihan.com.tr/en/kucuk-claims-his-threats-against-journalist-ahmet-hakan-were-ironic-1910891.htm> (no longer accessible).

<sup>78</sup> Human Rights Watch phone interview with Aslı Kazan Gilmore, 3 July 2016.

## Shooting of Can Dündar

On May 6, 2016, a gunman shot at *Cumhuriyet* editor-in-chief Can Dündar while he was standing outside an Istanbul courthouse, awaiting the verdict in the case described above against him and Erdem Gül, the paper's Ankara bureau chief.

The gunman, identified as Murat Şahin, 40, came towards him, shouted “traitor” at Dündar and fired two shots. He escaped injury but an NTV reporter, Yağız Şenkal, was lightly injured in the leg. Şahin was caught and detained. He is on trial and faces a possible jail sentence of almost 13 years on charges of “basic assault with a firearm”, “threatening a person with a weapon”, “insult” and “owning an unlicensed firearm”, according to the indictment seen by Human Rights Watch. Two more suspects were detained and remain at liberty pending trial on charges of “basic assault with a firearm” and “threatening a person with a weapon.”<sup>79</sup>

Turkish President Recep Tayyip Erdoğan threatened Can Dündar immediately following the *Cumhuriyet* article on arms deliveries to Syria via Turkey in lorries owned by the Turkish National Intelligence Agency (MİT), and said that he would “pay a heavy price” for its publication. Later Erdoğan repeated this threat: “Their intention is to blacken Turkey’s image. The person making this news will pay a heavy price, I will not just let this slide.”<sup>80</sup>

The Turkish president has frequently vilified critical journalists since the Gezi Park protests in the summer of 2013, but his tone sharpened in the past year. Speaking to a group of lawyers in Ankara on April 5, 2016, President Erdoğan said that people posing as journalists, academics or lawyers could in fact be members of terrorist organizations.

Terrorism supporters in the guise of academics, spies in the guise of journalists, activists in the guise of politicians and militants in the guise of government officials are no different from members of terrorist

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<sup>79</sup> Indictment prepared by Istanbul prosecutor's office, Case No. 2016/57622, Indictment No. 2016/20569; “Can Dündar davasının sanığı Murat Şahin: Nişancı biriyim, istesem 200 metreden öldürürdüm,” (“Defendant in Can Dündar trial Murat Şahin: I am a sharpshooter, if I wanted I could have killed him from 200 meters away”), Haberturk, June 29, 2016, <http://www.haberturk.com/gundem/haber/1260685-can-dundar-davasinin-sanigi-murat-sahin-nisanci-biriyim-istesem-200-metreden-oldururdum> (accessed August 22, 2016).

<sup>80</sup> “Can Dündar'a silahlı saldırı öncesi kim ne demişti?” (“Who said what prior to the armed assault on Can Dündar?”), *Cumhuriyet*, May 6, 2016, [http://www.cumhuriyet.com.tr/haber/turkiye/495760/Can\\_Dundar\\_a\\_silahli\\_saldiri\\_onesi\\_kim\\_ne\\_demisti\\_.html](http://www.cumhuriyet.com.tr/haber/turkiye/495760/Can_Dundar_a_silahli_saldiri_onesi_kim_ne_demisti_.html) (accessed August 22, 2016).

organizations holding guns and bombs. They serve the same purpose. We have to watch out as a nation. We do not have to carry those who betray the state and the nation on our backs.<sup>81</sup>

Erdoğan made similar claims the previous month when he said that there was “no difference between an armed terrorist and those holding a pen.” Speaking in Ankara on March 14, 2016, he lashed out at what he called “unarmed terrorists”:

There is no difference between a terrorist holding a gun or a bomb and those who use their work and pens to support terrorism. The fact that an individual could be a deputy, an academic, an author, a journalist or the director of an NGO does not change the fact that that person is a terrorist.<sup>82</sup>

Erol Önderoğlu, the Reporters Without Borders representative in Turkey, said that the armed attack on Can Dündar on May 6, 2016, was a direct result of this kind of chilling government discourse.

Unfortunately, this attack was predictable. When journalists are constantly called terrorists and traitors in official speeches and in the media, consequences are to be expected. It is high time to put an end to this scurrilous campaign and ban such hate speech once and for all.<sup>83</sup>

At the first hearing against the three suspects in the Can Dündar shooting case on June 29, 2016, gunman Murat Şahin told the court that he had wanted to scare, not kill, Can Dündar, and to remind Turkish society of “the damage he had done”:

It was not my intention to kill or injure Can Dündar. I wanted to send a message to the public. I wanted to send a message to those people who

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<sup>81</sup> “Cumhurbaşkanı Erdoğan: Vatandaşlıktan çıkarılmalı,” (“President Erdoğan: They have to be stripped of citizenship”), *Yeni Şafak*, April 5, 2016, <http://www.yenisafak.com/gundem/cumhurbaskani-Erdoğan-vatandasliktan-cikarilmali-2445587> (accessed August 22, 2016).

<sup>82</sup> Mustafa Akyol, “Erdoğan vows to punish thought crimes”, *Al Monitor*, March 17, 2016, <http://www.al-monitor.com/pulse/originals/2016/03/turkey-Erdoğan-introduces-new-thought-crimes.html> (accessed August 22, 2016).

<sup>83</sup> Reporters Without Borders, “Dündar and Gül receive jail terms as Turkey moves closer to criminalizing journalism”, news release, May 6, 2016, <https://rsf.org/en/news/dundar-and-gul-receive-jail-terms-turkey-moves-closer-criminalizing-journalism> (accessed August 22, 2016).

had forgotten that Can Dündar had damaged Turkey. Rather than scare people, I wanted to unite them.

When asked in court if he had been influenced in his actions by the words of government officials calling Dündar a “spy”, Şahin replied: yes.<sup>84</sup> Şahin was bailed on October 21, 2016 after just five months in pretrial detention. His trial continues.

## Violence and Threats against Journalists Covering the Conflict in the Southeast

The situation is dire. Every journalist working in this region is now looking for other jobs. Everyone is scared. The pressure is immense. There are many things to report, but there are no more outlets left in which to publish them.<sup>85</sup>

Journalists covering the conflict in the southeast face particular risks. Existing pressures on journalists working in the region have been compounded over the past year by the breakdown of a two-and-a-half-year embryonic peace process between the state and imprisoned leader of the armed Kurdistan Workers’ Party (PKK) to end Turkey’s decades-long conflict with its Kurdish population. The escalation of violence in which the security forces placed whole towns under extended blanket curfews and conducted operations against PKK-linked armed groups after they sealed off neighborhoods and entrenched themselves in urban settings greatly increased the risks for journalists reporting in the region.

Unchecked abuses by the military and police against journalists have led to what the UN Commissioner for Human Rights Zeid Ra’ad Al Hussein called a media “black-out”: “In 2016, to have such a lack of information about what is happening in such a large and geographically inaccessible area is both extraordinary and deeply worrying. This black-out

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<sup>84</sup> Can Dündar davasının sanığı Murat Şahin: Nişancı biriyim, istesem 200 metreden öldürürdüm,” (“Defendant in Can Dündar trial Murat Şahin: I am a sharpshooter, if I wanted I could have killed him from 200 meters away”), Haberturk, June 29, 2016, <http://www.haberturk.com/gundem/haber/1260685-can-dundar-davasinin-sanigi-murat-sahin-nisanci-biriyim-istesem-200-metreden-oldururdum> (accessed August 22, 2016).

<sup>85</sup> Human Rights Watch interview (name withheld), Diyarbakir, 5 September 2016.

simply fuels suspicions about what has been going on.”<sup>86</sup> As fewer and fewer journalists dare to take the risk to monitor the ongoing violent conflict, fears that human rights abuses will go unseen, and therefore unpunished, have increased.

Three women journalists working for the pro-Kurdish Women’s News Agency (JINHA), based in Diyarbakir, told Human Rights Watch that threats and violence by the security forces have increased since the beginning of security operations in the city, and that female journalists were often victims of threats of sexual violence and in their experience even singled out by the police or military. According to one of the journalists who wished to remain anonymous for security reasons:

An armed man thinks that he can scare a woman much more easily than another man. Women are already under an immense amount of pressure in daily life, both in this region and in Turkey, but being a journalist further compounds these risks.<sup>87</sup>

All three journalists from JINHA said they had been subjected to verbal threats while working as journalists in Diyarbakir.

Serhat Yüce, a Dicle News Agency reporter in the southeastern town of Silvan near Diyarbakır, described the various risks and experience of working during months of security operations and armed clashes in the town in the Autumn of 2015. He described how security forces in an armored ‘Cobra’ vehicle had opened fire on him and another colleague as they attempted to take photos, injuring one person. He told Human Rights Watch he filed a complaint with the prosecutor against the security forces who shot at them. On another occasion he said he and a cameraman Kamil Murat Demir working for Özgün TV were attacked by the police as they were attempting to film near the Silvan Municipality building. The incident was caught on film:

On October 4, I was taking photos and filming with Kamil Murat Demir when a police officer got out of an armored vehicle with three other plain-clothed

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<sup>86</sup> United Nations Human Rights Office of the High Commissioner, “Need for transparency, investigations, in light of “alarming” reports of major violations in south-east Turkey – Zeid,” press release, May 10, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19937&LangID=E#> (accessed August 23, 2018).

<sup>87</sup> Human Rights Watch interview with journalists, JINHA office, Diyarbakir, 24 February 2016.

police and shouted at us not to take photos or film because there was a curfew. I stopped immediately and turned off the camera. One officer put a gun to my head and grabbed my throat. Another officer kicked me and one of them hit my colleague Kamil Murat Demir on the head. We were detained by the riot police for four hours and released. The police officer who pointed the gun at my head and grabbed me by the throat was so angry with me that he fired into the air as he left the area. I filed a complaint and gave a statement to the prosecutor.<sup>88</sup>

Human Rights Watch has seen the record of Yüce's statement to the public prosecutor and the film of the incident. However, at the time of writing there was no evidence of an investigation into the actions of the police, while Yüce had been fined a 208 TL (60 US dollar) for violating the curfew. He has appealed the fine.

