



Press for **Freedom**
Strengthening Media Freedom



*Violations of Freedom of Press and Expression
January – April 2016*



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General Situation

Suicide bombs, curfews which continue in many points in Southeast Anatolia and security operations, the fire in the houses all around the country due to the sad losses in these operations generate the outstanding agenda of this period.

The tension in Turkey-Russia relations which starts to increase with the crash of Russian war plane in 24 November 2015 due to the border violation, continued during January 2016 with the mutual accusations. Following the downing of the intruding Russian fighter plane by Turkish Air Force fire, Syrian aerial domain was completely closed to Turkish planes. The cannon balls which crashed into Turkey's land, were only responded with gun fires.

Most particularly, the bombs dropped to Kilis caused unrest. It is frequently said in the concerns that Russia intensified Syria operations which started with the "invitation of Syria government" and for "fighting against terrorism", as to strengthen Basher al Assad regime and the operations fronted to Turkmenadağı region and Turkey may confront with a new migration wave from both Turkmen and Aleppo region.

The tension between the political leaders continues to increase. The declarations of President Recep Tayyip Erdoğan, government and ruling party which exclude Democratic Party of People (HDP) and the "ditch policy" persistence of HDP have stressed the relations. The invitation of academicians over two thousand for ending the operations and curfews continuing in many cities and towns in Southeast, generated a new fault line. While the condemnation of the academicians related with the operations and curfews but not mentioning the activities of terror organization, has been harshly criticized by President Erdoğan, Prime Minister Ahmet Davutoğlu and many government members, the main opposition party Republican people's party has not agreed completely with the content however it has evaluated the declaration within the frame of freedom of thought and has invited the government to the freedom of thought.

Against the claims that the ambulances were not sent to the operation region although there were many injured in an apartment, the government officials have defended that the ambulances were sent for many times however, the terrorists commenced fire from the said building. The inconsistent news and claims were in the qualification of presenting the problem related with the trueness of the news coming from the region.

The same reaction of President, Prime Minister and the leading members of the government against the statements of the leader of CHP, the main opposition party like "dictator scrap" led to the increase of political tension in a period when a conciliation committee is established again in TBMM for generating a new constitution.

The cardiac operation of MHP leader Devlet Bahçeli during Thrace visit, to keep away from the public for a long time and the speech of Vice President of Group Oktay Vural in MHP Parliament Group meeting by breaking a tradition of 19 years, was an interesting development.

The accusation which is issued for Chief Editor of Cumhuriyet Newspaper, Can Dündar and Ankara Representative Erdem Gül, got reactions in international arena as well as whole journalists' organizations and the requisition of 1 time aggravated life sentence, 1 time life sentence and imprisonment up to 30 years has become a significant and sad development of January.

Again in January 2016, the conflict between President Recep Tayyip Erdoğan and former president of TBMM and former Vice Prime Minister Bülent Arınç, has taken a significant place in social media as well as the press. The claims of Arınç in a television program that the two ministers and bureaucrats should make a meeting with the councils recently returned from Imrali, and this statement was within the knowledge of the Prime Minister of the period, has led a tension between them. The President Erdoğan has accused Arınç for "not behaving honestly".

In the main opposition party, CHP "crisis of Ataturk portrait" has occupied the party during January. HDP which is frequently seen as a target and is behaved as if "non-existing" both by President and government and AKP, has made second ordinary congress in February 2016. As expected, Selahattin Demirtaş and Figen Yüksekdağ have been selected as Co- General President again.

As January, the important developments of February were the ongoing security operations in southeast Anatolian parts of the country, deaths and martyr news and the resistance of the civil society in Artvin for the environment and the decision of Constitutional Court (AYM) decision related to two imprisoned senior journalists, stressing their rights were violated by being held unnecessarily behind bars. The pledge to "build a new Southeast Anatolia" within a year once the security

operations are ended, has become an official statement and the daily sad news from the ongoing operations have become a routine.

