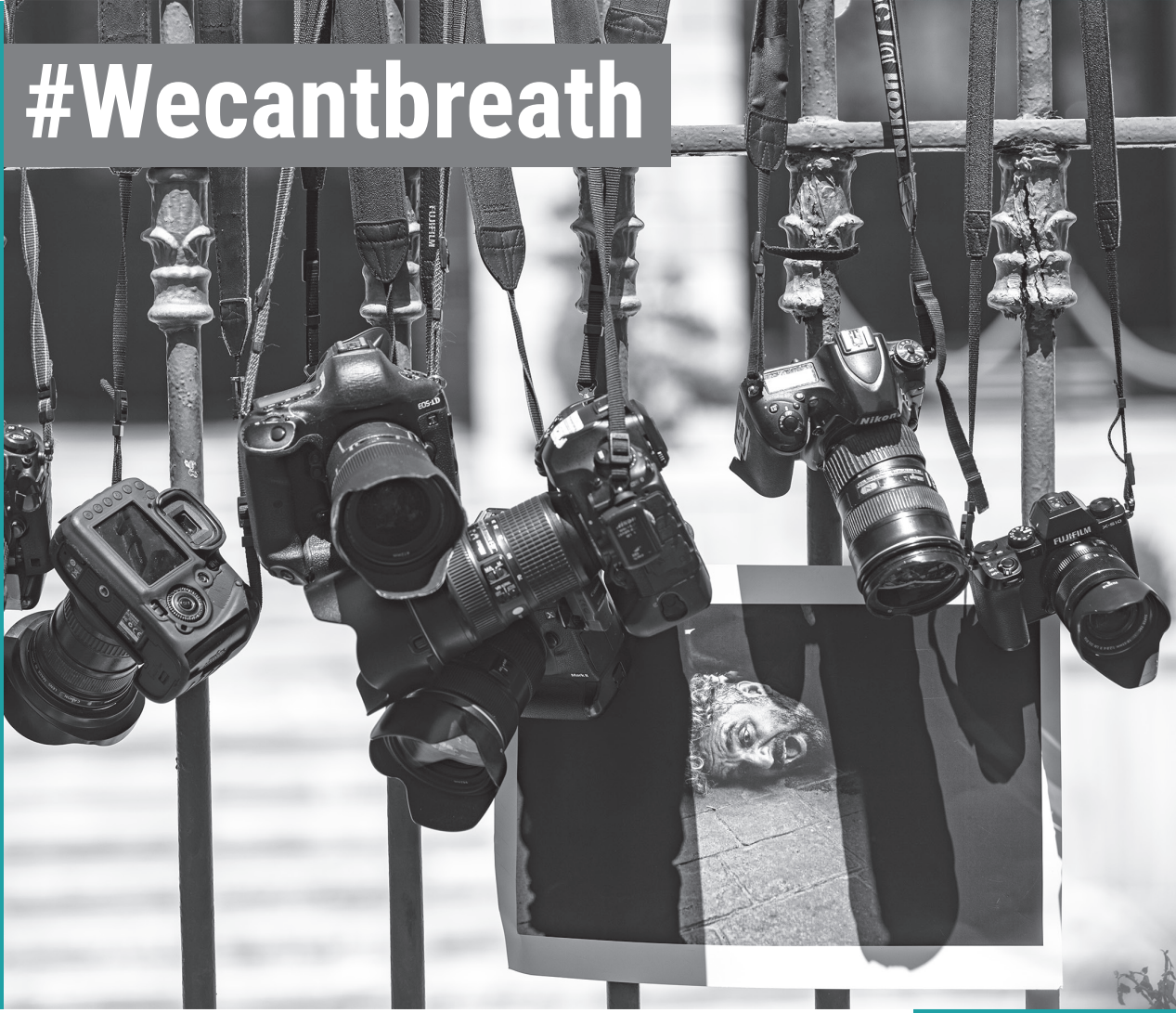


#Wecantbreathe



2022-2023 PRESS FREEDOM REPORT

PREPARED BY ÜLKÜ ŞAHİN AND İLYAS COŞKUN
JOURNALISTS' UNION OF TURKEY

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PREFACE

Article 28, paragraph 1 of the Constitution of Turkey states that *"The press is free and cannot be censored. Establishing a printing house cannot be conditional on obtaining a permit and depositing a financial guarantee."* Unfortunately, for Turkey, this provision is not worth more than the paper the Constitution is printed on. For many years, journalists have been under pressure, with detentions, arrests, fines and censorship practices continuing to increase. Even at the time of preparation of this report, 10 journalists were detained in a dawn operation in Diyarbakir. 42 journalists are currently in prison due to their professional activities.

The demolishing of freedom of the press in Turkey is the product of a policy that had been woven step by step for years. The government, which is hostile to freedom of the press and freedom of expression, has, with the overall aim of covering up the truth, tried to reduce the credibility of journalists by criminalizing them. Officials continuously targeted journalists and even threatened them, paving the way for attacks on journalists. In recent years, our colleagues have been attacked by many groups ranging from security forces, political party members and even ordinary citizens. However, almost none of the criminal complaints filed by journalists about the attacks resulted in criminal charges. Governorships did not allow the prosecution of security forces who attacked journalists. Impunity in attacks against journalists became the rule rather than the exception. And it did not stop there. Lawsuits were filed against journalists who were the victims of the attacks whose perpetrators were protected.

Our colleagues who were detained and arrested waited for months for indictments. Now, we effectively live in a legal system where punishment is imposed in advance, even though no crime has been committed. However, we see that the same system does not work against those who attack journalists. In fact, the attacks on journalists are rewarded.

A professional community that works hard to ensure that the public has access to accurate information, and which undoubtedly looks out for the public interest more than those in power, should have legal guarantees to protect them and to safeguard their news.

The main theme of this year's report, which we will publish on May 3, World Press Freedom Day, is impunity in crimes against journalists. In the report, you will read about the increasing attacks against the journalists, the rights violations we had to endure, and the hostile policies against freedom of the press and freedom of expression.

Our report will also have a guest author this year. Prof. İbrahim Özden Kaboğlu, a constitutional law expert, CHP MP for Istanbul, and member of the Constitutional Commission of the Grand National Assembly of Turkey, has made a major contribution with his assessment of impunity for crimes against journalists.

Even though we are ruled by an understanding that sees journalism as the enemy and journalists as terrorists, it is our unity and solidarity that will put an end to these impunity practices.

We have no choice but to expand this union to make the journalism profession respectable again.

GÖKHAN DURMUŞ

Journalists' Union Of Turkey President

ACKNOWLEDGEMENTS

Dedicated to the Members of the Press Who Lost Their Lives in the Earthquakes That Took Place on the 6th of February.

We owe gratitude for their contributions to the preparation of the report and their stand of solidarity, to Prof. İbrahim Ö. Kabođlu for his article shedding light on the problem of impunity in crimes against journalists, Attorney Ali Deniz Ceylan, Attorney Çiđdem Koç, Attorney Devrim Avcı, Attorney Merve Kurhan, Attorney Mustafa Gökhan Tekşen, Attorney Nuray Özdođan, Attorney Özcan Kılıç, Attorney Resul Temur, Attorney Sercan Korkmaz, Attorney Tolgay Güvercin, Attorney Tora Pekin for sharing information on freedom of the press cases, Journalists Alican Uludađ, Cansu Pişkin, Eylem Sonbahar, Ruşen Takva, Mümtaz Murat Kök, Özgür Öğret for their support and generosity in sharing information, The Journalists Association (GC), Contemporary Journalists Association (CGD), Committee for the Protection of Journalists (CPJ), Media and Law Studies Association (MLSA), P24 Independent Journalism Platform, International Press Institute (IPI), Tigris-Euphrates Journalists Association (DFGD), and Freedom of Expression Association (IFOD) for their most valuable contributions.

Thank you.

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ABBREVIATIONS

AA	Anadolu Agency
USA	United States of America
AFP	Agence France-Press
AP	Associated Press
AYM	Constitutional Court
ECHR	European Court of Human Rights
BBC	British Broadcasting Corporation
BIK	Press Ads Agency
BTK	Information Technologies and Communications Agency
CIMER	Presidency Communications Department
CGD	Contemporary Journalists Association
DW	Deutsche Welle
EPA	The European Pressphoto Agency B.V (European News Agency)
ETHA	Etkin News Agency
TRNC	Turkish Republic of Northern Cyprus
IFJ	International Federation of Journalists
IPC	International Press Card
ILO	International Labor Organization
IDDK	Council of State, Plenary Session of Administrative Law Chambers
IHA	Ihlas News Agency
MA	Mezopotamya Agency
RAI	Radio Audizioni Italiane
RTUK	Radio and Television Supreme Council
SGK	Social Security Agency
GNAT	Grand National Assembly of Turkey
TCK	Turkish Criminal Code
CBA	Collective Labor Agreement
TMK	Anti-Terrorism Law
TMMOB	Union of Chambers of Turkish Engineers and Architects
TUIK	Turkish Statistics Agency
VOA	Voice of America

I. INTRODUCTION

Continuing a tradition over the years, the Press Freedom Report for 2022-2023 is prepared to identify the interventions against press freedom during the past year, and the sources of such interventions. In this sense, our report, which will be published on the 100th anniversary of the Republic, looked at the history of press in these lands, and focused on the practice of impunity in cases of violations of the right to life and violence against journalists. In this regard, we would like to thank the distinguished jurist Prof. İbrahim Özden Kaboğlu for his valuable contribution with his article "Human Rights Violations and Impunity" in which he provides a comprehensive review of the problems at the root of impunity. In this year's report, under a separate heading, we specifically examined the experiences of the press during the Kahramanmaraş earthquake of 6 February, 2023, which brought severe devastation to our country and claimed the lives of more than 50,000 citizens according to official figures.