Nedim Oruç, a Dicle News Agency (DIHA) reporter in the southeastern town of Silopi near the Iraqi border in Şırnak province, told Human Rights Watch he was beaten by police as he was detained on suspicion of "spreading terrorist propaganda." He described his detention to Human Rights Watch:

I was detained [at a sports hall] as were many others. The police led me out pushing my head down so I couldn't look around. As we passed a door they deliberately hit my head hard against it. My left eye was bruised. I was beaten as I was taken to the police vehicle but not afterwards in the Anti-Terror Branch of the Silopi security directorate. I think they realized I was a journalist. We were made to stand in the corridor for hours with our faces to the wall and they poured cold water down my neck as they passed by. I was put in a cell with others and they were called and we could hear the sounds of people being beaten as the police interrogated them. We were given very little food in all the time we were held.<sup>89</sup>

Oruç was indicted for both terrorism propaganda and membership of an armed organization and released from prison at his first trial hearing on June 10. The evidence

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<sup>88</sup> Human Rights Watch telephone interview with Serhat Yüce, July 1, 2016.

<sup>89</sup> Human Rights Watch telephone interview with Nedim Oruç, July 2, 2016.

against him appears to consist solely of media reporting for the Dicle News Agency. He faced a second hearing on November 29 2016. He lodged a complaint of police ill-treatment with the prosecutor, which Human Rights Watch has seen, and told Human Rights Watch that he testified about being ill-treated by a video link-up (SEGBİS) between the prosecutor's office and Şırnak prison about two months after he was jailed. It is not known whether the prosecutor's office has taken further steps to investigate the police.

In the concluding observation to its review of Turkey in April 2016, the United Nations Committee against Torture stated that it was “seriously concerned about numerous credible reports of law enforcement officials engaging in torture and ill-treatment of detainees while responding to perceived and alleged security threats in the south-eastern part of the country (e.g. Cizre and Silopi) in the context of the resurgence of violence between the Turkish security forces and the Kurdistan Workers’ Party (PKK) following the breakdown of the peace process in 2015” and asked Turkey to “[u]ndertake prompt, thorough and impartial investigations into all allegations of torture and ill-treatment by security forces, including the allegations of police abuse in Cizre between December 2015 and March 2016, reportedly made by 52 persons and raised with the State party’s delegation by the Committee.”<sup>90</sup> Nedim Oruç was among those who lodged one such complaint with the Silopi prosecutor.

Refik Tekin, an award-winning photographer and video journalist working for the independent broadcaster İMC TV was shot and beaten by members of the security forces on January 20, 2016, while covering the military curfew in Cizre and the effect it had on the population in the town bordering Syria and Iraq.

Tekin told Human Rights Watch that he was accompanying an unarmed delegation carrying white flags that wanted to retrieve bodies and injured people from a nearby street when security forces opened fire without prior warning, wounding nine and killing two, including a member of the local city council. Tekin was shot in the leg.

All of the sudden there were the sounds of gunshots. At first bullets were being fired very closely above our heads, so people started crouching and

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<sup>90</sup> Concluding observations on the fourth periodic reports of Turkey, CAT/C/TUR/CO/4, June 2, 2016, see <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/109/81/PDF/G1610981.pdf?OpenElement> (accessed July 1, 2016).

tried to get out of the line of fire, but two seconds later they started to fire salvoes at us. The shot came from the eastern end of the road, from one side. Suddenly people started dropping to the ground. I felt a heat on my leg and I fell down and crawled. There was blood everywhere, people were on the ground. I kept filming.<sup>91</sup>

He said that the police later stopped the ambulance car driving him to the nearby state hospital, and that drivers and those injured were beaten, verbally threatened and insulted by the officers. Tekin was kicked and beaten, despite holding a press card and being seriously injured.

I told the police that I was with the press, and I showed them my press card, but they hit me anyway. A policeman dragged me along the ground to the ambulance. He could see that I was hurt. He cursed at me. The policeman shouted at me, telling me not to look at him, ordering me to close my eyes while he kept hitting me. He said: 'You are all terrorists, you will see the power of the Turks!'<sup>92</sup>

Refik Tekin, who had to be on crutches and could not work for at least three months, said that he filed two formal complaints in January, one against the security forces who had opened fire and one against the police officers who beat him. He has not been informed of whether an investigation into his complaint is progressing.<sup>93</sup>

On June 8, 2016, residents in the southeastern town of Midyat, near the Syrian border, attacked three journalists. The journalists were covering the immediate aftermath of a car bomb attack that had targeted the local police station, killing three people and injuring more than 30 others.

Hatice Kamer, who works with the British Broadcasting Corporation (BBC) and Voice of America (VOA), and Mahmut Bozarслан, who contributes to AFP, VOA and to the website *Al-Monitor*, told Human Rights watch that they and their colleague Sertaç Kayar, who works

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<sup>91</sup> Human Rights Watch interview with Refik Tekin, journalist, February 26, 2016.

<sup>92</sup> Human Rights Watch interview with Refik Tekin, February 26, 2016.

<sup>93</sup> Human Rights Watch phone interview with Refik Tekin, 1 July 2016.

with Agence France-Presse (AFP), were filming at the scene of the explosion, when several residents aggressively told them to stop. Despite police being present at the scene, the men continued verbally abusing the journalists before starting to throw stones at them. According to Kamer:

I was filming when a middle-aged man told me to erase the picture I had taken with him in it. I did. But he started to insult me, told me to get lost, and started to threaten me. There was a uniformed policeman as well, but instead of helping me, he encouraged the man who threatened me. The police officer told me that it was forbidden to take any pictures and that I should not have come there, and that I could see that I was provoking people who were already tense with my presence. The older man threw his walking cane after me, and the policeman didn't interfere.

Mahmut came over and said that we should leave. We went into a side street, but a crowd of about 10 or 15 people followed us and started to throw stones. I was hit on the head and my foot. I started bleeding a lot, so we asked people around us for help, to drive us to the hospital, but nobody did. When we went out into a bigger street, the group attacking us had grown to about 50 or 60 people. They attacked us, punched and kicked us. Two young men rescued us and drove us to the hospital.

When we wanted to leave, we were attacked again by a smaller group, but they had the same leaders as before. They said that we “had spoken Kurdish” and “made victory signs in front of the bomb site,” that we were Roj TV reporters [a pro-Kurdish TV station seen as supporting the PKK, banned in Turkey and recently taken off air in Denmark]. The police came and had us mount an armored vehicle, then they fired in the air to disperse the crowd. The officers in the armored vehicle used accusatory language against us. It was a very bad experience.<sup>94</sup>

Mahmut Bozarlan said that the attackers continued to hit and kick them even after they were on the ground, and that he briefly lost consciousness. Both he and Kamer were briefly

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<sup>94</sup> Human Rights Watch phone interview with Hatice Kamer, journalist, 2 July 2016.

hospitalized for their injuries. He said that the police displayed an aggressive attitude during and in the aftermath of the attack:

One of the officers even said: ‘I am sure you must have done something, and that is why they beat you up.’ They asked us who we were working for. When Hatice showed her press card issued for Voice of America, one officer said: ‘Yes, it’s clear who you are working for.’ Later at the station they softened their tone and even apologized for their behavior.<sup>95</sup>

He told Human Rights Watch that he and his two colleagues had filed a formal complaint on June 8, 2016, in the Midyat police station, and that he had identified at least four of the attackers, some of whom advertised the attack on social media. Bozarslan said that he and his two colleagues had been called to testify at the police station three times, but that despite visual evidence the investigation had not progressed at the time of writing.<sup>96</sup>

Journalists are also at risk of harm from the armed opposition and its supporters in the southeast. On February 21, the armed Kurdistan Workers’ Party (PKK) released three journalists working for the state Anatolian News Agency (AA) who had been kidnapped in the town of Nusaybin at least 48 hours earlier.<sup>97</sup>

Mahmut Bozarslan told Human Rights Watch that he received serious threats from two journalists working for a pro-PKK news outlet after tweeting a photograph of hashish fields captured by security forces in Lice with the caption: “Six million cannabis plants, equaling 120 ton of hashish, were captured during a security operation in Lice.”<sup>98</sup> Bozarslan told Human Rights Watch that one of the journalists openly threatened him on a television program, and that the other threatened him via social media.<sup>99</sup>

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<sup>95</sup> Human Rights Watch phone interview with Mahmut Bozarslan, journalist, 2 July 2016.

<sup>96</sup> Human Rights Watch interview with Mahmut Bozarslan, 6 September 2016.

<sup>97</sup> “AA: 3 muhabirimiz PKK’lılar tarafından kaçırıldı,” (“AA: 3 of our reporters kidnapped by the PKK”), Birgün, February 21, 2016, <http://www.birgun.net/haber-detay/aa-3-muhabirimiz-pkk-lilar-tarafindan-kacirildi-104367.html> (accessed August 23, 2016).

<sup>98</sup> See: <https://twitter.com/mahmutbozarslan/status/746998843343048704> (accessed August 23, 2016).

<sup>99</sup> Human Rights Watch interview with Mahmut Bozarslan, Diyarbakir, 6 September 2016.

## The Consequences of Inadequate State Action

The inadequate state response to threats and violence against journalists and media outlets creates a climate of impunity, sending a message to future perpetrators that attacking and threatening journalists will usually carry no consequences.

Press freedom organizations such as Reporters Without Borders have expressed concern over the continued vilification of journalists both in speeches by government officials and in the media, highlighting that such hate speech and smear campaigns encouraged violence against journalists and have led to attacks in the past.

Even when attacks on journalists or media outlets are prosecuted, the inefficiency of the Turkish courts means that cases tend to drag on for a long time. While this affects all victims of crime, it creates particular risks for journalists who are investigating wrongdoings by authorities, businesses and others.