The release of Cumhuriyet newspaper's Chief in Editor Can Dündar and Ankara Representative Erdem Gül by the court after the verdict of Constitutional Law for "violation of rights", has been seen as "a reliving development" showing the "dependency" and "superiority of law" in country. However, the statements of President Recep Tayyip Erdoğan expressing that he does not accept and respect the verdict and the statements of the legist members of government that the powers of Constitutional Law in Individual Application Right area, may be limited and the critics of the lawyers and the opposition against these statements, has generated an important agenda.

While Prime Minister Ahmet Davutoğlu, Ministry of Justice and other legist members of the government argue that the Constitutional Court has made "power exceeding" and has made a verdict in a subject with non-completed court process, Constitutional court resources and the leading legists claimed that the rejection of the objection in lower court to the imprisonment verdict, means "the process is completed" and this arises the application right for Constitutional Law. They mentioned that European Human Rights Court and Constitutional Court have similar verdicts in history.

The civil society intervention which is never made before and is generated with the concern of the damage given to the nature through gold and copper mining in Artvin Cerattepe, has led Prime Minister Davutoğlu to take the discontinuity decision for the mining works till the legal procedure is over and this decision has caused a big happiness.

The most important subjects of the country in February 2016 were the Syrian refugees over three millions and ISID and PKK-YPG terror threats coming from Syria, the non-existence of "solution process" discussion draws attention. Although "Turkish type presidency system" and "new constitution" as well as the verdict of constitutional law related with Can Dündar and Erdem Gül and the political polemic arising from this verdict has effect on this, the dominancy of an approach with "security center" in the solution of Kurt problem has been determinant.

The agenda was the removal of privileges of some congressmen of HDP, the dismissal of provincial organizations supporting the in-part opposition in MHP and the "raising campaign" of Meral Akşener.

Despite of the incentives which are applied by government for overcoming the problems of tourism sector due to the Syria crisis, crash of Russian plane and internal security threads, the crisis warnings continue. The price inconsistency in agriculture and stockbreeding sector, "maximum price" application attempt did not give the expected results.

In march 2016, a very sad incident has occurred. The death of 37 citizens and injury of 71 citizens in the terror attack in Ankara deeply sadden the country. Only a few days later after Ankara attack, the death of five persons (one of them is the attacker) in the explosion in İstanbul Beyoğlu İstiklal Avenue has caused fear and anxiety in whole country. While the some areas criticized that the government did not declare national mourning despite of this big loss, the publication of a common declaration upon the objection of one of four political parties (HDP) was not possible for the second time and this case had an important place in agenda of the country. In response, TBMM groups of AKP, main opposition party CHP, MHP have made a joint declaration condemning the terror.

The conciliation between Turkey and European Nation related with refugees after long negotiations, generated an important agenda of March with for and against comments both in Turkey and international public opinion. A settlement is made related with the return of the refugees going to European Union countries through illegal ways to Turkey and sending refugees to EU countries through legal ways in the number of returned refugees.

EU has undertaken a part of the financial liability of the refugees on Turkey and this becomes an important element of the settlement. Besides, the acceleration of the membership debates of Turkey has taken place as a part of the settlement.

In March, the polemics arising between the agenda of the country and parties increased the political tension. The criticism of the opposition parties against the settlements between Turkey and EU related with the refugees, calls for removing the privileges of some congressmen who are claimed not putting a distance between the terror and themselves, were some of the subjects causing tension. "Turkish type presidency" demands, new constitution calls and the claims of violation of the principles of separation of powers by government and presidency, continued to be the weighted subjects of the country's agenda.

USA visit of President Recep Tayyip Erdoğan, his communications with USA president Barack Obama and other leaders and the conference given by Erdoğan in World Nuclear Security summit in Brookings Institute has occupied the agenda of the country for a long time in terms of various aspects.

The many rapes to the children in the dormitory of Ensar Foundation in Konya province Karaman district by a teacher and similar claims have taken part in country's agenda. The act of government in form of protecting the said foundation and the objection of the investigation decree given to TBMM with the dissenting votes of the ruling party has increased the tension in politics and it has got major reactions particularly in social media.