The report proceeds, as in previous years, with an attempt on our part to analyze the forms of interference in freedom of the press under specific categories. To this end, under the heading 'Changes in Legislation', we discuss the changes in the legal framework in general, and the so-called "Censorship Law" in particular, which have closely affected journalists and media organizations in the last year. We also provide information on the lawsuits filed against these changes. Then comes a list of the journalists currently in prison, the breakdown of the charges brought against the journalists, the summary of journalist arrests in Turkey during the last year, the journalists released in the same period, and data on detentions and investigations targeting the journalists. The 'Prison Observation Report' drawn up in conclusion of the visits paid by the Legal Department of the Journalists Union of Turkey to journalists in prison is also covered in this section. The "Trials" section presents quantitative data on the legal proceedings brought against the journalists, during the past year. The section also contains a summary of the rulings issued by Constitutional Court on personal applications in the past year. Then, under the heading 'Interventions on the Internet', we reviewed the access blocking and content removal decisions against the internet media in the last year. The section on "Interventions Against Press Agencies", on the other hand, provides a detailed description of the interventions by RTUK and Press Ads Agency. Details of all these data can be found in the tables presented in the Appendix.

Under the heading 'Sector Overview', we focused on the economic and social outlook of journalists, especially in the context of collective rights. In the section on 'General Assessment of the Line of Business', we shared data on the general outlook of the "Press, Broadcasting and Journalism" line of business. In the section on 'The Number of Journalists in Press Organizations', we presented current figures on the number of registered journalists in the sector and how this number is distributed across various categories. In the section 'Two Threats: Unemployment and Precarious Employment', we analyzed two economic and social phenomena that have long put pressure on the collective rights of journalists. Finally, in the section 'A Struggle for Dignity: Union Activity', we have provided you with an update on the union activities carried out by TGS despite all the challenges.

II. METHODOLOGY

The report covers data pertaining to a period of one year from April 2022 to April 2023. The primary sources of the data used in the report are the applications, complaints, information and support requests received directly by the Union, as well as the interviews and observation notes made by the Union during its visits to various cities and workplaces. The legal proceedings handled by the legal department, the cases filed against regulatory action, information received during the interviews at the time of prison visits, and the freedom of information applications submitted to government agencies are the fundamental sources used in the report. During the preparations, the data provided by government agencies including but not limited to the Ministry of Labor and Social Security, as well as labor unions and professional associations were used to get the current picture of the industrial relations in the line of business. The academic studies on journalism and the profession involved, as well as the analyses performed by the Union during the relevant time frame were also among the references. Media and social media were scanned on a daily basis, and news and shares were registered in a database. The websites of relevant government agencies providing updates on labor regulations and case law, along with the decisions of Turkish Parliament (GNAT) and the Official Gazette of Turkey were monitored on a daily basis, and the relevant data were included in the report.

However, despite all this, a number of problems were encountered during the preparation of the report. These challenges restricted the data range of the report. The data published by government agencies refers only to registered employment, making a general assessment of the industry relatively harder. Moreover, getting confirmations on the information received from the primary resources was no easy task. So was access to information on some journalists who suffered from rights violations, and the information in their files. The government agencies' attitudes against the freedom of information in the context of sharing information was yet another challenge in the context of expanding the breadth of data in the report. The fact that the journalists were imprisoned at different facilities all around the country, the difficulties posed by the illegal requirements the lawyers were subjected to at the prisons, and the changes in the imprisoned journalists' legal statuses led to various spatial, temporal, and bureaucratic obstacles in the context of prison visits. Given these challenges, the report is drawn up with currently available information. Despite the number of cases, issues and violations that were not reflected in the report due to such challenges, we believe that the data presented in the report has at least identified the pressing problems and needs. The methodology was then extended to developing solutions to the problems thus identified.

III. IMPUNITY FOR CRIMES AGAINST JOURNALISTS

In the last four years, at least **234 journalists** were physically attacked, while 118 **journalists** were subjected to verbal or online threats.

According to the data available¹ in the last year at least

- **96 journalists were physically assaulted.**
- **43 journalists received verbal threats.**
- **8 media outlets were subjected to calls of violence.**

Statute of limitations began to apply for journalist murder cases that have been ongoing since the 90s. In 2022, the Musa Anter case was not considered a crime against humanity and was dropped due to statute of limitations². Another important case heard last year, the Hope Case, was the trial of 18 separate actions carried out by the "Salam/Tawheed-Quds Army" organization between 1988 and 1999. Among these actions were the assassinations of Uğur Mumcu, Musa Anter, Muammer Aksoy, Bahriye Üçok and Ahmet Taner Kışlalı. A retrial was held after a rights violation ruling by the Constitutional Court. The court did not change its initial verdict and applied a good behavior reduction in the sentences³.

In the 2009 murder case of Hrant Dink, despite the convictions handed down in 2021, the murder has still not been fully investigated⁴. In January 2023, the verdict came out in the trial regarding the murder of Güngör Arslan, the owner of Kocaeli Ses Newspaper, who was killed in 2021 in an armed attack. The court sentenced four arrested defendants to aggravated life imprisonment, and six defendants to varying times in prison. However, Ersin Kurt, the most controversial figure in the case and the former head of Kocaeli Ülkü Ocakları, who was accused of instigating the murder in the indictment, was acquitted of all charges⁵. Another important issue that came to the fore in recent years was the unsolved murder of Cypriot journalist Kutlu Adalı. Following the allegations of criminal organization leader Sedat Peker, a new investigation was launched and an investigation committee was established in the TRNC. But nothing has changed in the intervening two years. Again the wall did not collapse and again that crucial brick was not pulled out⁶.

A few examples of recent attacks and related legal proceedings are as follows:

• In 2021, AFP Photojournalist Bülent Kılıç, who was covering the Pride March in Taksim, was intervened by the police, forced to the ground and handcuffed behind his back. The police pressed on Kılıç's neck and prevented him from breathing. Kılıç filed a complaint against the police officers for torture and attempted murder, damage to property for his camera that was thrown on the ground and violation of his freedom of work and labor. The prosecutor's office issued a decision of non-prosecution against the police officers on the grounds that the limits on the authority to use force were not exceeded. To the contrary, Kılıç was indicted on charges of insulting a public officer and resisting the officer during the performance of his duty. The indictment was accepted by 19th Criminal Court of First Instance of Istanbul.

• On 31 May, 2022, on the 9th anniversary of Gezi Park resistance, journalists including Erdiñç Yılmaz and Ozan Demiriz from Halk TV, Tele 1 TV reporter Engin Açar and cameraman Umutcan Yitük, Gazete Fersude

1 The details of the data on the attacks is provided in the Appendix.

2 For case details see <https://www.failibelli.org/dava/musa-anter-davasi/> , <https://www.failibelli.org/dava/musa-anter-ve-jitem-ana-davasi-2/>

3 <https://journo.com.tr/umut-davasi-karar-2022>

4 <https://journo.com.tr/dink-cinayeti-davasi-karar->, for case details <https://www.failibelli.org/dava/hrant-dink-davasi/#dava-haberleri>

5 <https://m.bianet.org/bianet/insan-haklari/272592-gungor-arслан-cinayeti-2-kisiye-muebbet-7-kisiye-hapis-cezasi>

6 <https://journo.com.tr/kutlu-adali-kimdir>

reporter Hayri Tunç, Dokuz8 News reporter Fatoş Erdoğan, Karşı Mahalle reporter Sezgin Kartal were taken to a police corridor and beaten and pepper sprayed in the face, during a protest activity in front of the TMMOB building in Taksim. Journalists were subjected to insults and threats. Meltem Akyol from Evrensel, Gökay Başcan from BirGün, Ozan Demiriz from Halk TV, Dilan Polat, Nil Derin Aydoğdu and Sevda Doğan from Flash Haber TV were detained in handcuffs behind their backs and kept in this position for hours. As a result of the criminal complaint we filed to the Chief Public Prosecutor of Istanbul on 3 June, 2022 against suspected public officials for abuse of office, torture, threat, insult and intentional injury and violation of freedom of labor and work, the Prosecutor's Office wrote to the Governorship of Istanbul requesting the identification of suspected police officers and the issuance of an investigation warrant against them. In a letter signed by Ali Yerlikaya, the Governor of Istanbul, it was stated that the police officers could not be identified, that there was no need to authorize an investigation or to initiate a disciplinary proceeding, and that the process would be discontinued. The court accepted our appeal on the grounds that the decision was unlawful, that the necessary review had not been carried out and that the decision encouraged the disproportionate use of force by the security forces against the press. 1st Administrative Cases Chamber of Istanbul Regional Administrative Court, which examined the case upon objection, overturned the decision not to grant permission for an investigation on the grounds that there was no need for administrative permission to conduct a criminal investigation in accordance with the Article 2 of Law No. 4483. Investigations are ongoing.