This imposes a corresponding responsibility on the authorities to provide effective protection, as without it journalists may hesitate to investigate and report on such sensitive issues, and violence or threats of violence may be used by some to deter journalists from investigating and reporting on crimes, human rights abuses and other wrongdoings by the government and others, or keep them from voicing critical opinions altogether. Several journalists told Human Rights Watch that they did not feel safe, and that they “paid close attention” to what they wrote and said, especially on social media.

## IV. Journalists Sacked and Editorial Interference

Several journalists told Human Rights Watch that it was commonplace for the government to interfere with editorial decision making and to put pressure on media owners and editors to fire certain staff or remove their work from media platforms.

### Journalists Sacked

One journalist interviewed said he had been told by his editors to “lay low” on social media because “my name had been flagged up in Ankara.”<sup>100</sup> Journalists told Human Rights Watch that AKP officials on both local and national levels sought to interfere with their work through pressure on media outlets to curb critical reporting, and the majority of those interviewed said that in their experience such interference was very common. Our research suggests that phone calls by government officials to newsrooms and editors are routine.

A recent report published by the Center for International Media Assistance (CIMA) at the National Endowment for Democracy highlights the highly problematic relationship between media owners, who in Turkey often run other businesses that heavily rely on public contracts, and the Turkish government.<sup>101</sup> A detailed analysis by journalist Yavuz Baydar argued that forced layoffs and dismissals were increasingly used to silence critical journalistic coverage.<sup>102</sup>

Lay-offs of journalists have massively increased since 2013, and at least two journalists Human Rights Watch spoke to were openly told by their editors that they were let go “due to repeated pressure from the government.”<sup>103</sup>

According to a report by the independent online news site Bianet, 174 journalists, columnists and media workers were forced to resign or laid off in the first quarter of 2016,

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<sup>100</sup> Human Rights Watch phone interview with Fatih Yağmur, journalist, 6 June 2016.

<sup>101</sup> Andrew Finkel, “Captured News Media – The Case of Turkey”, Center for International Media Assistance, October 2015, [http://www.cima.ned.org/wp-content/uploads/2015/10/CIMA-Captured-News-Media\\_The-Case-of-Turkey.pdf](http://www.cima.ned.org/wp-content/uploads/2015/10/CIMA-Captured-News-Media_The-Case-of-Turkey.pdf) (accessed August 23, 2016).

<sup>102</sup> Yavuz Baydar, “The Newsroom as an Open Air Prison: Corruption and Self-Censorship in Turkish Journalism”, Harvard Kennedy School, Shorenstein Center on Media, Politics and Public Policy, Fall 2014, <http://shorensteincenter.org/wp-content/uploads/2015/02/Turkish-Journalism-Yavuz-Baydar.pdf> (accessed August 23, 2016).

<sup>103</sup> Human Rights Watch phone interviews with Fatih Yağmur, journalist, 6 June 2016, and Kadri Gürsel, July 1, 2016.

compared to eight during the same period in 2015.<sup>104</sup> That number has since increased substantially, with hundreds of journalists fired from İpek Medya and Feza Gazetecilik media companies which were taken over by the government.<sup>105</sup> The Feza group owned the high-circulation *Zaman* newspaper. After the emergency decree that shut down 131 media and publishing outlets in July, 2016, 2,308 media workers lost their jobs.<sup>106</sup> Bianet also documented the cases of TV programs hosted by nine journalists that were terminated.<sup>107</sup>

According to a report released by the Journalists' Association, 898 journalists lost their jobs in the first five months of 2016, mainly due to large-scale dismissals of journalists and other media staff after state-appointed trustees took over Feza group.<sup>108</sup> At least 200 journalists were fired from outlets owned by the İpek media group after the government crackdown in 2015 and subsequent closure of their outlets.<sup>109</sup>

Fatih Yağmur, a longtime court reporter at the now defunct daily newspaper *Radikal*, told Human Rights Watch that he was fired from his job in 2014 because of what the newspaper leadership described as “very intense government pressure.”<sup>110</sup> On January 3, 2014, *Radikal* published his news story about trucks loaded with arms owned by the Turkish Intelligence Agency (MİT) that were en route to Syria via Turkey. His article recounts the details of what happened through the eyes of the prosecutor and via the official records

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<sup>104</sup> “Erdoğan’s ‘New Turkey’ Cancels Out Critical Journalism”, BIA Media Monitoring Report January-February-March, Bianet, Istanbul, May 3, 2016, <http://bianet.org/english/media/174441-erdogan-s-new-turkey-cancels-out-critical-journalism> (accessed August 23, 2016).

<sup>105</sup> Press for Freedom, “In the first five months of the year the number of journalists who have lost their jobs has risen to 898; Internet access restriction record reaches new heights,” May 2016, <http://tr.pressforfreedom.org/wp-content/uploads/2016/06/Mayıs-Raporu-En.pdf> (accessed August 23, 2016).

<sup>106</sup> “OHAL’de, 2 bin 308 basın emekçisi işsiz kaldı,” (“2,308 press workers became unemployed during state of emergency”), Agos, August 19, 2016, <http://www.agos.com.tr/tr/yazi/16275/ohalde-2-bin-308-basin-emekcisi-issiz-kaldi> (accessed August 23, 2016).

<sup>107</sup> “Erdoğan’s ‘New Turkey’ Cancels out Critical Journalism”, BIA Media Monitoring Report January-February-March, Bianet, Istanbul, May 3, 2016, <http://bianet.org/english/media/174441-erdogan-s-new-turkey-cancels-out-critical-journalism> (accessed August 23, 2016).

<sup>108</sup> Press for Freedom, “In the first five months of the year the number of journalists who have lost their jobs has risen to 898 Internet access restriction record reaches new heights,” May 2016, <http://tr.pressforfreedom.org/wp-content/uploads/2016/06/May%C4%B1s-Raporu-En.pdf> (accessed August 23, 2016).

<sup>109</sup> Türkiye Gazeteciler Cemiyeti, “Gazeteciler için 2015 zorlu geçti,” (“2015 was a difficult year for journalists”), news release, [n.d.], <http://www.tgc.org.tr/32-gundem/419-6-ayda-24-ulkede-71-gazeteci-olduruldu.html> (accessed August 23, 2016).

<sup>110</sup> Human Rights Watch phone interview with Fatih Yağmur, 6 June 2016.

the prosecutor had filed on the incident, and details phone call traffic between the local authorities and army officers.<sup>111</sup>

At the time, Efkân Ala, the then interior minister, denied these accounts and said that the trucks had carried nothing but humanitarian aid for the Turkmen community in Syria. However, when *Cumhuriyet* a year later published photographs of the trucks in question carrying weapons that the paper alleged were destined for Islamist Syrian rebel groups, the government stepped up its pressure on the coverage of the arms trucks. As detailed above, Can Dündar, editor-in-chief of *Cumhuriyet*, and its Ankara bureau chief Erdem Gül, were indicted and later sentenced to prison for the reports, and Fatih Yağmur was fired.

Yağmur said that he believed that his position had not been helped by the fact that he had also extensively reported on the corruption scandal that erupted in December 2013 and that allegedly implicated members of President Erdoğan's family.

Before it was shut down in 2016, *Radikal* was owned by the Doğan Media Group, a large holding company that has been at loggerheads with the government for coverage critical of Erdoğan and the AKP in its publications. They were slapped with a half-billion-dollar tax fine in 2009. During the following years, a number of journalists were dismissed from Doğan Media publications.<sup>112</sup> Yağmur told Human Rights Watch that his editors at first cited financial reasons, but finally admitted that he was let go due to repeated pressure from the Turkish government.

On August 15, 2014 I was called into my editor's office and at first he told me that the paper had decided to let me go for financial reasons. Then he admitted that the paper had received phone calls from the government demanding my dismissal. My editor said: 'Twice we managed to push back, but this time I am afraid that there is nothing we can do.' He also told me to

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<sup>111</sup> Fatih Yağmur, "O TIR 'devlet sırrı' çıktı," ("That lorry turned out to be a 'state secret'"), *Radikal*, January 3, 2014, <http://www.radikal.com.tr/turkiye/o-tir-devlet-sirri-cikti-1169057/> (accessed August 23, 2016).

<sup>112</sup> One former *Radikal* journalist (name withheld) told Human Rights Watch that the owners were more "pliant" after the high tax fine. She was fired in 2014, along with at least two of her *Radikal* colleagues. The paper officially cited financial reasons, but she and her colleagues had regularly published articles critical of Erdoğan and the AKP.

keep a low profile on social media: ‘Don’t make any comments on Twitter. That would be better for you. They are watching you very closely.’<sup>113</sup>

He also said that he has not been able to find work since, despite the fact that he won the EU Investigative Journalism Award 2015 for his reporting on the trucks:

It feels like I have been blacklisted. I don’t feel safe. There have been numerous threats against me, even death threats.<sup>114</sup>

There are currently four court cases, including for insulting the president, and approximately 20 criminal investigations against Yağmur.<sup>115</sup> On July 25, 2016, Turkish authorities issued arrest warrants for 42 journalists as part of an inquiry into alleged plotters of the failed coup, with Yağmur’s name included in the list. Yağmur told Human Rights Watch that he had to leave the country after receiving a torrent of violent threats, including rape and death threats, via social media immediately after the attempted military intervention on July 15. He left Turkey before the arrest warrant was issued, but has said that he now “fears for his life” even outside of Turkey’s borders.<sup>116</sup>

In March 2016 the government took over Feza group (see chapter V on the government’s takeover and closure of private media groups, below). At the time of the takeover around 600 journalists were reportedly fired from their jobs.<sup>117</sup> Many of them were accused of having violated Article 25 of the Turkish Labor Law, under which employment contracts can be annulled without prior notice if an employee displays “immoral, dishonorable or malicious conduct or other similar behavior.”<sup>118</sup>

Journalists who used to work for the Feza group interviewed by Human Rights Watch said trustees offered no detailed explanations for these accusations and instead handed out one-size-fits-all dismissal letters. A former employee of *Today’s Zaman*, an English-

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<sup>113</sup> Human Rights Watch phone interview with Fatih Yağmur, 6 June 2016.