The minister has described the statement of the Minister for women related with the rape made to the boys in Karaman and her defense for Ensar Foundation as "lie down in front of Ensar Foundation", has led dense criticism in AKP and agenda in "respect to woman". The swordplay between the President, Prime Minister and CHP leader Kemal Kılıçdaroğlu related with the subject, has taken part in the most important developments of March 2016.

In April, the most important agendas are the claims of tension between President Recep Tayyip Erdoğan and Prime Minister Ahmet Davutoğlu and the offer of AKP related with legislative immunity. While the increasing persistence for the presidency system continues and the referendum or immediate elections- or both according to some claims- in autumn months are started to be discussed.

The suspension of transitions of the refugees to Europe as the result of the conciliation between Ankara and European Union, the acceptance of return agreement and the package of six billion euro which is projected to be given for being used in the needs of refugees in three years period in Turkey and the removal of the visa in case the preparation conditions of 72 articles are fulfilled, caused excitement and expectation. For fulfilling the conditions, a dense agenda is generated in TBMM, there were some warnings for not bending 72 conditions from Europe and Turkey shall not obey the other provisions including the refugees in case cancelling visa exemption.

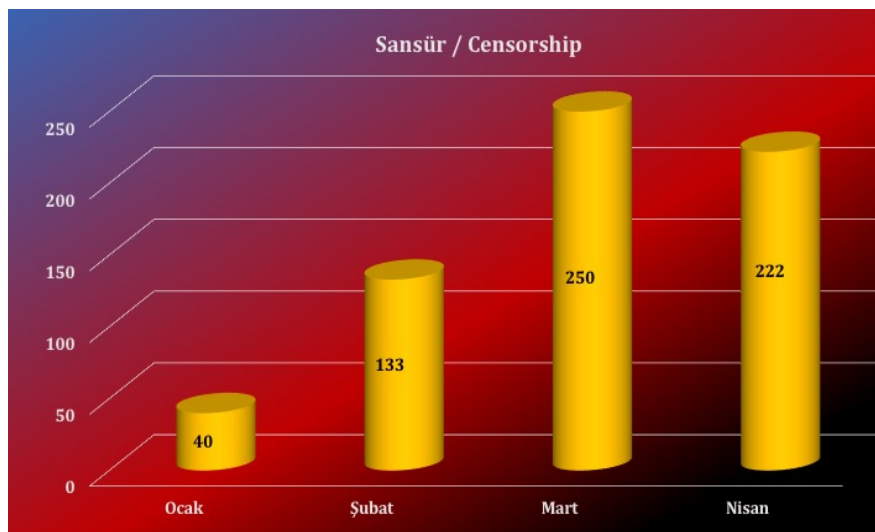
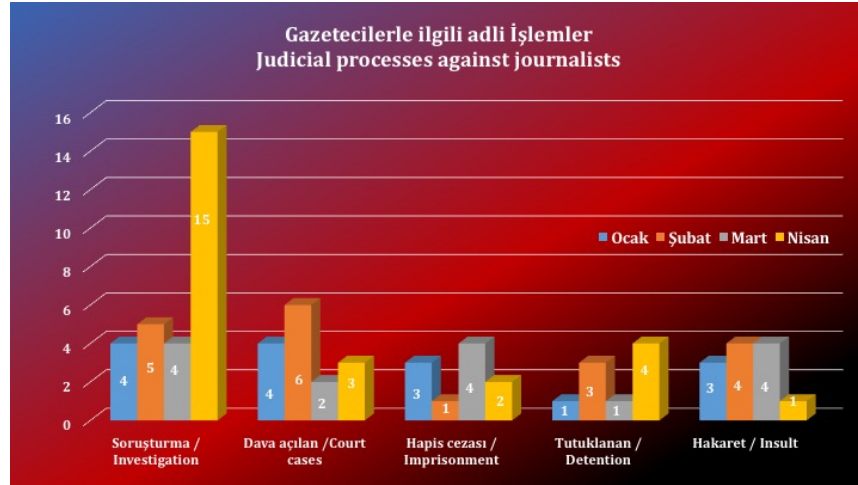
The discussion made over the summaries of HDP waiting in TBMM has led new tensions and some inappropriate scenes in TBMM. In MHP, the dominant subjects were the "extraordinary congress" and the presidency contents. The decision of 12th Civil Court of Peace of Ankara for extraordinary congress and transferring the subject to supreme court despite of assignment of congress preparation team consisting of three persons and the decision of Sivas Gemerek and Kastamonu Tosya Civil Court of first instance related with the suspension of congress process and the decision of completion of Supreme court process, has led uncertainty.