- On 10 May, 2019, Yeniçağ newspaper columnist Yavuz Selim Demirağ was subjected to a lynching attempt with baseball bats in front of his house by 6-7 people after a TV program he attended. The attackers were initially detained by the police but were then released. In their statements the assailants said, "We had a traffic dispute, that's why we beat him up." The prosecutor decided to release the suspects without even bringing them to the courthouse on the grounds that Demirağ was not in 'life-threatening danger' and the perpetrators were released with judicial control measures. After 888 days, 22 lawyers defended the defendants in the first hearing held before the 54th Criminal Court of First Instance of Ankara, with the demand of imprisonment up to 20 years and 10 months for 'intentional injury with a weapon, threat and insult'. The defendants denied the assault allegations. Demirağ's lawyer Erhan Tokatlı stated that the attack was not just a simple injury but an attempt to kill a human being and demanded that the case be heard at the High Criminal Court. The court deemed the request appropriate and ruled for lack of competence. The case was then referred to the High Criminal Court, but the defendants appealed. 36th High Criminal Court of Ankara ruled that Demirağ did not die in the attack, that there was no intent to kill, and dismissed the case. The subsequent appeals led to the determination that the competent court was the high criminal court. The trial against the defendants for attempted murder is in its 4th year.

- Journalist Levent Gültekin was subjected to a lynch attempt by a group of 25 people in Bakırköy where he went to attend a television program on Halk TV on the evening of 8 March, 2021. Two of the three people who were detained in the investigation into the attack on journalist Gültekin on 23 March, 2021, were arrested on the charge of causing injury, but were released after 1.5 months. The two defendants were sentenced to 1 year imprisonment each for intentional injury. Stating that the complainant suffered a mild bone fracture due to the action, the court increased the sentence to 1 year and 2 months each. The court reduced the sentence to 11 months and 20 days each, taking into account their social relations and possible effects on their future, and deferred the announcement of the verdict.

- On 6 May, 2016, as the verdict was pending in the trial of journalists Can Dündar and Erdem Gül over the MIT trucks news, an attacker named Murat Şahin shot Can Dündar in front of Çağlayan Courthouse in Istanbul. NTV reporter Yağız Şenkal was wounded in the leg during the attack. The attack was caught on camera. Murat Şahin, who was released after six months of imprisonment, was sentenced to 10 months in prison and a fine of TRY 4,500 in a trial that lasted nearly two years. The remaining two defendants were acquitted. At the verdict hearing, Şahin said "I demand Can Dündar's punishment for his actions against Turkey and my

acquittal." The defendant Şahin was given a good behavior reduction on his punishment and the fine was divided into 20 installments. Sabri Boyacı and Habip Ergün Celep, who were charged with "threatening, attempted injury with a weapon and possession of an unlicensed weapon" and "threatening and injury with a weapon" respectively, were acquitted on the grounds that "there is no definite and convincing evidence, far from any kind of doubt, sufficient to punish them for committing the alleged crimes". The court stated that it 'could not' rule to defer the announcement of the verdict in this case, as the announcement of a previous verdict against Şahin had been deferred. The ruling by the 28th Criminal Court of First Instance of Istanbul reads "Although a criminal case has been filed with the claim that the defendant Murat Şahin has committed the crime of intentional injury against Yağız Şenkal to cause injury that can be treated through simple medical treatment, and the crime of attempted intentional injury against Can Dündar, considering that the defendant's action constitutes the crime of injury with a weapon as a whole, and that the defendant cannot be punished separately for the completed act of injury as well as the act remaining at the attempt stage (...) taking into account the personality of the accused, the manner in which the offense was committed, the damage or hazard caused and the gravity of the intent". In 2021, the Court of Appeals overturned the ruling. The Court of Appeals found the sentence for injuring Şenkal in the leg too low and requested a retrial.

• In 2020, social media accounts with the combination "Jitem" and the name "Code name: Yeşil" threatened journalists Hayri Demir, Burcu Karakaş, Altan Sancar, Firat Topal, Gökcer Tahincioğlu and İbrahim Varlı with death. The suspect account sent a message reading "Şewbaş hewal, death will come and get you. Jitem", a photo containing an official ID with the phrase "CONFIDENTIAL", belonging to Arif Doğan, claimed to be the founder of JITEM, as well as a photo of dead and maimed bodies, the video of Hacı Lokman Birlik who was killed in Şırnak in 2015 by tying to the back of an armored vehicle and being dragged, along with the image of a long-barrel gun, to the journalists. In addition to the threatened journalists, the Journalists Union of Turkey also filed a criminal complaint about the matter. In response, the suspect account shared the screenshot of the Twitter account of the Journalists Union of Turkey, as a pinned post, and wrote "This filed a criminal complaint. Even if you showed these dogs to a tribe of primitives, they could tell you it is a front for PKK #jitem". A decision of non-prosecution was issued for the criminal complaint filed about the account, by Evrensel newspaper's Diyarbakır correspondent Firat Topal. In its decision, the prosecutor cited a 2013 letter from the Ministry of Justice, stating that the user information should have been requested from the US authorities through judicial subpoena, and not from Instagram, but that the US authorities did not fulfill the relevant requests, considering crimes such as defamation, slander and violation of privacy within the scope of freedom of expression, and that therefore the investigation could be carried out only if the journalist applied to the prosecutor with "concrete evidence". However, although the perpetrator could not be identified in Turkey, Germany has identified the identity of the owner of another Instagram account with the handle "KOD ADIM: YEŞİL and named "Jitem Turkey", which sent death threats to opposition politicians and human rights activists living in the country. Investigations by the Federal Criminal Police in Wiesbaden, to determine the IP addresses have identified Kayseri as the source of the threats. Hamburg Left Party MP Cansu Özdemir, Civan Akbulut and Sarya Ataç announced in a press statement that the person who made the death threat was a merchant living in Kayseri.

In addition to these examples, in recent years the Constitutional Court has issued important rulings on right violations in the cases of three journalists who were subjected to violence while chasing news⁷⁻⁸. But these rulings are not being implemented. In the retrials, the testimonies of the accused police officers cannot be obtained, and the cases are dragged into the statute of limitations.

7 Application for Erdal İmrek <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2015/4206>, Application for Beyza Kural Yılcı <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/78497>, Application for Hüseyin Gökhan Biçici <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/10643>

8 For the Summary of the Constitutional Court's Beyza Kural Ruling, see s. 70. <https://tgs.org.tr/wp-content/uploads/2021/05/2020-2021-BASIN-ÖZGÜRLÜ-ĞÜ-RAPORU.pdf>

A. HUMAN RIGHTS VIOLATIONS AND IMPUNITY

*Prof. Dr. İbrahim Ö. Kaboğlu**

Journalists as the subject of freedom of the press are the subject of the freedom of audiovisual communication, which has been a leading element in the law of freedoms in recent years.

The impunity of violence against journalists is first and foremost a problematic issue in the context of **fair trial**, given the examples cited above.

Then, there is the problem that the relationship between **freedom and power** has turned into a practice that is the exact opposite of what was envisaged in the constitution.

As a result of all these, it is ultimately a problem of the government moving away from the purpose of its existence, with **the law enforcement forces** devolving into the forces for suppression of **rights subjects and activists** from their role as guardians of human rights, whereby the concepts of 'public order' and 'public interest' being put into the service of the political power.

This set of reasons, which can be grouped into three categories, leaves the attacks and/or crimes against journalists as well as rights activists such as lawyers or environmental volunteers essentially unpunished. Moreover, the "dock" is set up for those who advocate for rights, instead of the ones who commit crimes. The main reason for the prominence of journalists in these debates is that they fulfill their right, duty and responsibility to convey news about governance, justice and the environment (country) to the public.

This important function has made freedom of the press the most privileged area of freedom of expression. Press and media workers enjoy the widest freedom and the most effective protection in reporting on the rulers' discourses, acts, and actions concerning the society and the country. Therefore, those in the government have to endure the harshest criticisms about social problems.

As for those in authority, the freedom of expression of the ones in government comes with duties and responsibilities. This requirement is expressly provided for in Article 10 of the European Convention on Human Rights.

Paragraph 2, building on the first paragraph, which establishes the principles of freedom of expression, begins as follows: *"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 disorder or crime..."*

Although the restrictions stipulated in this article are binding for everyone, it is worth drawing attention to the feature in terms of the power-media relationship:

"Registration of duties and responsibilities" is especially meaningful when the discourse (speech, writing, etc.) is effective in terms of person, time, environment, and circumstances. In this respect, those who hold political power, who have the power to lead the society with their words and actions, must constantly observe the requirements of duty and responsibility.

"Measures necessary for a democratic society", on the other hand, are interpreted as narrowly as possible in the face of the journalists' freedom of the press when applied to news and commentary on social problems arising from the discourse, acts and actions of the officials. The European Court of Human Rights (ECHR) has established substantial case law on this issue.

These developments are the result of the need for citizens, as members of a democratic society, to enjoy their right to be fully informed on national issues.

* Constitutional jurist, CHP MP for Istanbul, member of the GNAT's Constitution Commission

I. PRINCIPLES OF FAIR TRIAL

Punishing the guilty and exonerating the innocent is only possible to the extent that the requirements of a fair trial are met. Since the impunity of perpetrators of attacks on journalists results from a failure to comply with the minimum requirements of the right to a fair trial, it would be useful to first briefly remind the requirements of a fair trial.