<sup>114</sup> Human Rights Watch phone interview with Fatih Yağmur, 6 June 2016.

<sup>115</sup> Human Rights Watch phone conversation with Fatih Yağmur, 3 July 2016.

<sup>116</sup> Human Rights Watch phone conversation with Fatih Yağmur, 25 July 2016.

<sup>117</sup> “Trustees fired 600 journalists”, Turkish Minute, June 16, 2016, <https://www.turkishminute.com/2016/06/16/trustees-fired-600-journalists-taking-management-feza-media-group/> (no longer accessible)

<sup>118</sup> Turkish Labor Law, Law No. 4857, available at <http://turkishlaborlaw.com/turkish-labor-law-no-4857/19-4857-labor-law-english-by-article#27>

language daily formerly owned by the Feza group, told Human Rights Watch that Article 25 also precluded any claims for redundancy packages or other forms of compensation.

I was fired from the paper 25 days after the newspaper was seized and state-appointed trustees took over the management of the paper. Until then I had worked under the trustees.... I received a call from HR that I was fired. The reasons they gave were “abuse of the company’s trust” and “immoral behavior,” but they did not give any details. In fact, they had these pre-written dismissal letters that all said the same thing, only the dates and names on them were changed. They want to make these dismissals look legal, even if there is no basis for them at all. Because of these accusations against me I cannot claim any compensation. I was paid for March, and that was the last money I got from the paper, after seven years of work there.

Some journalists with the Feza group told Human Rights Watch that they handed in their resignation before trustees could dismiss them under Article 25, otherwise fearing that such a “stain” on their resume would endanger possible employment elsewhere.<sup>119</sup> Some said that they knew of former Feza group employees who faced obstacles in finding work in other outlets since editors and media owners appear to be afraid of hiring journalists formerly affiliated with media linked with the Gülen movement.<sup>120</sup>

Hanım Büşra Erdal, formerly the court reporter at *Zaman*, told Human Rights Watch that she was fired a week after the newspaper’s takeover. She, too, was dismissed without compensation.

When I came to the paper on Saturday at noon, the police refused to let me in. ...So I sat down on the sidewalk outside and waited, and while I waited I tweeted, addressing my friend whose husband was one of the trustees: Your husband doesn’t let me enter the paper, can you maybe do something? After two hours they let me back in. I wrote my column in which I said that the takeover of *Zaman* was against the law. They did not print it.

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<sup>119</sup> Human Rights Watch interview with Buket Güney, journalist, May 9, 2016.

<sup>120</sup> Human Rights Watch interviews with a former employee of *Today’s Zaman*, Hanım Büşra Erdal, and Buket Güney, May 9 and May 13, 2016.

On Friday, around 6 p.m. when I was already on my way home, I got a phone call from the paper telling me to come back to the office, and that the trustees wanted to speak to me. So I returned to the office.

I was fired on the basis of article 25 of the labor law. I was told this happened because of that tweet I had sent the previous weekend.<sup>121</sup>

On July 29, 2016, Buşra Erdal was jailed pending trial along with 16 other journalists – among them veteran journalist, broadcaster and commentator Nazlı Ilıcak – on suspicion of being a member of an armed organization (FETÖ).

Kadri Gürsel, a well-known columnist and commentator, was fired on July 22, 2015 from his newspaper *Milliyet*, officially for tweeting comments critical of Turkish President Recep Tayyip Erdoğan and his Syria policies. In the wake of the suicide bomb attack in Suruç that killed 32 people, he wrote on Twitter: “It is shameful that foreign leaders call and console the person who is the number one cause of the Islamic State of Iraq and the Levant (ISIL) terror in Turkey.” The newspaper issued a public statement in which it accused Gürsel of having “violated journalistic ethics” and displaying a “subversive attitude,” and stated that his comments “were incompatible with the media group’s publishing line and responsibility.”<sup>122</sup>

Gürsel told Human Rights Watch that the dismissal in July was only the last straw, and that he had been under increasing pressure to self-censor since the beginning of the presidential election campaign in May 2014. Between May 2014 and July 22, 2015, four of his columns were sent back to him by the paper’s board, telling him that he was “too oppositional in his writing” and that he should “soften his tone.” He said that he withdrew all four texts and published them, unaltered, on his personal website. After filing a column describing the pre-election mood in May 2015, he was called into the office of *Milliyet*’s owner Erdoğan Demiören, a well-known businessman with close ties to the AKP government.

He told me: ‘The AKP will be in power for another four years. If you cannot contain your writer’s ego right now, it would be better if you wouldn’t write

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<sup>121</sup> Human Rights Watch interview with Buşra Erdal, May 30, 2016.

<sup>122</sup> “Milliyet, Kadri Gürsel’in işine son verdi,” (“Milliyet ended Kadri Gürsel’s employment”), T24, July 22, 2015 <http://t24.com.tr/haber/milliyet-kadri-gurselin-isine-son-verdi,303708> (accessed August 23, 2016).

anything before the [general] elections [on June 7, 2015].’ He also said that my name had been ‘mentioned in Ankara,’ which means there had been complaints about me. I replied that I did not have a ‘writer’s ego’ and continued my work. After I wrote the Tweet on July 22, my column was removed from the paper, and later I received a call from the human resources department to tell me that my contract had been terminated.<sup>123</sup>

In May 2016, Kadri Gürsel began writing a column for the independent opposition daily *Cumhuriyet*, a paper that has hired a number of journalists fired for their “subversive attitudes” and “critical writing” from other newspapers.<sup>124</sup> He told Human Rights Watch that *Milliyet* paid him redundancy, and that he did not launch any legal steps to regain his position at the paper. Gürsel was detained on October 31, 2016, as part of an “anti-terrorism” probe into opposition daily *Cumhuriyet*, accused of both PKK and Gülenist links. He was jailed pending trial on November 5, 2016, together with eight of his colleagues, including editor-in-chief Murat Sabuncu.

Other columnists and reporters fired from mainstream media are now writing for independent news websites such as *T24* and *Diken*, among them Burcu Karakaş, Amberin Zaman and Mehveş Evin. Some independent news websites such as *Haberdar* have been blocked or closed down on suspicion of links with the Gülen movement.

## Editorial Interference

Journalists told Human Rights Watch that government officials and local authorities directly interfered with the style and content of what was being reported, or what they wanted to be reported in the first place.

A meeting between local authorities and the media on June 1 in the city of Gaziantep demonstrates the trend. Local authorities, including the governor, the mayor and district mayors, the chief prosecutor and the police chief met with local journalists to discuss how to report on anything related to the city, a large metropolis close to the Syrian border that has recently made headlines as a location of Islamic State activity in Turkey. One reporter for a Gaziantep local newspaper told Human Rights Watch:

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<sup>123</sup> Human Rights Watch phone interview with Kadri Gürsel, journalist, July 1, 2016.

<sup>124</sup> These include Aslı Aydıntaşbaş, Ceyda Karan and Pınar Ögünç.

They called us to a press conference where they said: ‘If you keep writing that ISIS is active in the city, no visitors will come and the local tourism sector will be badly damaged.’ They used a very accusatory and unpleasant tone. They said: ‘If anything good happens, you keep that very quiet.’<sup>125</sup>

The reporter said that the authorities told journalists present to “run all the news by [the authorities] for approval” and that a WhatsApp group that includes the governor’s press advisor was created to that effect on that same day. She also said that the local authorities had cut newspapers’ public advertisements as punishment for reporting critical of the government and of government policies and had implicitly threatened journalists by referring at the June 1 press conference to examples of named reporters currently under investigation.<sup>126</sup>

In February 2016, the then-Prime Minister Ahmet Davutoğlu met the owners and CEOs of major media companies to discuss his idea of an “Effective Communications Strategy” (*Etkin iletişim stratejisi*) as part of a 10-point action plan to fight terrorism, later dubbed the “Unity, Tranquility and Democracy Plan.”

The pro-government *Milliyet* daily reported that during the meeting, Davutoğlu made media bosses aware of “the government’s sensitivities” regarding the ongoing conflict in the predominantly Kurdish southeast.<sup>127</sup>

Human Rights Watch was unable to independently verify what was said at the meeting but heard reports that the the government had laid out a communication strategy as part of its ongoing security operations, and clearly told media owners how to report on the issues, what to avoid, and whose voices to ignore.<sup>128</sup>

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<sup>125</sup> Human Rights Watch phone interview with Gaziantep journalist (name withheld for her own safety), July 1, 2016.

<sup>126</sup> Ibid.

<sup>127</sup> “Başbakan Davutoğlu medya kuruluşu temsilcileriyle görüştü,” (“Prime Minister Davutoğlu met representatives of media outlets”), *Milliyet*, February 7, 2016, <http://www.milliyet.com.tr/basbakan-davutoglu-medya/siyaset/detay/2190842/default.htm> (accessed August 23, 2016).

<sup>128</sup> Human Rights Watch interview (name withheld), Istanbul, June 12, 2016.

Emails leaked by hacking group Redhack purport to show the then head of the Doğan Media Group reporting regularly on editorial decisions to energy minister Berat Albayrak, who is also Erdogan’s son-in-law.<sup>129</sup>

Government interference in editorial decisions has also influenced the amount of exposure that opposition parties receive on Turkish television. Selahattin Demirtaş, co-chair of the pro-Kurdish Peoples’ Democratic Party (HDP), told Human Rights Watch that no HDP legislator had been given airtime on any major TV channel in Turkey after the June 7, 2015 elections, and that producers told him that they did not “dare” to invite him to speak on programs at their stations.<sup>130</sup> This was verified by the director of one prominent TV news channel in a private meeting attended by Human Rights Watch in August. Demirtaş, along with his co-chair of HDP Figen Yüksekdağ, was arrested on November 3, as part of the post-coup crackdown. The two leaders along with 8 other HDP members of parliament were accused of spreading propaganda for the PKK and remanded to custody on November 5.