Evaluation of the January– April 2016 period

In free and democratic societies, the organization, expression and press freedom, information, criticism, protesting and organizing a demonstration are among the main rights. Therefore, they are guaranteed both with national regulations and international agreements.

Election may be seen in almost all kinds of regimes in the world. However, the importance of the elections in democracies is to provide opportunity to the people for making conscious preference, forming the management of the countries according to the preference of the national will. Each obstacle in front of expression and press freedom is a new coup for the democracy. It is not possible to mention about the democracy in cases where expression and press freedom is under pressure and is limited with censor and auto-censor mechanisms and even the opponent voices are made silent by making perception operations.

The first four months of the year was a period where two newspapers and a news agency have been silenced through a trustee, many journalists have become unemployed, a television channel has been faded out by not renewing the satellite frequency agreement with the claim of "non-completion of relevant transactions", an internet site of a media institution in English after a trustee is appointed, the journalists are taken to court with the demand of aggravated life imprisonment with the accusation of being agent. While these and similar development has led Turkey to take part in the last rows in world ranking in terms of expression and press freedom, it is obvious that we are in a shameful period in terms of democracy. This is an unacceptable situation. To have the citizen access to the news, information and the understandable comments which are guaranteed with the constitution of Republic of Turkey, is one of the main universal human rights. The



expression freedom, information right, conscious preference opportunity is the precondition of the democracy.

According to the records of the **Press for Freedom / Strengthening Media Freedom** team, at least 160 journalists are dismissed in April. Together with this number, the number of dismissed

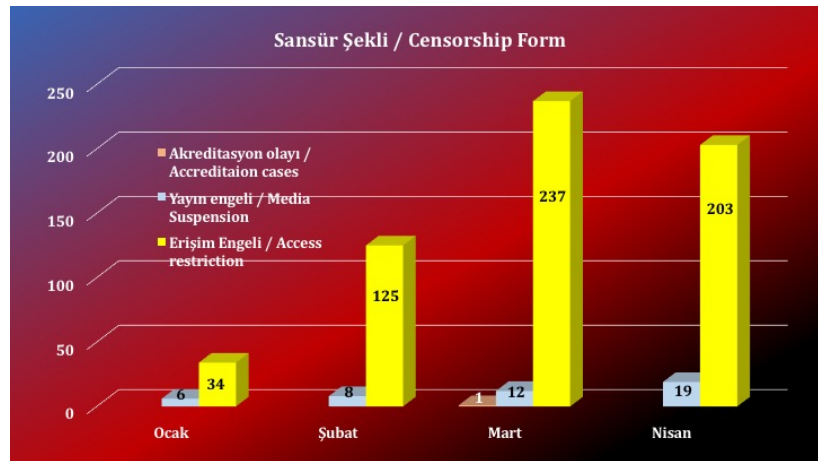
journalists has reached to 894. When compared to 53 dismissed journalists in March, the increase in the number of dismissed journalist in April exceeded %200. The internet access restrictions continued in April and the cumulative number access restricted Web sites has reached to 104 thou-

sand 904. The closure of a news site for the 34th time in April since the June elections last year, was both challenging and threatening.