1- Effective access to a judge: Rules that impede the right of rights holders, whether natural or legal persons, to access justice undermine the essence of the right of access to the courts. The principle of legal security also extends to rules on the procedure and time limits for filing an application. Regulations that make it mandatory to get a permission before prosecuting law enforcement officers who use violence and commit crimes against journalists and obstruct the public's right to information, undermine the right to access to the courts. On the other hand, journalists who are the victims of such attacks can also be subject to legal pressure through prosecution for several crimes which are disputable at best in terms of their legal basis, such as resisting the police and obstructing the performance of their duties, and thus victimized.

2- Principle of Equality of Arms: "Everyone has the right to be heard in a fair and equitable manner". Equality of arms requires a fair balance between the parties to the dispute. Problems related to the right of defense are added to the principal problems of effective access to a judge, which violate the principle of equality of arms. Chief among these problems are legal and bureaucratic obstacles to lawyers' ability to collect evidence, and the lack of separation and equidistance between the prosecution and defense from the judiciary.

3- The Right to an Independent and Impartial Tribunal: The right to a fair trial includes guarantees regarding the organization and composition of the court.

- **The independence**, of the court is explained by criteria related to the status of the judge: The manner of appointment and the duration of his/her term of office, his/her safety in office in the face of potential dismissal, the legal impossibility of ordering him/her in the performance of his/her duties, the existence of a system of protections against external pressures are objective criteria to be considered in this context. Every court must be able to exercise its judicial function in complete freedom, without interference by any power.

- **Impartiality** is the subject of a subjective and objective assessment.

Independence and impartiality, then, is a status, and a virtue of the judge, recognized to distinguish the just from the unjust, to tell the truth (jurisdictio).

Although independence and impartiality are guaranteed to a certain extent by the Constitution (Art. 138 and 9), they are overshadowed by external pressures and subjective assessments introduced into proceedings concerning law enforcement officers, undermining the right of aggrieved journalists to an independent and impartial tribunal.

4- Open Procedure (Publicity) and Promptness (Urgency) Principle: The openness of the judicial process constitutes a safeguard for applicants against secret judicial processes and ensures the protection of confidence in justice. Violations of this principle of a fair trial, and especially of the principle of expeditiousness in law enforcement proceedings, have become a systematic practice.

5- Obligation to Enforce Judgments: The obligation to implement and enforce judicial rulings falls within the scope of equitable litigation. Proper justice includes the victim's right of access to a judge, as well as the state agencies' obligation to organize the proceedings and implement final/binding judgments.

Despite the clear and mandatory provisions of the Constitution, the resistance to fulfill the obligation to implement judicial decisions is particularly evident in the enforcement of sanctions against law enforcement officers. In this framework, more moderate sanctions such as judicial control or deferral of the announce-

ment of the verdict, which are envisaged as an alternative to imprisonment, are imposed on law enforcement officers, while journalists are subjected to judgments depriving them of liberty.

Considering the above, the problems that arise in practice, especially in terms of the constitutional and legal guarantees of the democratic rule of law and the right to a fair trial, reveal the following contradictory situation:

- Those who exercise freedom of the press and freedom of expression are punished by inventing "thought crimes!"
- Those who obstruct the exercise of freedom of the press and freedom of expression through criminal acts, on the other hand, may be left without punishment.

II. THE RELATIONSHIP BETWEEN FREEDOM AND POWER

According to the libertarian constitutional tradition, first the rights and freedoms are established. Only then the apparatus of political power is created to secure those rights and freedoms. As a matter of fact, the 1961 and 1982 Constitutions, defined the rights and freedoms under four separate sections immediately after the provisions on general principles, and laid down the principles of guarantees for these rights and freedoms. The legislature, the executive, and the judiciary, as the main organs of the Republic, are regulated in the third part and within the framework of the separation of powers.

It is noteworthy that the rights and freedoms constitute an **indivisible whole**, even though they are regulated under separate headings. As regards the structure of the State, to the extent that the rulemaking (legislative), implementing (executive) and dispute resolution (judicial) branches organized in accordance with the principle **of separation of powers**, one can consider that structure as an assurance for the rights and freedoms.

In this framework, since the balance applicable to the relationship between freedom and the government was disturbed in the 1982 Constitution in favor of the latter, the amendments introduced in the period 1987-2004 were essentially aiming to reinforce the guarantees for the rights and freedoms. However, the amendments introduced in the period 2007-2017 and especially during the redesign of the system in 2017, did away with the mechanisms restricting the capabilities of the government, and thus eliminated assurances for the rights and freedoms.

In other words, although the provisions on the constitutional system and human rights remained the same, the separation of powers was reduced to an essentially formal and nominal phrase paid no more than lip service, and respect for freedoms was left to the discretion of the political power.

Indeed, by concentrating executive power and authority in his person alone, the President, who was also the leader of his party, and thus the leader of the majority in the legislature eventually took the judiciary under his control as well. Hence, the five-year implementation of the 2017 redesign turned into an arbitrary rule that could be called the **Presidency and Executive Power through Party Presidency** (PEPPP). The fact that the vice president and ministers always said that they were acting on "the orders of the President" even though they were obliged to base their statements, acts and actions on the Constitution and laws, is a clear indication of this.

Within this framework, the following two modes of practice and manifestations of mentality are directly linked to impunity:

The Cases for Insulting the President have the effect of "suppressing and devaluing the freedoms of the press and expression", thus encouraging law enforcement officials to abuse their powers.

The Minister of Interior's order **"Destroy them, let the law take its course"** is an order that entails a crime outside the constitutional space, inciting law enforcement forces to committing crimes, on the order of the President who appointed the minister.

III. LAW ENFORCEMENT AND HUMAN RIGHTS ACTIVISTS

Law enforcement exists to protect human rights.

Public order is maintained in a society of rights where human rights are respected. However, especially in the case of practices that lead to permanent violations of public order, law enforcement officials are used as a legitimizing force for official acts and actions that disrupt public order. Attempts to suppress protests against investments and activities that disrupt the ecosystem of Turkey, from Cerattepe to Kazdağları, through police and gendarmerie, effectively means using the law enforcement force for the crime of disrupting environmental public order. The impunity of law enforcement forces who inflict violence on environmental activists and journalists who report on them stems from the fact that they are protected by their superiors and the executive, which is identified with the political power at the top.

The presence of law enforcement officers, especially during the exercise of collective freedoms, should instead ensure that meetings and demonstrations take place in an orderly manner by preventing external interference with these rights and freedoms. However, in practice, law enforcement intervenes to prevent the exercise of such freedoms. Moreover, the intervention is carried out with violence and often crimes are committed. In this respect, the term "unlawful assembly", which is often used for assemblies and demonstrations, certainly does not justify intervention accompanied by the use of violence. This has been emphasized in many judgments of the ECHR.

There is a direct relationship between this general practice and the policy of impunity. The facts that investigations are subject to authorization and that the concepts of crimes committed against law enforcement officers (such as resistance, obstruction of duty) are open to subjective evaluations results in impunity for law enforcement officers who commit crimes.

On the other hand, violent intervention is linked to a political motive, which can be seen as the reflection of the will to block the paths of political alternation (change of government) by suppressing and dampening democratic society.

Moreover, the divergence between political liberalism and economic liberalism is directly related to the use of violence by law enforcement forces against news and opinion, and their being directed to guard a kind of looting order, and subsequently, impunity. The "series of murders" called occupational homicides and mining accidents are among the most important of these. From Soma to Çorlu, from the construction of Torunlar Towers to Amasra, the "culprits of the chain of murders" cannot be prosecuted fairly. On the contrary, journalists reporting on these murders, lawyers representing the victims or environmental advocates are more likely to be prosecuted.

Law enforcement forces, which are directed to guard not capitalism or neo-liberalism, but a kind of looting order, have made the use of violence against press and media workers, corps of lawyers, and environmental activists a 'normal practice!'.

The contradiction between political liberalism and economic liberalism, therefore, for the members of the press, is knotted in the question of whether to be pro-government.

The implementation of the 2017 constitutional framework in the form of the Presidency and Executive Power through the Party Presidency (PEPPP) has resulted in the **fusion of the person, the party, and the state.**

In the face of a system design and practice alien to the democratic rule of law, "media members who do not support the cause of the government" become "journalists at the end of the barrel" from the very beginning. In such a de facto regime, the criminal sanctioning of law enforcement officers in

the position of the shooter cannot be more than an exceptional practice.

The extreme restriction of freedom of expression in the press and the media, where it should be most widely exercised, is not limited to attacks by law enforcement officers, but also includes the **"contradiction between news and defamation"**.

Namely; the offense of insulting the President of the Republic (TCC, Art. 299) should not be applied in the PEPPP system, since the discourse and actions of the president and the activities of the party presidency are intertwined. Therefore, Article 125, rather than Article 299 of the TCC, should be applied in cases of claimed insults against the President.

However, criticism of the President as well as of his bureaucrats can be prosecuted, as Palace bureaucrats such as the Presidential Communications Director may perceive criticism against them as "insulting the state". This dangerous situation, which is the result of the infusion of the person, party, and the state, can have suffocating consequences for freedom of the press.

Not content with narrowing the space for democratic politics by suppressing the democratic opposition, the governing alliance that is Cumhuriyet Halk Partisi also enacted a piece of legislation dubbed the "censorship law". Law No. 7418, passed by the AKP-MHP numerical majority in the Grand National Assembly of Turkey, regulates the internet and social media under the name of **"combating disinformation"**, reflecting the will to suppress democratic society. Here is the rationale:

"In this context, it is obvious that the act of deliberately producing and disseminating false news (disinformation) has become a serious threat against the will of the individual and the society and hinders citizens' right to access real information. This threat is also aimed at preventing the exercise of fundamental rights and freedoms, in particular freedom of expression and freedom of information, by abusing various freedoms. With the advancement of technology, disinformation has reached a point where it is imperative to combat this threat in order to protect fundamental rights and freedoms..."