Former deputy prime minister Bülent Arınç, a longtime Erdoğan ally and one of the founders of the governing AKP, said during an interview with CNN Türk that “some TV stations, including state broadcaster TRT, embargoed me” and that some fellow party members had expressed discontent for his criticizing the party on TV.<sup>131</sup>

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<sup>129</sup> Journalist Yavuz Baydar has written about the leaked emails: <https://yavuzbaydar.wordpress.com/2016/09/30/dogangate-how-turkeys-biggest-media-group-kneels-before-president-erdogan/>.

<sup>130</sup> Human Rights Watch interview with Selahattin Demirtaş, co-chair, HDP, May 13, 2016.

<sup>131</sup> “Bülent Arınç: TRT de dahil bazı kanallar bana ambargo uyguluyor,” (“Bülent Arınç: Some TV channels, including TRT, are boycotting me”), *Hürriyet*, October 24, 2015, <http://www.hurriyet.com.tr/bulent-arinc-bazi-kanallar-bana-ambargo-uyguluyor-40005377> (accessed August 20, 2016).

## V. Government Takeover or Closure of Private Media Groups

Taking advantage of its powers to rule by decree under the state of emergency, in place since July 21, the government has permanently shut down 169 media and publishing outlets, citing “national security concerns.”

Closures by decree were announced in the *Official Gazette*, but several journalists and executives working at affected outlets told Human Rights Watch that their bureaus never received any official or legal document prior to the shut-downs. Hamza Aktan of İMC TV told Human Rights Watch:

We saw the news on [state news agency] Anadolu, claiming that our TV station would be shut down. We thought that this must be a mistake. We started to make some calls and later found out that İMC TV would indeed be closed via decree. We never saw an official document or any evidence as to why they closed us down.<sup>132</sup>

The independent TV channel İMC TV was raided by the police on October 4, 2016, and shut down.

However, the permanent closure of media organizations is only the final step in a crackdown on private companies. Over the past year, the Turkish government has used the power to appoint trustees to run private companies to effectively take over several privately owned media groups that were critical of the authorities. After the trustees were appointed, many staff were fired from their jobs, and newspapers owned by the groups were closed or changed their editorial stance in favor of the authorities.

Courts appointed state-picked trustees for two private media companies in 2015 and 2016.<sup>133</sup>

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<sup>132</sup> Human Rights Watch interview with Hamza Aktan, October 4, 2016

<sup>133</sup> Ufuk Sanli, “Why does Turkey suddenly need so many bankruptcy trustees?”, *Al Monitor*, June 13, 2016, <http://www.al-monitor.com/pulse/originals/2016/06/turkey-unemployed-youth-demand-trustee-post.html> accessed August 23, 2016).

## The Takeover and Closure of Koza İpek’s Media Group

On October 28, 2015, police forcefully entered the headquarters of the İpek media group (part of the Koza İpek holding) in Istanbul's Şişli district that housed Kanaltürk TV, Bugün TV, Kanaltürk Radio and the two daily newspapers *Bugün* and *Millet*. In a scene some observers said was reminiscent of a raid on a medieval castle, police broke down the iron gates of the media’s group compound and pulled the plug on the live broadcasts of Kanaltürk TV and Bugün TV. They also used teargas and water cannon against people who had gathered outside the company’s gates to protest the violent break-in.

In what amounts to the annexation of a private holding company by the government, a court in Ankara on October 26, 2015 had ruled that the entire Koza İpek group (which owns many companies in addition to media outlets) be taken over by a government-appointed trustee panel to administer the board. The court justified the decision to appoint trustees in a statement which argued it was necessary in order to “prevent crime and to protect evidence.” The court order stated that the group financed the “Fethullahist Terrorist Organization”, or FETÖ.<sup>134</sup>

The fate of Koza İpek’s media outlets demonstrates part of the intention behind appointing the trustees. Following the arrival of the trustees, scores of staff were fired from the group’s media outlets, the editorial line of *Bugün* newspaper immediately swung behind the government and the television channels stopped airing critical talk shows, replacing them with documentaries and news broadcasts which only used content from the government-controlled Anatolian News Agency. By the end of February 2016, the entire İpek media group was declared bankrupt and closed down and hundreds of journalists laid off.<sup>135</sup>

## The Takeover of Feza Group

On March 4, 2016 Istanbul’s 6th Criminal Court of the Peace appointed government-nominated trustees to run the Feza group on the request of an Istanbul prosecutor. The appointment of trustees over Feza, which included *Zaman* newspaper and its English-language sister publication *Today’s Zaman*, amounts to a de facto government takeover of

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<sup>134</sup> “The Ankara prosecutor decides a trustee will be appointed to the management of Koza İpek,” <https://t24.com.tr/haber/ipek-koza-holdinge-kayyum-atanacak,314255> (accessed December 8, 2016).

<sup>135</sup> Human Rights Watch phone interview with former *Bugün* newspaper employee (name withheld), July 4, 2016.

the media company. The prosecutor is investigating the group for connections with the Gülen movement.

On the evening of March 4, police raided the building and used teargas on people who had assembled outside to protest the takeover. *Zaman* journalists present in the building that night told Human Rights Watch that the police “used violence out of all proportion” against staff and peaceful protesters. A former employee of *Today’s Zaman*, said that the police remained in and outside the newspaper office buildings after March 4.

The original writers and journalists were treated like criminals. There were ID controls, and at every entrance into the building, even after a short cigarette break, we had to write our names down and were checked. There were about 800 people working for the Zaman group then, including for *Zaman*, *Today’s Zaman*, *Aksiyon* and *Turkish Review*. There were water cannon and armored vehicles on the parking lot. Sometimes people mistook our building for that of the police station a few hundred meters down the road. It was a tragicomic situation.<sup>136</sup>

Buket Güney, formerly opinions editor at *Zaman*, told Human Rights Watch that the police interfered with the daily routine inside the office.

The police presence in the office was very oppressive, and had a bad effect on everyone’s psychology. They ordered people around. For example, we were not allowed to sit in the cafeteria in groups of three people or more, for fear that we would ‘organize.’<sup>137</sup>

Two days after the takeover, the three government-appointed trustees banned access to the vast online archive of *Zaman* and *Today’s Zaman*, spanning over 20 years of interviews, feature articles and news. They also took over all editorial work without consulting newspaper staff. According to a former employee of *Today’s Zaman*:

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<sup>136</sup> Human Rights Watch interview with former employee of *Today’s Zaman*, May 9, 2016.

<sup>137</sup> Human Rights Watch interview with Buket Güney, May 9, 2016.

Before the takeover our deadline was 7:30 p.m. The trustees moved that deadline to 4:30 p.m., and in the remaining three hours they censored and changed the paper to fit their new ‘line.’ News about Reza Zarrab’s business associate’s death penalty in Iran were taken out completely, for example. I was not told about these decisions. I only saw them the next day in the paper. Certain words had become a taboo, such as “corruption.” News about the seizure of *Zaman* was also censored, as was our front page news about police violence against women on March 8 in Kadıköy. They also didn’t like any of the articles that made [then Prime Minister Ahmet] Davutoğlu look good or successful. Those news [stories] were not taken out, but given much less space than we had planned for them. Amongst us we started betting on whose articles, pictures and headlines would be censored, and on what would remain in the paper the next day.<sup>138</sup>

Following the coup attempt of July 15, Turkish authorities shut down *Zaman* and all other media with alleged ties to the Gülen network entirely.<sup>139</sup> As a result of decree No. 668, announced under Turkey’s three-month state of emergency, 131 newspapers, news agencies, publishers, television and radio stations and distribution companies were ordered to close down.<sup>140</sup>

The state takeover of private media companies without a definitive court decision based on clear evidence that these companies were involved in criminal activity amounts to massive state censorship and further narrows media diversity in Turkey. Furthermore, it sends a chilling message to owners of media businesses and leads to self-censorship and a curb on all coverage critical of the government.

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<sup>138</sup> Human Rights Watch interview with a former employee of *Today’s Zaman*, May 9, 2016.

<sup>139</sup> “Journalists in State of Emergency – 5,” p24, July 31, 2016, <http://www.platform24.org/en/media-monitoring/378/journalists-in-state-of-emergency---5> (accessed August 23, 2016).

<sup>140</sup> “Turkey: Media Shut Down, Journalists Detained”, Human Rights Watch, news release, July 28, 2016, <https://www.hrw.org/news/2016/07/28/turkey-media-shut-down-journalists-detained>.

## VI. Muting Critical TV Channels

The overwhelming majority of the population in Turkey gets their news not from newspapers, but from television. According to a 2015 survey, 62 percent of the country's population watches TV, of whom 57 percent follow the news on TV.<sup>141</sup> Therefore the diversity and independence of broadcasters in Turkey are crucial tools for the free flow of ideas and information necessary for democracy and democratic political processes to function. However, the number of such broadcasters has shrunk at an alarming rate and closure of stations in the aftermath of the July 15 coup attempt has effectively ended independent news coverage. One media expert has warned that public broadcaster TRT has been transformed into a government mouthpiece that has all but abandoned its duty to inform.<sup>142</sup>

### The Removal of Critical TV Channels

The removal of TV channels from satellite distribution platforms has increasingly been used by the government to shut down opposition media.

In October 2015, Turkey's main pay satellite network and TV operator Digitürk removed seven TV channels affiliated with the Gülen movement from its service, citing "legal obligations."<sup>143</sup> A statement published by Digitürk after the decision said that the company had received a letter by the Ankara Chief Prosecutor's office, informing them of the criminal investigation and obliging them to take the channels off their satellite service.<sup>144</sup>

One journalist formerly affiliated with the Feza media group interviewed by Human Rights Watch said that the effect of these removals was immediate, and that all channels lost an

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<sup>141</sup> Esra Can Sinav, "Türkiye'yi Anlama Kılavuzu 2015," ("Instruction Manual for Turkey 2015"), *Gazete Vatan*, March 31, 2016, <http://www.gazetevatan.com/turkiye-yi-anlama-kilavuzu-2015-929944-yasam/> (accessed August 23, 2016).