The byword which is addressed to Voltaire, who greatly influenced the French Revolution and enlightenment movement expressing that "I do not agree with your ideas but I can die for you in expressing your ideas freely" or "I do not agree with your ideas but I completely support you in expressing your ideas freely", underlines in brief what the freedom of expression is. Even if the content is not shared, the censoring of expressing the ideas with no violence, must be opposed. In Handyside¹ case, which has an importance place in world law literature, the evaluation of European Human Rights Court stating that "The expression freedom forms one of the main conditions for the development of each person and the development of the society and one of the main keystone of the democratic society. With the condition to preserve the provision of second clause, the freedom of expression is valid not only for information and thoughts which are nice and do not harm people but also for the information and opinions which annoy or shock any zones of the society or state. The pluralism, tolerance and unorthodoxy forming the sine qua non of the democratic societies require this", is very important in terms of expression and press freedom in contemporary democracies.²

In January- April 2016 period, total 645 censors were made in the dorm of accreditation, broadcast-publication obstruction or access restriction. The censorship number which is 40 in January, 133 in February and 250 in March, is 222 in April. The censorship application which was 93 in 2014, 940 in 2015, has reached to 645 in first four months of 2016 and this shows the threatening trend in recent months of this application which is deemed as a shame for a country claiming democracy. The broadcasting bans with open censor, broadcasting preventions, internet access limitations and accreditation prevent the access to accurate information. When the auto-censorship applied by the journalists with the fear of losing job and the tension in the atmosphere in policy- publisher relations and the widening fear climate are considered, it is obvious that the competence of the public in reaching the news and the conscious preference which is the main mast of the democracy, is limited.

A reason of censor and particularly internet ban, is the publication ban which starts to be applied immediately after the terrorist attack. It is understood that the access problems in social media and the publication bans applied immediately after the terrorist attacks are made for preventing the occurrence of the panic environment which is aimed by the terror and it is obvious that these applications are not acceptable in terms of both expression and press freedom. The press ban given by the courts even before the ambulances arrive to the scenes, is an example to the domi-



¹ <https://www.article19.org/resources.php/resource/2444/en/handyside-v.-the-united-kingdom>

² JACOBS, WHITE & OVEY, *The European Convention on Human Rights*, New York, 2010, p. 426

nant attitude of the government related with the freedom. However, the necessity of caring while transferring the violence acts to the public by the press and publication organs in terms of public ethics cannot be denied, it must be considered that the observation of the press is an ethical principle.

It is not possible to give the auto-censor cases in numeric form. However, it is obvious that the increasing fear and anxiety environment causes an increase in the most serious censor form of the media environment and political pressure.

The dismissal of the journalists who think differently from the government and write in this aspect, the closure of TV and newspapers by the appointed trustee, is a situation to be considered. The closure of Kanaltürk TV, Bugün TV, Bugün newspaper, Mil newspaper and telet newspaper and Kanaltürk radio of İpek Group with a trustee, may be shown as an example to this situation. Together with the trustee application which becomes a more efficient control mechanism than the censor and the closure of these televisions and newspapers, 500 press workers have been added to the unemployed persons in February. Another media victim has become IMC TV in February 2016. IMC TV has been closed with the justification of public prosecution for making terror organization by cancelling its satellite frequency before control application made by the appointed trustee like İpek group.³ İmc TV had to continue its broadcasting over a foreign satellite and this is a situation which must be regretted.

Again in February, total 160 press workers have been dismissed with the application of "re-structuring" in the group including Star newspaper, Kanal 24, Akşam, Güneş and 360 channels which are owned by Ethem Sancak and carry put a publishing policy close to the government.⁴ Habertürk TV has dismissed its three anchors by showing the justification of "new structuring".⁵ The termination of the articles in Star Newspaper of Prof. Dr. Mehmet Tekelioğlu who is the brother in law of former President Abdullah Gül and was İzmir congressmen of AKP for three periods, has been evaluated as the result of the "conflict in high hills".⁶ In this period of three months, three journalists have been dismissed and total 733 journalists have lost their jobs and these numbers have been recorded to OIB reports from open sources.