The offense of **"publicly disseminating misleading information"** envisaged by Article 29 is problematic in many ways: The concepts of "internal and external security of the country", "public order" and "public health" are very broad, and it is impossible to objectively frame the offense. Given that it is not easy to determine what is "truth" in various public issues, the term "untruthful information" is problematic, creating the risk of penalizing value judgments that cannot be true or false, and is therefore in violation of various articles of the Constitution. Transferring a crime that has a specific application in the specific environment and conditions under the law of war, to the ordinary legal order is a threat to journalists.

When evaluated as a whole, the law, for many provisions of which annulment appeals have been filed to the Constitutional Court, restricts the right of journalists to inform the public in the face of "official disinformation" under the name of preventing disinformation.

IV. IV. CONCLUSIONS: TO MAKE FREEDOM OF AUDIOVISUAL COMMUNICATION OPERATIONAL....

In a nutshell, attacks on journalists and the problem of impunity are, as can be seen, part of a series of problems related to fair trials in the context of "thought crimes", which have been widely utilized in recent years. However, it is not limited to these. It is also an element of the 2017 constitutional design which seeks to obstruct the pathways of political debate.

It is well known that the failure to exercise the right to information, along with an obvious

information pollution were the main reasons which led to the 2017 constitutional amendment, which was used as a tool to overturn constitutional and political gains. Therefore, the way to guarantee the freedom of audiovisual communication is to provide the minimum requirements of a democratic state with rule of law.

In the context of this objective, it is important to draw attention again to the following: The Constitution, which should be interpreted and applied in the light of the European Convention on Human Rights, includes guarantees of rights and freedoms. However, since the 2017 amendments significantly undermined the basic principles of separation of powers, public authorities can systematically and continuously violate rights and freedoms. Perpetrators of rights violations are immunized from liability, either *de jure* or *de facto*.

Therefore, not only are the guarantees of freedom of expression hampered, but also by sanctioning intentions, opinions, and unexpressed thoughts, even the most essential human rights, which are protected even in times of war, can be constantly violated.

The biggest problem in Turkey today is "official information pollution". The constitutional amendments of 2007-2017 were pushed through a network of "official disinformation". But the governing alliance, realizing that all this would not be enough to prevent the changing hands of political power through elections, this time started to try to prevent the dissemination of true and real information through "official disinformation" with the "censorship" law numbered 7418.

A significant part of the workload of the judiciary and the problems with the legal system in Turkey stem from the unconstitutional and illegal practices of the powers of the state, as seen in the examples of the kind of lawlessness created by the State of Emergency, the interpretation of the Anti-Terror Law and the existence (and interpretation) of the crime of insulting the President. However, "no person or body may exercise State power that does not derive from the Constitution" (Art.6/last). The manipulation of the judicial process for political purposes in violation of several mandatory constitutional provisions, including this prohibition, not only violates constitutional rights, but also results in an increase in the workload of the judiciary, stealing time and energy that should be devoted to real disputes.

Undoubtedly, the requirements of the right to a fair trial must be internalized in order to put an end to the practice of turning the exercise of audiovisual communication freedoms into "thought crimes" and to sanction attacks against the subjects of these freedoms. This necessitates the separation of powers and, within this framework, the independence of the judiciary. A constitutional amendment in the interests of democratic rule of law is necessary, but not sufficient, to guarantee freedom of audiovisual communication. There is also a need for a serious change of mindset on the relationship between freedom and power and the *raison d'être* of law enforcement. It may be seen as a vicious circle, but the main function in this process will again be that of the freedom of audiovisual communication. This is because the constitutional right to information and the formation of a responsive public opinion can only be realized to the extent that freedom of the press can be exercised. In this process, the characterization of the press as the fourth power carries the risk of bringing with it the fallacy of moving the sphere of freedom into the sphere of power. Therefore, although audiovisual communication freedoms can be characterized as the most effective range of rights and freedoms, and therefore as a set of safeguards for all rights and freedoms, the characterization of 'power' may lead to misleading results.



Photo by Uğur Şahin

IV. EARTHQUAKE AND THE PRESS

The earthquakes which happened at the dawn of 6 February, 2023 brought the greatest destruction of our history. According to official statements, nearly 51 thousand people lost their lives in the earthquakes that affected the whole country, including but not limited to the provinces of Kahramanmaraş, Hatay, Adıyaman, Diyarbakır, Adana, Gaziantep, Kilis, Malatya, Osmaniye, and Şanlıurfa. The number of people left disabled remains unclear, while hundreds of adults and children remain missing. Even though repeated warnings about the looming threat of earthquakes were given by scientists and experts, the buildings constructed in violation of zoning and urban planning principles have become graves for citizens because of the government's approach to construction, focused on nothing other than rent-based transformation. After the earthquake, many scandals emerged in the form of search and rescue teams that could not reach the region and the aid that did not reach the earthquake victims. Undoubtedly, the local press in the region were among the first victims of the earthquakes. According to the Turkish Federation of Journalists, 26 journalists and press workers lost their lives in the earthquake. We commemorate the members of the press who lost their lives in the earthquake and extend our condolences to their families and loved ones.

1. Ayşe Figen Arlı (İskenderun Ses)
2. Aziz Çevik (Manşet)
3. Burak Alkuş (Adıyaman Ses)
4. Burak Milli (AA / Hatay)
5. Gökhan Aklan (İHA / Hatay)
6. Hidayet Özdemir (Journalist - Author)
7. İskender Korkut (Mercan TV)
8. İzzet Nazlı (DHA/Hatay)
9. Kemal Öner (Adıyaman Telgraf)
10. Meltem Özgen (TV presenter/Adana)
11. Muhammed Akan (Adıyaman Haber)
12. Mustafa Yüzbaşıoğlu (Bugün)
13. Neşet Alkan (Haber Ekspres)
14. Ruhi Akan (Jet Haber)
15. Yunus Emre Doğan (Mercan TV)
16. Zübeyir Pektaş (Halkın Sesi)
17. Fatih Bayın (Radyo Tek)
18. Erhan Yılmaz (23 Temmuz Gazetesi)
19. H. Seid Okay (Hatay)
20. Mehmet Tekin (Özyurt Gazetesi)
21. Berkay Akay (Hatay)
22. Fatih Nalbantbaşı (Maraş Gündem)
23. İsmail Hakkı Koçak (Adıyaman)
24. İsmail Karaoğlan (Antakya Gazetesi)
25. Rafi Sumbültepe (President of Arsuz Journalists Association)
26. Barış Can Tabakçı (Adıyaman)

Along with the loss of life, many journalists living in the region were injured, lost their relatives, homes, and businesses, and became earthquake victims. Many buildings and printing presses of media

organizations were destroyed or severely damaged in the earthquake. Equipment was buried under the rubble. Journalists in the region did not have access to electricity and internet for a long time.

Immediately after the earthquake, national and international media flocked to the region. In the first two weeks of search and rescue operations, the press was the voice of the people in the earthquake zone. On the one hand, members of the press conveyed the news, and on the other, they were instrumental in helping cover the needs of the people in the region. However, allegations of looting in the immediate aftermath of the earthquake and incidents of civilian violence, especially against Syrian refugees, fueled by hate speech, and cases of torture by the police have created a serious risk to life in the region. Journalists covered the news under extremely difficult conditions, under risk to their lives. In particular, the state of emergency declared for 3 months with the Presidential Decree No. 6785 published in the Official Gazette dated February 8, 2023 was used by law enforcement agencies to prevent the press from covering news. Access to social media platforms where citizens trapped under the rubble were calling for help was blocked. Access via mobile operators was not available for days. During this period, TCC art. 217/A on 'the crime of publicly disseminating misleading information', which entered into force in October 2022, was also actively used against journalists. We believe that it is essential to examine the experiences of journalists, who have been subjected to all kinds of interventions from arrest to actual detention, from physical assault to dismissal, in the context of such a major social crisis.

According to the data available, after the earthquakes that took place on February 6th, 2023, at least, **• 2 journalists** were arrested on charges of "publicly disseminating misleading information" under TCC art. 217/A.

- **6 journalists** were detained.
- **4 journalists** were called to testify.
- **18 journalists** were subjected to physical attacks, some of which amounted to lynching attempts.
- **21 journalists** were prevented from reporting by threats.
- **3 journalists** were either fired or forced to resign.
- RTUK, **imposed a total of TRY 4,324,251.00 in administrative fines and five broadcast suspensions** for earthquake-related broadcasts.

Some detailed information on the violations against the press during this period are as follows:

- On February 6th, the first day of the earthquake, three journalists from Artı TV and Tigris newspaper were stoned and verbally attacked by civilians, while filming near a collapsed building in Bağlar.

- On February 6th, RTUK President Ebubekir Şahin targeted journalists in the earthquake zone, saying "it is not anyone's place to broadcast demoralizing material".

- On February 7th, Evrensel newspaper's Adana reporter Volkan Pekal was detained for "unauthorized filming" while trying to take footage at Adana City Hospital. According to Evrensel, police officers told Volkan Pekal that taking video footage was banned by the Governorship. Pekal asked the police to show the ban order and was told "*There is a verbal order*". Pekal was taken to the police station at the hospital and released after the procedures.