<sup>142</sup> Yavuz Baydar, "The Newsroom as an Open Air Prison: Corruption and Self-Censorship in Turkish Journalism", 2014 (accessed August 23, 2016).

<sup>143</sup> The channels— Kanaltürk, Samanyolu TV, Mehtap TV, S Haber, Bugün TV, Irmak TV, and children's TV channel Yumurcak TV – were run by media companies İpek, Samanyolu Media and Feza, all of whom were under criminal investigation for alleged links to the network of Fethullah Gülen.

<sup>144</sup> "Due to the content of the aforementioned letter, Kanaltürk, Samanyolu TV, Mehtap TV, S Haber (Samanyolu Haber), Bugün TV, Yumurcak TV and Irmak TV channels have been removed from our platform due to legal obligations," the statement read.

important part of their audience and suffered a substantial loss in advertising revenue due to the ban from various television platforms.<sup>145</sup>

On 16 November 2015, and despite a warning issued by the Supreme Radio and Television Board (RTÜK) that the channels' removal violated the requirement for broadcasting platform operators to be impartial and was inconsistent with standard legal procedure, the country's largest, state-controlled signal provider TÜRKSAT also dropped all seven channels from its service.

As a result of the decree issued under Turkey's state of emergency on July 27, 2016 following the abortive coup, all the aforementioned channels were shut down entirely.<sup>146</sup>

On 24 February 2016 TÜRKSAT permanently removed the signal of independent opposition TV channel İMC TV after the satellite operator received a letter from the Ankara Chief Public Prosecutor's office stating that a criminal investigation had revealed that the small channel was spreading terrorist propaganda for the Kurdistan Workers' Party (PKK).

The prosecutor's statement said that it investigated the channel's broadcasts between May 3 and September 4, 2015 after anonymous complaints were made via the official 155 police hotline, and had found that İMC TV did spread terrorist propaganda.<sup>147</sup>

The live broadcast of the television station was cut during an interview with *Cumhuriyet* journalists Can Dündar and Erdem Gül just after they had been released from pretrial detention.

Hamza Aktan, news editor for İMC TV, told Human Rights Watch that the channel lost "around 60 percent of its viewers" once removed from the TÜRKSAT platform.<sup>148</sup> İMC TV continued to broadcast online and to be available on the Hotbird satellite platform but

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<sup>145</sup> Human Rights Watch interview with Büsra Erdal, May 13, 2016. Ppay television services in Turkey include Digiturk, D-Smart, TeleDünya, Türksat KabloTV and Tivibu.

<sup>146</sup> "Turkey: Media Shut Down, Journalists Detained," Human Rights Watch news release, <https://www.hrw.org/news/2016/07/28/turkey-media-shut-down-journalists-detained>, (accessed August 22, 2016).

<sup>147</sup> Human Rights Watch conversation with İMC TV journalists, 1 August 2016.

<sup>148</sup> Human Rights Watch phone conversation with Hamza Aktan, August 1, 2016.

was completely closed down, along with other stations, by government decree on October 4, 2016.<sup>149</sup>

The closure of independent local television station Can Erzincan TV followed a similar course. On 10 June 2016 the Istanbul Chief Prosecutor's office sent a note to TÜRKSAT, demanding that Can Erzincan TV be dropped from their service and all cable services, justifying the request by saying that the channel was disseminating the views of Fethullah Gülen whom the ruling AKP accuses of running a terrorist organization that tried to overthrow the Turkish government.<sup>150</sup>

The prosecutor also said that since Can Erzincan TV owner Recep Aktar invited journalists dismissed from Bugün TV and Kanaltürk, both of which had previously been taken over by state-appointed trustees and shut down, to start work at his channel, the small TV station was now guilty of the same propaganda charges levelled at those stations.

TÜRKSAT announced, in a notification to a notary seen by Human Rights Watch, that the contract with Can Erzincan TV would be terminated for "legal reasons" 30 days later.

Can Erzincan TV was shut down on July 27, 2016 as a result of decree No. 668, announced under Turkey's three-month state of emergency that ordered the closure of 131 media outlets with alleged links to the Gülen movement.<sup>151</sup>

## Fines Imposed on Critical TV Channels

Critical media outlets have also been subjected to a disproportionate number of steep fines and sanctions. The media watch-dog Radio and Television Supreme Council (*Radio ve Televizyon Üst Kurulu*, RTÜK), established in 1994 with a broad and vague mandate to

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<sup>149</sup> "Turkey: Independent TV News Silenced," Human Rights Watch news release, October 7, 2016: <https://www.hrw.org/news/2016/10/07/turkey-independent-tv-news-silenced>.

<sup>150</sup> Nazif Karaman, "Frekans iptal edilecek," ("The frequency will be cancelled"), *Sabah*, June 12, 2016, <http://www.sabah.com.tr/gundem/2016/06/12/frekansi-iptal-edilecek> (accessed August 23, 2016); "Can Erzincan TV'den kapatılma kararına ilişkin açıklama," ("Can Erzincan TV statement about the shut-down order"), *Birgün*, June 22, 2016, <http://www.birgun.net/haber-detay/can-erzincan-tv-den-kapatilma-kararina-iliskin-aciklama-117290.html> (accessed August 23, 2016).

<sup>151</sup> "Turkey: Media Shut Down, Journalists Detained," Human Rights Watch, news release, July 28, 2016, <https://www.hrw.org/news/2016/07/28/turkey-media-shut-down-journalists-detained>.

regulate television and radio, has imposed unjustifiable and arbitrary fines and broadcast suspensions on TV channels for content critical of the government.

According to Bianet, RTÜK imposed 51 penalty fines on 24 TV stations in the first quarter of 2016, over the broadcast of news reports, films and programs deemed “problematic.”<sup>152</sup> RTÜK also imposed a combined total of 3,046,000 Euros in administrative fines on radio and television outlets during the same period.<sup>153</sup>

On June 16, RTÜK fined seven private television stations for live broadcasting a parliamentary group meeting of the opposition Republican People’s Party (*Cumhuriyet Halk Partisi*, CHP) on May 24, during which legislators chanted slogans that the regulator deemed to be insulting to Turkish President Recep Tayyip Erdoğan, based on Article 299 of the Turkish Criminal Code. The amount of the administrative fine that TV channels Habertürk, CNNTürk, Can Erzinan TV, Ulusal TV, Bengütürk, and NTV were ordered to pay could not be verified by Human Rights Watch. Turkish media reported that Turkish-language TV channel HTV Hayat, broadcasting from Germany, was also fined by RTÜK for insulting the president.<sup>154</sup>

On June 10 RTÜK ordered Özgür Gün TV, a small pro-Kurdish channel based in Diyarbakir, to suspend all broadcasting for 24 hours because of a live news report from the town of Cizre on January 20, 2016, when the town was under military curfew and the scene of violent clashes between security forces and armed Kurdish militants. The news footage, originally recorded by İMC TV cameraman Refik Tekin, showed a group that wanted to evacuate bodies and injured people from a nearby street when security forces suddenly opened fire, wounding nine and killing two, including a member of the city council.<sup>155</sup>

In its written notification the regulator justified the broadcast ban by saying that the Özgür Gün news piece had “used defamatory language against the security forces,” “ignored the

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<sup>152</sup> “Erdoğan’s ‘New Turkey’ Cancels Out Critical Journalism”, BIA Media Monitoring Report January-February-March, <http://bianet.org/english/media/174441-erdogan-s-new-turkey-cancels-out-critical-journalism> (accessed August 23, 2016).

<sup>153</sup> Ibid.

<sup>154</sup> “RTÜK, CHP Grubu'nda atılan sloganları 'Erdoğan'a hakaret' sayıp, kanallara ceza yağdırdı,” (“RTÜK showered TV channels in a rain of fines after interpreting slogans chanted in CHP group meeting as ‘insult against Erdoğan’”, Birgün, June 16, 2016, <http://www.birgun.net/haber-detay/rtuk-chp-grubu-nda-atilan-sloganlari-Erdoğan-a-hakaret-sayip-kanallara-ceza-yagdir-di-116437.html> (accessed August 23, 2016).

<sup>155</sup> Human Rights Watch phone interview with Ömer Tur, news editor, Özgür Gün TV, August 1, 2016.

activities of the terrorist organization [the Kurdistan Workers' Party, PKK],” “provoked the people against the legitimacy of the state” and that the channels stance was “clearly going to harm the unity of the state and the people.”<sup>156</sup> It was the second time in ten months that Özgür Gün TV was handed a 24-hour broadcast ban, and RTÜK said that in case of a third infringement of rules, the channel would have its broadcasting license revoked and be shut down.<sup>157</sup>

Özgür Gün TV was also handed an administrative fine of 14,359 Turkish liras (4,890 US dollars) in connection with a debate program broadcast on 11 January 2016, during which an invited academic had, RTÜK decided, “violated the principle of the unity of the state and the people” and the “existence and independence of the Turkish Republic.” Since August 2015, Özgür Gün TV has been ordered to pay a total amount of 73,000 Turkish Lira (24,900 US dollars) in fines.<sup>158</sup>

RTÜK imposed fines on other opposition broadcasters for various offenses such as “violating the principles of impartiality and reporting the truth” and “provoking hate and enmity amongst the public based on gender, class, language, religious and regional divides.”<sup>159</sup> Those targeted include İMC TV, the pro-Kurdish Azadi TV, the local Van TV channel and Jiyan TV, the first Kurdish-named TV station to receive a TÜRKSAT broadcasting license. All were closed down by decree in late September and early October. Pro-government media outlets that resort to discriminatory language in their reporting and headlines are rarely subject to similar scrutiny, let alone sanctions.