In the period between 2014 March – 2016 April, total 716 procedural acts are made related with the journalist as to be 74 in the last four months and 25 in April. Violent is committed to six press institutions and 14 journalists. At least 20 attacks are made to the journalists as to be 21 to the press institutions as of the beginning of 2014. Two of these attacks are made to the media institutions and three of them are made against the female journalists, seven of them are made in March and violent is committed to three male journalists in April. A Syrian journalist is "executed" in Gaziantep.

The journalists run after the news. The behave the journalists and the newspaper executives running after the news or writing news and publishing news as "terrorist" or "agent", is in the qualification of presenting the situation of the country in freedom environment. The press members perform their duties under hard conditions and lack of life security in the regions where the security operations continue in southeast and the conflicts are held and the curfews are applied. The establishment of News Shift Coordination Group by the press members working in various newspa-

³ <http://www.hurriyet.com.tr/imc-tv-nin-uydu-yayini-kesildi-40060793>

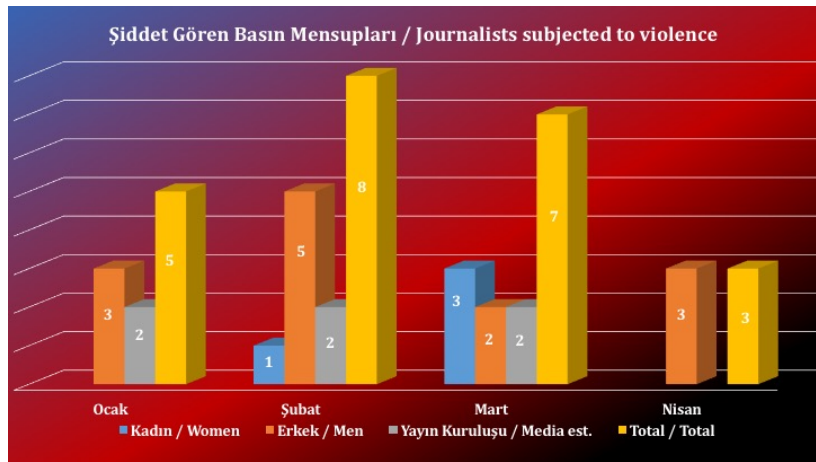
⁴ <http://www.meydangazetesi.com.tr/gundem/star-medya-dan-160-kisi-kovuldu-h63459.html>

⁵ http://www.cumhuriyet.com.tr/haber/turkiye/480554/Haberturk_te_deprem..._3_ekran_yuzunun_isine_son_verildi.html

⁶ <http://odatv.com/kovuldu-1702161200.html>

pers for unity with their colleagues, is a valuable development.⁷ The termination of the articles a former chief editor and current congressman by a broadcasting corporation trying to oppose to the various pressures and economical problems, is a challenging and sad situation.⁸

To consider the journalist who is injured during the news follow-up in Turkey identified as "partially free" in international reports as "terrorist" and keeping a police officer in front of the hospital room⁹ and the demand of 30¹⁰ years of imprisonment and 1 aggravated life imprisonment and 1 life imprisonment about Chief Editor of Cumhuriyet Newspaper, Can



Dündar and Ankara Representative Erdem Gül with the claim of agent, present serious abdication of reason in the country in terms of freedoms and particularly press freedoms. Not only the case of Dündar and Gül, but also all cases against the journalists for any justification, are seen as "writing news right" by the press organizations.

The isolation application of the imprisoned journalists must be terminated and the interview demands of the publication institutions must be accepted. If the presence of the journalist in prison is considered, the release of Dündar and Gül shall show that this problem has not ended. As emphasized in January 2016 report, the termination of isolation for the journalists, requires taking many journalists in the same ward,¹¹ to give opportunity for open visit and to give open visit opportunity to the professional organization for developing the occupational cooperation. It is our sincere wish from Ministry of Justice who rejects the permission request to consider the words of journalist and congressman Mustafa Balbay who identifies the prison visits of the occupational institution as "like semi-release" in a thanking visit to the Journalists Association.