- Photojournalists Refik Tekin and Ensar Özdemir wrote that journalists were not allowed to work at the ruin's sites in Diyarbakır on February 7, and that they were told "AFAD has an order" or "you do not have approval from the Communications Directorate" and were removed from the site by the police.

- On February 7th, Istanbul Chief Public Prosecutor's Office launched an investigation against TELE1 editor-in-chief Merdan Yanardağ and journalist and writer Enver Aysever, citing their remarks about the earthquakes which affected Kahramanmaraş and the surrounding region. According to a report by AA; the statements made by Yanardağ in a TV show he attended, and by Aysever on a

social media post were cited as the reasons for the investigation. On the morning of February 10th, Yanardağ testified at the courthouse and was released with a prohibition on leaving the country.

- K24 TV reporter Siddık Eren stated that on February 7th, while he was filming at the ruins of Diyarbakır's Galeria Business Centre, a masked police officer started talking to him in a slang language, said "What are you looking for?", walked towards him and pushed him out of the building even though he said he was a journalist.

- On February 7th, journalists covering the ruins of Cengizler Apartment Building in Diyarbakır's Bağlar district were removed from the site. The police subjected journalists to General Information Screening (GBT) while they were covering the news in the devastated areas and threatened to detain earthquake survivors who spoke to journalists the police previously asked where they worked.

- On February 8th, following the declaration of the state of emergency, local journalists were de facto required to have turquoise press cards and foreign journalists were subject to accreditation. Journalists were requested to apply to the Regional Branch of the Directorate of Communications. On the same day, MA reporter Mahmut Altıntaş and Jinnews reporter Sema Çağlak were detained in Birecik district of Şanlıurfa for not having turquoise press cards. The journalists were released after their statements were taken.

- On February 8th, the police intervened in the live broadcast of Amed Radyo TV in Diyarbakır and shut down the broadcast using the recording button on the camera. On the same day, a post about the issue on the station's Twitter account was removed by Twitter, which then suspended the station's account for 11 hours. The account was later reopened.

- On February 8th, MA reporter Mehmet Güleş was detained in Diyarbakır with an interviewee on suspicion of "inciting hatred and hostility among the public". On February 9th, Güleş was asked about the words of the citizen he interviewed, who had said "There is no AFAD, there is no UMKE". Güleş and the interviewee were then indicted under TCC art. 217/A, for the crime of "publicly disseminating misleading information", with judicial control measures. The criminal court of peace released journalist Güleş, and the interviewee who was understood to be search and rescue personnel, with a ban on leaving the country, and the requirement to report with a signature every day of the week.

- On February 8th, when search and rescue operations had just begun, social media platforms where citizens who were trapped under the debris were calling for help, were restricted. The measure was discontinued around 02:00 on February 9th, after Deputy Minister of Transport and Infrastructure Ömer Fatih Sayan announced that he had held a video conference meeting with Twitter's Global Head of Government Relations John Hughes and Twitter's Director of Public Policy for Turkey Ronan Costello. Sayan said Twitter officials promised to cooperate more with Turkey in the fight against disinformation. Adil Karaismailoğlu, Minister of Transportation, responded to questions on this issue on Habertürk broadcast on April 7th, 2023 as follows: *"The situation required it, and and it was done. It was something that had to be done."*

- Journalist İrem Afşin reported that on February 7th, upon her arrival in Şanlıurfa, law enforcement officers, who had initially assisted her during filming, began preventing her from filming with the declaration of a state of emergency on February 8.

- LePoint reporter Guillaume Perrier, who arrived in Turkey on February 8th to cover the earthquake, was denied entry into the country on the grounds of "national security" under an administrative decision dated November 2022.

- Journalist Mir Ali Koçer's interview with an earthquake survivor who criticized the lack of coordination in search and rescue operations in Kahramanmaraş on February 9th, saying *"Civilian citizens have been conducting search and rescue operations for 4 days"*, was prevented by a police

officer who said, "The state is here".

- Access to Etkin News Agency's (ETHA) Twitter Account from Turkey was blocked on February 9th. ETHA employees reported that the blocking decision was taken due to their posts about the earthquake. On the same day, Yeni Şafak employee Taha Hüseyin Karagöz accused ETHA reporter Elif Bayburt of engaging in "terrorist propaganda" and targeted her on Twitter. Karagöz, who took a photo of the journalist and his press card from a distance and shared it on social media, shared ETHA's past tweets and said, "So, you wonder, how false, distorted, manipulative content is produced" from the earthquake zone.

- Fırat Fıstık, a reporter for HalkTV in Hatay, reported that on February 9th he was blocked by gendarmerie personnel on several occasions in just one hour, saying that "filming is forbidden", without showing any documents.

- On February 9th, Sur Agency reporter Arif Bulut, who was covering the Diyarbakır program of Bekir Bozdağ, the Minister of Justice, was removed from the venue on the grounds that he did not have accreditation.

- Show TV Presenter Dilara Gönder, who rebelled against her guest by saying "*Lessons need to be learned*" in the program she presented, announced her resignation on February 9th.

- Ferit Demir, a reporter for HalkTV in Malatya, reported live on air that on February 10 he was targeted by two police officers, one of whom had a sign reading Ankara TEM Branch, and was then kicked in an attack. The Communications Directorate denied Demir's statement in its "Disinformation Bulletin" dated February 10th.

- Kazım Kızıl, who was in Kahramanmaraş, announced on his social media account that although he showed his press card on February 10th, he was verbally and physically prevented from filming by the riot police and that the riot police targeted people around him.

- On February 10th, Şirin Payzın, a reporter for HalkTV said that she was attacked in Antakya and that people "posing as normal citizens" tried to prevent them during their broadcasts near the ruins.

- Fox TV Reporter Sevgi Şahin and Cameraman Ömür Dikme said they were attacked by bystanders during a broadcast in Pazarcık district of Kahramanmaraş on February 10th.

- Journalist Rabia Çetin reported that she was subjected to a lynching attempt at the ruins of Umut Sitesi in Adıyaman on February 11, by village guards who realized that she was a journalist. The journalist was attacked by a group of about 15 people and said she was rescued from the attackers by earthquake victims.

- Journalist Zübeyde Sarı based in Hatay reported on February 11th that she was prevented from following the debris removal operations at the points where search and rescue operations ended.

- Artı Gerçek reporter Yağmur Kaya reported that she was subjected to a lynch attempt by locals at Malatya Yeniköy Garage during her broadcast on February 11th.

- On February 11th, freelance journalist Arzu Efeoğlu said that she was verbally attacked by three people while interviewing people who had set up a tent with their own means in Şehitkamil 8 February Park in Gaziantep. Efeoğlu also said that ordinary citizens in the area asked them to show their identity cards and accreditation.

- On February 11th, 2023, CNN Türk reporter Serdar Er, who was broadcasting live from Adıyaman, was attacked by an earthquake victim while describing the rescue.

- Journalist Anıl Olcan tweeted on February 11th that he was attacked by a police officer and citizens while filming in Hatay. "*The police set fire to my camera batteries, memory card, hard disk and press card. The attacker, against whom I said I would file a complaint, was patted on the back by the police and taken away from the area,*" Olcan said, adding that he was taken to a safe area by soldiers who told him he was at risk of being lynched.

- Ahmet Kanbal, a journalist covering the news in Diyarbakır, stated that on February 11th a village

guard tried to stop him.

- Journalist Hatice Kamer reported on February 11th that although she had a press card, she was denied access to a ruins site in Diyarbakır on the grounds of lack of accreditation.

- On February 12th, journalist Gülbahar Altaş was prevented by citizens from filming an argument between people staying in tents in Diyarbakır's Sümer Park.

- On February 12th, journalist Şilan Çelik, who was filming with her team in İslâhiye, Gaziantep, stated that she was targeted by four civilian men while interviewing a woman who asked for a tent for her disabled son.

- On February 15th, Tele 1 Reporter Hazal Güven reported that she and cameraman Umutcan Yitük were on the road were intercepted by looters and narrowly escaped the gunmen in Defne, Hatay.

- On February 16th, Fox News Reporter Gülşah İnce was physically prevented by the bodyguards of Hayrettin Güngör, the Mayor of Kahramanmaraş Metropolitan Municipality, as she attempted to ask questions to Güngör in front of the Ebrar Complex in Kahramanmaraş where more than 250 people lost their lives.

- On February 16th, three Greek journalists Kyriakos Finas, Victoras Antonopoulos and Konstantinos Zilos, who wanted to film near the mass burial sites in the Narlıca neighborhood of Antakya district, were warned by Religious Affairs personnel and soldiers not to film, were made to wait, had their equipment confiscated and only received them the next day, broken into pieces.

- On February 16th, Journalist Cem Seymen announced his resignation from his position at CNN Türk. Stating that he was asked to resign due to his criticisms about the earthquake, Seymen said, "*The channel's attitude on this issue is obvious.*"

- On February 17th, journalist Mir Ali Koçer was summoned to testify on charges of "publicly disseminating misleading information" under Article 217/A of the Turkish Criminal Code, based on his news reports and social media posts during the search and rescue operations in Diyarbakır. It is understood that Koçer was unconstitutionally summoned for a statement as an open-source research report considered a "virtual patrol" was published on his Twitter account.

- TV100 magazine editor Birsen Altuntaş was fired after she wrote that Oktay Kaynarca and Kenan İmirzalıoğlu were not accepted to the 'One Heart Turkey' fundraiser and access to her article was blocked.