In January the media regulator imposed a 850,000 Turkish Lira (290,000 US dollars) fine on broadcaster Kanal D after a woman identifying herself as a teacher from Diyarbakir called into “The Beyaz Show,” a popular talk show hosted by Turkish TV star Beyazıt Öztürk, to tell viewers to be “aware” of the many people killed during the ongoing violent clashes between security forces and the PKK.

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<sup>156</sup> “Televizyonumuza 5 ayda 2inci ekran karatma ve para cezası,” (“The 2nd shut-down penalty and fine in 5 month against our channel”), Özgür Gün TV, <http://www.demokrathaber.org/medya/rtuk-ozgur-gun-tv-nin-ekranini-karartti-h68240.html> (accessed December 7, 2016)..

<sup>157</sup> Human Rights Watch phone interview with Tayip Temel, editor-in-chief, Özgür Gün TV, August 1, 2016.

<sup>158</sup> “Özgür Gün TV'ye yayın durdurma cezası,” (“Shutdown penalty against Özgür Gün TV”), İMC TV, June 10, 2016, <http://www.İMCtv.com.tr/ozgur-gun-tvye-yayin-durdurma-cezasi/> (accessed August 23, 2016).

<sup>159</sup> “RTÜK terör sevicı kanallara ceza yağdırdı,” (“RTÜK rains fines on terror-loving TV channels”), *Yeni Şafak*, April 13, 2016, <http://www.yenisafak.com/hayat/rtuk-teror-sevicı-kanallara-ceza-yagdir-di-2450804> (accessed August 23, 2018).

Expressing the wish that the fighting should come to an end, she said on the phone: “Are you aware of what is happening in the east of Turkey? People are fighting hunger and thirst, especially children. Mothers and babies are dying. Please be aware and do not remain silent.” RTÜK argued that the fine was justified because the caller used “a similar turn of phrase to that used by a terrorist organization.” The council also said that the woman had aimed to legitimize the PKK’s actions and blamed talk show host Öztürk for not having intervened during the call and for allowing the audience to clap afterwards.<sup>160</sup>

Kanal D was subsequently held, as the Turkish press put it, “under a rain of administrative fines” amounting to around one million Turkish Liras that targeted a number of soap operas, a dramatic and highly popular genre of Turkish television, and even a cooking show for surreptitious advertizing.<sup>161</sup>

Removing channels from broadcast platforms, depriving them of viewers and revenue, and imposing fines on them has had a chilling effect on freedom of expression, especially in the case of small, independent TV channels with limited resources. It has encouraged broadcasters to soften criticism of the government and powerful actors with ties to the AKP. With the closure of 28 TV channels by decree after the failed coup, the Turkish government has effectively ended independent television broadcasting in Turkey.

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<sup>160</sup> See RTÜK decision on the case including full transcript, <https://www.rtuk.gov.tr/ust-kurul-kararlari/6112-sayili-kanunun-8inci-maddesinin-birinci-fikrasinin-d-bendinin-ihlali-nedeniyle-ipc-kanal-d-dtv-haber-ve-gorsel-yayincilik-a-s/6279>, January 28, 2016. See also, Mustafa Akyol, “The latest high in Turkey’s political madness,” *Hurriyet Daily News*, January 13, 2016, <http://www.hurriyetdailynews.com/the-latest-high-in-turkeys-political-madness.aspx?pageID=449&nID=93774&NewsCatID=411> (accessed December 8, 2016).

<sup>161</sup> “RTÜK Kanal D’ye ceza yağdırdı,” (“RTÜK rains fines on Kanal D”), *Milliyet*, February 2, 2016, <http://www.milliyet.com.tr/rtuk-kanal-d-ye-ceza-yagdir-di-gundem-2187925/> (accessed August 23, 2016).

## **VII. Turkey's International and Domestic Legal Obligations**

Freedom of opinion and expression is a cornerstone of a democratic society. It extends not only to “information” or “ideas” that are favorably received, but also to those that offend, shock or disturb.

Media freedom, media diversity and the protection of journalists are a central part of the effective exercise of freedom of expression. While the media may be subject to some restrictions necessary for the protection of certain vital interests of the state, such as national security, public order and public safety or public health, the media has a role and responsibility to convey information and ideas on political issues, even divisive ones, and to make sure that the public has a right and the possibility to receive them.

The ability to practice journalism free from undue interference, to peacefully criticize government, and to express critical views is crucial to the exercise of many other rights and freedoms.

Turkey is party to the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR) which guarantee the right to freedom of expression and impose legal obligations on states to protect freedom of expression and information.

The Turkish constitution protects freedom of expression, and includes language that permits for limitations on that right, which broadly tracks article 10 of the ECHR. Article 26 of the Turkish constitution states:

Everyone has the right to express and disseminate his thoughts and opinion by speech, in writing or in pictures or through other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, and similar means to a system of licensing.

The exercise of these freedoms may be restricted for purposes of protecting national security, public order and public safety, the basic characteristics of the Republic and safeguarding the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation and rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.<sup>162</sup>

However in practice the limitations on and interference with freedom of expression provided for in Turkish law – for example through its defamation law and overly broad terrorism related offences – far exceed the scope for legitimate limitations provided for in international human rights law. The UN Human Rights Committee, the independent expert body that monitors state compliance with the ICCPR, in its General Comment No. 34 on the right to freedom of expression, states that the “freedoms of opinion and expression form a basis for the full enjoyment of a wide range of other human rights. For instance, freedom of expression is integral to the enjoyment of the rights to freedom of assembly and association, and the exercise of the right to vote.”<sup>163</sup> With respect to criticism of government officials, the committee notes that in circumstances of public debate, “the value placed by the Covenant upon uninhibited expression is particularly high.” The “mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.” Thus “all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition.”<sup>164</sup>

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<sup>162</sup> The Constitution of the Republic of Turkey, [https://global.tbmm.gov.tr/docs/constitution\\_en.pdf](https://global.tbmm.gov.tr/docs/constitution_en.pdf) (accessed August 20, 2016). Article 10 of the ECHR provides that “[e]veryone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises and (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

<sup>163</sup> Human Rights Committee, General Comment No. 34, Freedoms of Opinion and Expression, CCPR/C/GC/34 (2011), para.4, <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>, (accessed August 20, 2016).

<sup>164</sup> UN Human Rights Committee, General Comment No. 34, Freedoms of Opinion and Expression, CCPR/C/GC/34 (2011), para. 38.

In addition, the Human Rights Committee has said that “defamation laws must be crafted with care to ensure that they [...] do not serve, in practice, to stifle freedom of expression [...] State parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty.”<sup>165</sup>

The European Court of Human Rights has also made clear that with respect to public figures, in particular politicians and others in governmental roles, that the limits of acceptable criticism are wider than as regards a private individual.<sup>166</sup> In respect of political speech, the Court has observed that “political invective often spills over into the personal sphere, such are the hazards of politics and the free debate of ideas, which are the guarantees of a democratic society”<sup>167</sup> and that “journalistic freedom also covers possible recourse to a degree of exaggeration, or even provocation.”<sup>168</sup> The media has a vital role to play as “public watchdog” in imparting information of serious public concern and should not be inhibited or intimidated from playing that role.<sup>169</sup>

While defamation proceedings may be compatible with freedom of expression under the ECHR if they are to protect the reputation of others, defamation offences must be prescribed by law, necessary in a democratic society and proportionate, including the potential penalties. The European Court of Human Rights has found multiple violations of the ECHR as a result of improper defamation convictions or penalties imposed. The Court has also upheld some sanctions on journalists as interferences which did not constitute violations of freedom of expression, making clear that journalists can be legitimate subjects of public debate and criticism and do not enjoy absolute immunity from sanction for speech related offences, but such offences must be properly provided for by law and compatible with robust free speech and media.

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<sup>165</sup> Ibid.

<sup>166</sup> See for example the original case *Lingens v. Austria*, Application No. 9815/82, Judgment July 8, 1986, Series A no. 103.

<sup>167</sup> *Lopes Gomes da Silva v. Portugal*, Application No. 37698/97, Judgment September 28, 2000, Reports of Judgments and Decisions 2000-X, para. 34.

<sup>168</sup> See among other cases *Oberschlick v. Austria* (No. 2), Application No. 20834/92, Reports of Judgments and Decisions 1997-IV; *Dalban v. Romania*, Application No. 28114/95, Reports of Judgments and Decisions 1999-VI; *Arslan v. Turkey*, Application No. 23462/94, judgment of July 8, 1999.

<sup>169</sup> See for example *Bladet Tromsø and Stensaas v. Norway*, Application No. 21980/93, May 20, 1999.

## Appendix: Jailed Journalists and Media Workers in Turkey

The following list of 149 jailed journalists and media workers was prepared by the Istanbul-based non-governmental organization P24 Platform for Independent Journalism and is regularly updated ([www.platform24.org/en/](http://www.platform24.org/en/)). All but 18 journalists on the list, who are convicted and serving prison sentences, are held in pretrial detention pending the completion of a criminal investigation or ongoing trial proceedings.