92 days of imprisonment of Dündar and Gül is seen as "violation of rights" as Constitutional Law and their release is evaluated as "the existence of the judges in Ankara" in many press organs^{12,13} or political opponents¹⁴. The release of Dündar and Gül whose trials continue with the aggregated life imprisonment demand with the claim of helping FETO and and being agent and for the news of MİT TIRs, has led and increase in the voices of "trust to justice" in many zones (In the report date, the imprisonment verdict has not been given yet) On the other hand, the statement of President Recep Tayyip Erdoğan for not obeying and recognizing the verdict of AYM¹⁵ and on the other hand the claim of power exceeding of AYM, generated a new tension reason.

The anger caused by the pending trial of Dündar and Gül in government has been directed to

⁷ <https://www.cihan.com.tr/tr/haber-nobeti-diyarbakir-haber-nobeti-koordinasyon-grubu-ayse-yildirim-cumhuriyet-celal-baslangic-haber-dar-ceren-sozleri-evrensel-ergun-babahan-ozgur-dusunce-evrim-kurdoglu-bianet-onder-oner-2001846.htm>

⁸ <http://www.sozcu.com.tr/2016/gundem/mustafa-balbay-cumhuriyetten-ayrildi-1072547/>

⁹ <http://www.ft.com/intl/cms/s/0/36f27830-c509-11e5-b3b1-7b2481276e45.html#axzz3zrRdaYm3>

¹⁰ <http://www.hurriyet.com.tr/can-dundar-ve-erdem-gul-hakkindaki-iddianame-kabul-edildi-40049979>

¹¹ http://www.cumhuriyet.com.tr/haber/turkiye/458711/Can_Dundar_ve_Erdem_Gul_e_tecrit_40_gun_sonra_bitti.html

¹² http://www.cumhuriyet.com.tr/haber/turkiye/487670/Can_Dundar_ve_Erdem_Gul_den_mesaj_Ankara_da_yargiclar_varmis.html

¹³ <http://www.sozcu.com.tr/2016/yazarlar/necati-dogru/ankarada-var-istanbulda-yok-1110892/>

¹⁴ <http://vatanpartisi.org.tr/genel-merkez/rota-yazilari/dogu-perincek-ankara-da-hakimler-var-10995>

¹⁵ http://www.cumhuriyet.com.tr/haber/turkiye/489478/Feyzioglu_ndan_Erdogan_ciftine_tepki_Bu_gidis_hic_ iyi_degil.html

Constitutional Law in a short period of time and the agenda of the limitation of the powers of high court related with the personal applications have presented that the government cannot stand any developments besides their own plans and desires.

According to both constitution and the settled international norms, the duty of the state and government is to provide the citizen's life and security. 5th article of the constitution of Republic of Turkey emphasizes " The main purposes and duties of the state is to protect the integrity and independency of Turkish nation, republic and democracy, to provide the welfare, happiness of the people,; to remove the obstacles preventing the main rights and freedoms, social law state and justice principles , social, political and economic obstacles and to prepare the conditions required for the development of material and tangible existence of humanity"¹⁶.

To criticize the curfews of two months and for reminding the government to provide the life and property safety of the citizens and remove the social, economic and social barriers on the citizens and to demand the termination of the curfew may be evaluated as a reminder to the government for fulfilling their duties. Although, the form, content, type is not satisfied, the right of giving petition in democratic managements and the respect to expression freedom is basis.



Although the lack of any word related with the separatist terror organization in the statements of over two thousand academics criticizing the curfew, are considered as lack, it presents the preference of those who write the text and they should be respected. Due to this text, the devil hunt,¹⁷ and to show those

who signed the text as a target by the politicians in government and to suggest them to withdraw their signatures under pressure¹⁸ is incompatible with the democracy and free society. The respect to expression freedom shall be basis although the content is not agreed. The universities which need to be the defender of the free thought, have opened a race for opening investigations about these academicians and this situation should be considered deeply. Thus many intellectuals and journalists have been jeopardized by article 301 of the Turkish Criminal Code governing the crimes defined as "Humiliating Turkish Nation, Republic of Turkey, Institutions of the Republic", attempt to influence legal processes" and "slander" and have caused concern. It is very worrying to see that many academicians were called back from their duties abroad, probes were commenced and further, indictments were charged against them.