- On February 18th, an internet account named "Ebabel Harekatı" (Ebabel Operation), which is believed to be associated with Süleyman Soylu, the Minister of Interior, targeted Deutsche Welle's Turkish Correspondent Alican Uludağ on Twitter after he published a news report about earthquake victims in Adıyaman who said they had not received any aid and called him a "German agent" accused them of "manipulating Alevis".

- On February 22nd, journalist Gökcer Tahincioğlu, who was in Kahramanmaraş, shared that while he and Özgür Zeren were filming the area where debris containing asbestos was dumped into the riverbed and basin, soldiers intervened and ended the filming.

- On February 22nd, HalkTV reporter Seyhan Avcı announced that the Istanbul Chief Public Prosecutor's Office launched an investigation against him for his news report on a young man who was detained in Hatay on the allegation of looting and allegedly tortured to death at Altınöz Gendarmerie Station.

- On February 22nd, Interior Minister Süleyman Soylu accused media outlets and journalists, including Deutsche Welle, of "lying" and "slandering" for reporting that coordination after the earthquake was inadequate and aid was late.

- On February 23rd, a person wielding a hammer attempted to attack Halk TV reporter Ferit Demir during a live broadcast in Malatya.

- On February 26th, journalist Ceyda Bostancı was detained while covering a protest in Kadıköy against the sale of tents by the Red Crescent to the Ahbap Association while tents were still needed in the earthquake zone. Journalist Emre Orman, who was covering the same protest, was prevented by the police. During the same protest, a police officer strangled journalist İzel Sezer from İleri Haber.

- On February 27th, journalist Ali İmat, the administrator of the website "Mutlu Şehir Osmaniye", and his brother, journalist İbrahim İmat, were detained in Osmaniye for their posts about tents for earthquake victims being kept waiting. Ali and İbrahim İmat were brought before the Criminal Justice of Peace. An arrest warrant was issued for them on the grounds that they had committed the offense under Turkish Criminal Code article 217/A "The offense of publicly disseminating misleading information", which is known as the censorship law. The journalist brothers were released on March 30th.

- On March 11th, Gazete Duvar reporter Fırat Bulut was detained by the decision of Bingöl Chief Public Prosecutor's Office when he landed at Ankara Esenboğa Airport on his return from the earthquake zone. Bulut was released after giving a statement on the charge of "publicly disseminating misleading information" (TCC 217/A) with reference to his earthquake reports.

- On March 23rd, 2023, Nûjinha Reporter Medine Mamedoğlu gave her statement to the prosecutor's office on the allegation of "inciting the public to hatred and hostility" in the investigation opened due to her news posts on digital media.

- On February 22nd, 2023, at its first meeting after the earthquake, RTUK imposed an administrative fine at the upper limit specified in the legislation, on FOX TV for the remarks to the effect that AFAD was blocking aid, made by the moderator in the program "Orta Sayfa" broadcast on the channel. Halk TV was sanctioned to suspend the program "Big Disaster Special Broadcast" featuring Ahmet Şık, TİP MP for Istanbul, 5 times for violating the principle "Broadcasting services cannot be contrary to the existence and independence of the State of the Republic of Turkey, the indivisible integrity of the state with its country and nation, and Atatürk's principles and reforms". It also imposed an administrative fine on Halk TV for "allegations of systematic looting and theft" in the region. RTUK imposed an administrative fine at the upper limit specified in the legislation, and 5 program suspensions, which again amounted to the upper limit specified in the legislation, for violating broadcasting principles in the TELE1 program "18 Minutes" and imposed an administrative fine at the upper limit specified in the legislation, on the grounds that the program "Forum" conveyed unconfirmed hearsay presented as fact.

- At its meeting on March 8th, 2023, RTUK imposed an administrative fine on Habertürk for violating the principle of impartiality due to Fatih Altaylı's announcement that the joint broadcast for the earthquake was canceled upon RTUK's instructions.

- With the decision dated 22nd March 2023, an administrative fine was issued on Halk TV for violating the principle of impartiality due to Turhan Çömez's statement in the Kayda Geçsin program, that people on ventilators died in İskenderun because the generator was not working. Fox TV was given an administrative fine on the grounds of defamation for criticizing the construction in the stream bed and the Şanlıurfa Metropolitan Municipality, which did not carry out rehabilitation works despite the funds it received from abroad, in the program Orta Sayfa. With the decision dated April 5th, 2023, Merdan Yanardağ and Prof. Emre Kongar's 18 Dakika program was also fined for the same news report.

- With another decision dated April 5th, 2023, an administrative fine was issued for the program hosted by Ayşenur Arslan, discussing the news report "trading for cranes as a matter of life and death" after the earthquake with guest Turgut Kazan and criticizing the different figures of the death toll.



Şişhane action organized by professional press organizations against the censorship law. **Photo by Vedat Arık**, April 21, 2022

V. REGULATORY CHANGES

In the past year, very important legislative amendments regarding the press were introduced. The most important of these is undoubtedly the Law No. 7418 on the Amendment of the Press Law and Certain Laws, which we call the 'Censorship Law'. For a long time, there has been talk from the ruling party that 'disinformation' would be criminalized. On May 27th, 2022, the reactions that started with the submission of the proposed law to the Grand National Assembly of Turkey continued until October 13, 2022, when the law was adopted. In this process, "No to the Censorship Law" campaigns were organized by all segments of society, especially, professional organizations of the press and media, including TGS, and on social media.

On the same day the law was submitted to the Grand National Assembly of Turkey, the 'Principles of Press Ethics', the building block of the repressive system established by the law, was renewed and expanded by the Press Advertisement Agency, for the first time in 28 years. After the passing of the Censorship Law, the Regulation on Official Announcements and Advertisements and the Press Card Regulation were revised, and the Procedures and Principles on Social Network Providers were published.

A.Resolution No. 216 of the General Assembly on the Principles of Press Ethics

After the military coup of May 27th, 1960, the National Unity Committee established the Press Advertisement Agency with Law No. 195, which was enacted to eliminate the distinction between newspapers which did and did not support the government, and to ensure fair distribution of official advertisements. Article 49 of this law sets out sanctions. According to this article, publications that violate the "Code of Press Ethics" to be issued by the Press Ads Agency General Assembly are to be sanctioned. Accordingly, the Press Ads Agency General Assembly resolutions were published in 1961, 1964 and 1994.

Especially with the transition to the 2018 Presidential Government System, the Code of Press Ethics has become the main basis for sanctions in the form of withholding official advertisements. The vague regulations contained in the guidelines have been turned into a tool of economic sanctions, especially against the press, which enjoys editorial freedom. Therefore, individual applications were filed by Cumhuriyet, Evrensel, Sözcü

and BirGün newspapers on the grounds that these penalties violated their freedom of expression and press freedom. As a result, the Constitutional Court found that Article 49 titled "Sanctions" of the Law No. 195 on the Organization of the Press Advertisement Agency, which is the basis of the fines for withholding advertisements, constituted a structural problem and went beyond the purpose of its enactment and became a means of deterrent effect on members of the press. The Constitutional Court ruled that the Code of Press Ethics is a chain of rules that provides the Press Ads Agency with an unrestricted reach and therefore its limits should be specified, and the article should be reorganized in terms of form and substance with expressions that are clear and precise⁹.

On the other hand, the Press Code of Ethics dated 1994, which remained in force for 28 years, was renewed on May 27, 2022 with the decision numbered 216 at the General Assembly of the Press Ads Agency¹⁰. With the decision published on the Official Gazette dated July 6th, 2022, the number of ethical principles was increased, and their scope has become even more vague than before. For example, Article 16 of the Decision reads as follows: "(1) Religion and religious feelings or values held sacred by religion shall not be abused or misused. (2) Broadcasts contrary to public morality are prohibited. (3) Broadcasts aimed at disrupting the family structure, which is the foundation of society, and contrary to the protection of the family are prohibited. (4) Broadcasts aimed at weakening the common national and spiritual values of Turkish society are prohibited." Obviously, already ambiguous concepts have been turned into a weapon that will lead to different interpretations in the hands of different users appointed by the ruling government of the day, by identifying them as "moral" principles of the press.

Based on these regulations, newspapers' rights to publish paid official announcements and advertisements could be cut off. Moreover, the Press Code of Ethics are also the primary grounds for the revocation of press cards, as per Additional Article 6 of the Press Law under Law No. 7418 and the Press Card Regulation of 2023. Thus, while the Code of Press Ethics retained its characteristic of being an instrument of economic sanction on the press organization, a system of pressure was established in which journalists were put under the risk of losing their right to depreciation as provided in the social security legislation, through the revocation of their press cards. TGS and the Association of Journalists filed appeals before courts against these regulations, which violate press freedom and pave the way for both institutional censorship and self-censorship. In the lawsuit, in which we argued that the scope of the regulations was unclear and that freedom of the press was restricted by the Press Ads Agency by ignoring the principle of legality, we appealed to the Constitutional Court on grounds of unconstitutionality of Article 49 of Law No. 195. The 10th Chamber of the Council of State is still reviewing the case no. 2022/5473 E. The Chamber rejected the request for a stay of execution with a majority of votes, without justification. The two dissenting judges and the examining judge of the Council of State are of the opinion that Article 49 of Law No. 195 is unconstitutional. Our appeal against the decision before the Administrative Appeals Board of the Council of State is under review.