### Journalists arrested under State of Emergency ostensibly as part of coup investigation and for Gülenist links, up to December 9, 2016 (82)

Abdullah Kılıç, *Meydan* newspaper columnist  
Abdullah Özyurt, *Zaman* newspaper reporter  
Ahmet Altan, writer, columnist, former editor  
Ahmet Memiş, journalist, Haberdar news site  
Ahmet Metin Sekizkardeş, *Zaman* newspaper  
Ahmet Turan Alkan, *Zaman* columnist  
Ahmet Yavaş, TRT (Erzurum)  
Alaattin Güner, Cihan News Agency media director  
Alaattin Kaya, formerly owned rights to *Zaman*  
Ali Akkuş, *Zaman*, general publications editor  
Ali Babür Boysal, *Zaman* layout designer  
Ali Bulaç, *Zaman* columnist  
Ali Ünal, *Zaman* columnist  
Atilla Taş, *Meydan* columnist  
Ayşe Nazlı Ilıcak, *Yarına Bakış* columnist  
Ayşenur Parıldak, *Zaman* newspaper  
Aytekin Gezici, journalist  
Aziz İstegün, Diyarbakır *Zaman* regional representative  
Bayram Kaya, *Zaman* reporter  
Bayram Parlak, Radyo Cihan (Diyarbakır)  
Bünyamin Köseli, *Aksiyon* magazine reporter  
Cemal Azmi Kalyoncu, Journalists and Writers Foundation  
Cihan Acar, *Bugün* reporter

Cihat Ünal, Antalya *Zaman* reporter  
Cuma Kaya, *Zaman* newspaper  
Cuma Ulus, *Millet* newspaper publications coordinator  
Cumali Önal, *Zaman*, in charge of Arabic editions  
Eda Şanlı, owner of local Antalya newspaper and columnist for *Bizim Antalya*  
Emre Soncan, *Zaman* defense reporter  
Ercan Gün, Fox TV News editor  
Erdal Şen, *Meydan* newspaper managing editor  
Faruk Akkan, Cihan News Agency journalist  
Fevzi Yazıcı, *Zaman* newspaper  
Gökçe Fırat Çulhaoğlu, *Türksolu* columnist  
Gültekin Avcı, former *Bugün* columnist  
Habip Güler, *Zaman* reporter  
Hakan Taşdelen, *Zaman* newspaper  
Halil İbrahim Mert, TRT (Erzurum)  
Hanım Büşra Erdal, *Zaman* reporter and columnist  
Haşim Söylemez, *Aksiyon* magazine columnist  
Hüseyin Aydın, Cihan News Agency reporter  
Hüseyin Turan, *Zaman* columnist  
İbrahim Balta, *Zaman* business news editor  
İbrahim Kareyeğen, *Zaman* managing editor  
İsa Siyi, Haberdar news site  
İsmail Avcı, Diyarbakır *Zaman* reporter  
Kenan Baş, Antalya *Zaman* reporter  
Lokman Erdoğan, *Çorum Manşet* (Antalya) owner and columnist  
Mehmet Altan, writer, columnist, academic  
Mehmet Dener, Şanlıurfa.com website publisher  
Mehmet Kuru, *Zaman* Eskişehir reporter  
Mehmet Özdemir, *Zaman* newspaper  
Muhammet Taşçılar, Sanliurfa.com website editor-in-chief  
Murat Aksoy, *Yeni Şafak* columnist  
Murat Avcioğlu, *Zaman* newspaper  
Murat Öztürk, *Çorum Manşet* (Antalya) managing editor  
Mustafa Erkan Acar, *Bugün* news manager  
Mustafa Ünal, *Zaman* Ankara bureau chief

Mutlu Çölgeçen, *Millet* newsroom coordinator  
Mümtazer Türköne, *Zaman* columnist  
Nuri Durna, TRT

Nurullah Kaya, Gaziantep *Zaman* regional representative  
Olgun Matur, Antalya journalist  
Osman Yakut, *Zaman* Antalya  
Özkan Mayda, Antalya *Zaman* reporter  
Ramazan Alkan, *Yeni Akit* reporter  
Resul Cengiz, *Zaman* former Denizli reporter  
Seyid Kılıç, TRT News  
Şahin Alpay, *Zaman* columnist  
Şeref Yılmaz, Irmak TV  
Tahsin Kürklü, *Zaman* former transport manager  
Tuncer Çetinkaya, *Zaman* Antalya regional representative  
Ufuk Şanlı, columnist for *Vatan* newspaper  
Vahit Yazgan, İzmir *Zaman* regional representative  
Vedat Beki, Çankırı Sözcü 18 online news editor  
Vedat Demir, *Yarına Bakış* columnist  
Yakup Çetin, *Zaman* reporter  
Yakup Şimşek, *Zaman* marketing manager  
Yalçın Güler, TRT (Erzurum)  
Yener Dönmez, Habervaktim news site  
Yetkin Yıldız, Aktif Haber news site  
Zafer Özsoy, *Zaman* newspaper

## **Journalists arrested in *Cumhuriyet* newspaper operation, November 5, 2016 (10)**

Akın Atalay, president of *Cumhuriyet* Foundation Executive Board (arrested on Nov. 12)  
Murat Sabuncu, editor-in-chief  
Kadri Gürsel, editorial advisor, columnist  
Turhan Günay, chief editor of the paper's book supplement  
Musa Kart, cartoonist  
Güray Tekin Öz, columnist

Hakan Karasinir, columnist  
Mustafa Kemal Güngör, *Cumhuriyet* Foundation board member  
Önder Çelik, *Cumhuriyet* Foundation board member  
Bülent Utku, *Cumhuriyet* Foundation board member

## **Journalists arrested during State of Emergency not related to the coup probe or Gülen-linked, up to December 9, 2016 (27)**

Zeynel Abidin Bulut, *Azadiya Welat*  
Zehra Doğan, JINHA news agency  
Hülya Karakaya, *Özgür Halk* journal  
Mehmet Arslan, Dicle News Agency (DİHA)  
Aslı Erdoğan, *Özgür Gündem* advisory board, columnist  
Metin Bekiroğlu, DİHA  
İnan Kızılkaya, *Özgür Gündem*  
Zana (Bilir) Kaya, *Özgür Gündem*  
Erdem Muhirci, DİHA  
Ali Aşikar, *Azadiya Welat*  
Necmiye Alpay, *Özgür Gündem* advisory board  
Sabahattin Koyuncu, DİHA  
Arap Turan, *Azadiya Welat*  
Ferit Toprak, *Azadiya Welat*  
Rabia Özkaya, *Özgür Halk*  
Şirin Çoban, *Azadiya Welat*  
İlker İlkan, *Azadiya Welat*  
Cemil Uğur, *Evensel*  
Mehmet Anıl, ETHA  
Sadık Demir, Radyo Karacadağ  
Mizgin Çay, Radyo Karacadağ  
Salih Erbekler, Radyo Karacadağ  
Togay Okay, *Özgür Gelecek* newspaper  
Ayhan Karahan, local Bodrum journalist  
Perihan Kara, freelance journalist  
Aysel Işık, JINHA freelance journalist  
Mehmet Güleş, DİHA

## **List of journalists arrested before State of Emergency (30)**

Abdulkadir Turay, Dicle News Agency (DİHA) reporter

Ali Konar, *Azadiya Welat* representative (convicted)  
Arafat Dayan, *Demokratik Ulus* former managing editor  
Cebrail Parıltı, Anadolu Ajansı (AA) Derik reporter  
Emin Demir, freelance journalist  
Erdal Süsem, *Eylül* magazine editor (convicted)  
Erol Zavar, *Odak* magazine owner (convicted)  
Ferhat Çiftçi, *Azadiya Welat* Gaziantep representative (convicted)  
Gurbet Çakar, *Hevi* women's magazine (convicted)  
Hamit Dilbahar, *Azadiya Welat* columnist (convicted)  
Hatice Duman, owner of *Atılım* newspaper (convicted)  
Hidayet Karaca, president of Samanyolu media  
Kamuran Sunbat, Dicle News Agency (DİHA) (convicted)  
Kenan Karavil, Radyo Dünya editor-in-chief (convicted)  
Mazlum Dolan, Dicle News Agency (DİHA) reporter  
Mehmet Baransu, Taraf columnist  
Mikail Barut, *Özgür Halk* magazine former editor (convicted)  
Miklat Algül, Mezitli FM, general broadcast coordinator (convicted)  
Muhammed Doğru, Dicle News Agency (DİHA) reporter  
Mustafa Gök, *Ekmek ve Adalet* magazine Ankara representative (convicted)  
Nedim Türfent, Dicle News Agency (DİHA) reporter  
Nuri Yeşil, *Azadiya Welat* Tunceli representative (convicted)  
Özgür Amed (Ethem Çağır), *Özgür Gündem* columnist (convicted)  
Sami Tunca, *Mücadele Birliği* magazine news editor (convicted)  
Serkan Aydemir, *Bitlis Aktüel* reporter  
Seyithan Akyüz, *Azadiya Welat* Adana (convicted)  
Şahabettin Demir, Dicle News Agency (DİHA) reporter (convicted)  
Şerife Oruç, Dicle News Agency (DİHA) reporter  
Yılmaz Kahraman, *Özgür Halk* magazine editor (convicted)  
Ziya Ataman, Dicle News Agency (DİHA) intern

# SILENCING TURKEY'S MEDIA

## The Government's Deepening Assault on Critical Journalism

Following the abortive July coup in Turkey, the government has accelerated and intensified a crackdown on independent media which had already been underway for more than a year.

Under the state of emergency declared in the aftermath of the coup attempt, the government has closed down independent media organizations and arrested scores of journalists, effectively decimating the free and independent media community, an essential pillar of any functioning democracy.

*Silencing Turkey's Media* documents five important components of this crackdown on independent domestic media in Turkey: 1) the use of the criminal justice system to prosecute and jail journalists for terrorism, insulting public officials, or crimes against the state; 2) threats and physical attacks on journalists and media organizations; 3) governmental interference with editorial independence and pressure on media organizations to fire critical journalists; 4) the government's takeover or closure of private media companies; and 5) restrictions on distribution, fines and closure of critical television stations.

The report shows how the media crackdown has not only targeted media and journalists associated with the Gülen movement, which the government alleges was behind the July coup attempt, but also pro-Kurdish media and independent voices critical of the government such as the newspaper *Cumhuriyet* and its journalists.

The report calls on the Turkish authorities to immediately cease all intimidation of journalists and media outlets and to take necessary steps to improve investigations into attacks and threats against journalists and to bring perpetrators to justice.

*(front cover) Journalists targeted in Turkey's media crackdown.*

*From top left: Aslı Erdoğan, Ahmet Altan, Kadri Gürsel, Necmiye Alpay;*

*Erdem Gül, Ceyda Karan, Can Dündar, Hatice Kamer;*

*Refik Tekin, Hanım Büşra Erdal, Nedim Oruç, Nazlı Ilıcak*

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