During Jan-April 2016 period, a total of 33 journalists have been detained long or short term, five of them being women, 13 probes have comments on journalists, 12 journalists have been taken to court, various jail terms have been given on eight journalists, five journalists have been arrested

¹⁶ <https://www.tbmm.gov.tr/develop/owa/anayasa.maddeler?p3=5>

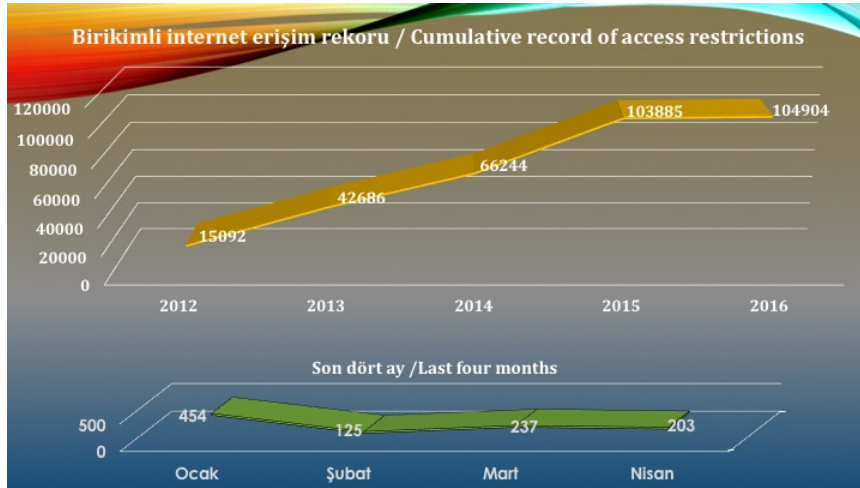
¹⁷ http://www.bbc.com/turkce/haberler/2016/01/160115_akademisyenler_gozalti_kocaeli

¹⁸ <http://www.takvim.com.tr/guncel/2016/01/11/1100-akademisyenden-ihamet-bildirisi>

so a total of 49 legal actions have been taken. We have had a period of 4 months of 2016 similar to the prior one when journalists were tried on charges for insulting the President or the Prime Minister. In this period, a total of 12 trials on insult have been executed. Despite the resolutions of European Court of Human Rights on public figures being open to criticism, insistence on the mentality of "we pay and carry on" indicates that Turkey will repeatedly visit of European Court of Human Rights in near future.

Turkey has been passing through a self-defined democratic phase where opposing news programs have been ended, newspapers and news agencies have been taken under control through appointed trustees. While all these happening, re-opening the debate for Presidency System is worrying, despite the concerns on possibility of enhancing the autocratic system in the country.

It appears that this year Freedom House has again made a good summary of the current situation of the country. In the report "Freedom on Earth 2016", issued by Freedom House, freedom rating of Turkey has been announced as "53" whereas freedom status has been announced as "partially free", press freedom as "not free". "Political rights" rating of Turkey has been set as 3 over



7, "civil rights" rating has been set as 4 over 7. It is not a coincidence that according to the 2016 report of Journalists without Borders, Turkey has stepped down two levels compared to last year, to 151 among 180 countries and complaints over moving to "single man governance."

Laws regulating insults against Statesmen in Turkey need to be reviewed, as they are seen as problematic as per European Human Rights Agreement and European Human Rights Court.

A high school student complained about his teacher, claiming he had criticized the President, causing the teacher lose his job. A journalist was detained at an airport because someone reported to police that he had criticized the President. Such developments are causing concern. "New Reporting Era" can not be seen as a healthy development for the Turkish society.