We would like to present the following numerical data on the Code of Press Ethics given in the response petition submitted by the Press Ads Agency in the lawsuit file, as an indicator of how effectively the regulations are used. The Press Ads Agency submitted the details of the data as a table in the file. The data is available in

Table 1 and **Table 2**.

"From August 2019, when the 30th Term Board of Directors of the Press Ads Agency took office, till August 2022, when it announced that it would not put applications on the agenda, it decided on 315 cases in total. Of the files that were resolved, 57 (18.09%) were ex officio cases and 258 (81.09%) were cases that were reviewed upon complaint. In 137 out of 315 cases (43.49%), the Board decided not to impose any sanctions. In 178 cases (56.51%), sanctions were applied. "

⁹ For a review of the judgments, please see the section titled "Judgments" under the section "Constitutional Court - ECHR Judgments". On 10/3/2022, the General Assembly of the Constitutional Court ruled on the application by, Yeni Gün Haber Ajansı Basın ve Yayıncılık A.Ş. and others (B. No: 2016/5903), <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/5903>

¹⁰ <https://www.resmigazete.gov.tr/eskiler/2022/07/20220706-12.pdf>

Table 1: Press Ethics Files by Sanction Status

	Number of Files with No Sanctions	Number of Files where a Sanction was Issued (Number of Website Publications)	Number of Days Covered by Sanctions
2019 *From 16 August, 2019, when the 30th Term Board of Directors took office, on	27	17(11 of which are websites)	134
2020	44	89 (75 of which are websites)	572
2021	27	47 (36 of which are websites)	221
2022	39	25 (18 of which are websites)	146
TOTAL	137	178 (144 of which are websites)	1073

Table 2: Press Ethics Files by Type of Review

	Ex Officio	On Complaint	Total
2019 *From 16 August, 2019, when the 30th Term Board of Directors took office, on	11	33	44
2020	28	105	133
2021	10	64	74
2022	8	56	64
TOPLAM	57	258	315

B. Amendment to the Regulation on Official Announcements and Advertisements

On the same day that the Code of Press Ethics was published on the Official Gazette, the Press Ads Agency also published the Regulation Amending the Regulation on Official Announcements and Advertisements¹¹. The Regulation puts online news websites and social network accounts under obligation even before the legal basis for this obligation has been enacted, and penalties in the form of official advertisement bans and price reductions are stipulated for online news websites and social network accounts that violate the Code of Press Ethics. This amendment to the Regulation is also the subject of an appeal to the Council of State by TGS and the Association of Journalists for a stay of execution. The proceedings for the case 2022/5474 E. of the 10th Chamber of the Council of State were rendered moot, however, due to the Official Announcement and Advertisement Regulation published on February 2nd, 2023, the details of which will be explained below.

¹¹ <https://www.resmigazete.gov.tr/eskiler/2022/07/20220706-7.htm>

C.Censorship Law No. 7418

We left behind a year in which we saw the concrete reflections of the discourse that "those who spread fake news should be punished" and "disinformation should be a crime", which was frequently voiced by the ruling party, especially after the forest fires that engulfed the country in 2021. In April, it was announced that the preparations for the proposal had been completed and the Bill on Amendments to the Press Law and Certain Laws, with the main number 2/4471, was submitted to the Grand National Assembly of Turkey on May 27th, 2022¹². No press professional organization was consulted in the process.

With the submission of the proposal, the Media Solidarity Group, including TGS, issued a press release calling for the law to be withdrawn¹³ and visited political parties in the Grand National Assembly of Turkey to convey their views on the proposal.

The proposal was discussed at the Parliament's Digital Media Commission on May 1st, 2022 and at the Justice Commission on June 15th, 2022. As part of the Media Solidarity Group, TGS also participated in the talks and shared its views. It was stated that the crime of Publicly Disseminating Misleading Information to the Public in article 217/A, which is planned to be added to the Turkish Criminal Code with Article 29 of the proposal, which introduces many censorship provisions hidden behind the legitimate demands of online journalists, subjects not only journalists but the whole society with a serious criminal threat. It was stated that the ambiguity of the criminal regulation and its openness to subjective interpretation would put all kinds of news under criminal threat. The regulation in question is as follows:

Publicly disseminating misleading information

ARTICLE 217/A- (1) Any person who publicly disseminates untrue information concerning the internal and external security, public order and public health of the country with the sole intention of creating anxiety, fear or panic among the public, in a manner that is capable of disrupting public peace, shall be sentenced to imprisonment from one year to three years.

(2) If the perpetrator commits the crime by concealing his real identity or within the framework of the activities of an organization, the penalty imposed according to the first paragraph shall be increased by half."

In addition to article 29, reactions were also expressed against the expansion of the Press Ads Agency's powers. The regulation limiting the time limit for filing lawsuits against online news websites was left vague again as it was to commence "on the date of the crime report regarding the news". Government officials with an unclear scope and position under the name of information officers were given the right to benefit from press card privileges. Moreover, the control of the Press Card Commission was completely given to the Directorate of Communications. It was also stated that the Code of Press Ethics, which was added to the conditions for the revocation of the press card under the Press Law, is contrary to the pilot decision of the Constitutional Court, and that the linking of the actual service time increase of journalists to the press card threatens the social security rights of journalists. Criticisms also covered the amendments that increase censorship on the internet, facilitate interference in social network providers and sanction platforms that provide electronic communication services.

On June 21st, 2022, journalists took to the streets in Şişhane, Istanbul, and on June 22nd, 2022, in Ulus Square, Ankara under the banner "No to the Law to Silence, Intimidate, Imprison! The press is free and cannot be censored". Leaders of press professional organizations protested the law by attending parties' assembly group meetings wearing black masks. On June 28th, journalists staged a profile blackout on their social media accounts to highlight the dark picture the law would bring to journalism.

¹² <https://cdn.tbmm.gov.tr/KKBSPublicFile/D27/Y5/T2/WebOnergeMetni/aa9392cb-10d8-46e9-bbb1-2ecf2e6012ec.pdf>

¹³ <https://tgs.org.tr/dezenformasyon-yasasi-sansurdur-geri-cekilsin/>

In response to all these reactions, it was announced on June 29th, 2022 that the deliberations on the law at the General Assembly were postponed until October. The Media Solidarity Group clearly stated its perspective towards the law, as *"It is pleasing but not sufficient that the proposed law, which aims to silence and intimidate the social opposition along with the press, has been withdrawn and postponed to the new legislative year that will start on October 1... As press organizations, we say 'we are here, standing together' to make every contribution to a brand-new law from scratch."*

On 5th of August 2022, Fahrettin Altun, the President of the Presidency of Communications, announced on Twitter that an independent Counter Disinformation Unit was established within the Presidency of Communications and İdris Kardaş was appointed as the coordinator of the center.

By October, with the opening of the Turkish Parliament, the protests resumed. On October 3rd, 2022, TGS Branches and Representatives mailed letters to the deputy chairpersons of the parliamentary groups, explaining the illegalities of the law. The letters warned that the proposed law, which intends to leave journalists silent and breathless, destroys the public's right to information and threatens election security by condemning the press to voicing nothing but the message of the government, eight months before the elections.

On October 4th, 2022, when the law was placed on the agenda of the General Assembly, press professional organizations made a press statement at the Grand National Assembly of Turkey. On October 4th and 11th, journalists wearing black masks protested against the draft law in the General Assembly Hall. However, despite all the reactions, the bill was adopted and passed into law on October 13th, 2022 and published on the Official Gazette on October 18th, 2022¹⁴. TGS published a "Guide to the Censorship Law" on the omnibus law containing multiple amendments¹⁵. The main opposition party, CHP filed two separate annulment cases with the Constitutional Court, first for Article 29 and then for the remaining articles. The Constitutional Court examined both cases procedurally and found them acceptable for review. A decision on the merits of the cases is pending.

D. 2023 Regulation on Official Announcements and Advertisements

After the enactment of Law No. 7418, the secondary regulations it affects were also amended¹⁶. Article 23 of the Law amended Provisional Article 9 of Law No. 195 on the Organization of the Press Ads Agency, authorizing the General Assembly of the Press Ads Agency to issue a regulation on the qualifications and responsibilities to be fulfilled by those who will publish official announcements and advertisements on internet news websites and the procedures and principles regarding the publication. In fact, press professional organizations have emphasized that it is unlawful to establish this authority by regulation rather than by law. However, even though the regulation was challenged, Press Ads Agency was still granted a wide area of authority. For this purpose, a new Official Announcement and Advertisement Regulation was published on the Official Gazette on February 1st, 2023¹⁷.

Just as envisioned, regulations limiting freedom of the press were introduced through the regulation. The conditions for getting official ads have been aggravated. The regulations established a system where only the owners of capital could receive official advertisements, causing serious economic losses especially for the local and independent press with little capital.

The regulation's perspective linking the right to official announcements and advertisements to holding press card is unlawful as the press card is issued by the Directorate of Communications. Furthermore, the regulation's definition of internet news websites has no legal basis and the right to

¹⁴ <https://www.resmigazete.gov.tr/eskiler/2022/10/20221018-1.htm>

¹⁵ <https://tgs.org.tr/sansur-yasasi-rehberi/>

¹⁶ Şubat 2023 tarihli Resmî Gazete'de 7418 sayılı Kanundaki düzenlemelerin işlenmesinden ibaret olan üç yönetmelik değişikliği daha yayımlanmıştır. <https://www.resmigazete.gov.tr/01.02.2023>

¹⁷ <https://www.resmigazete.gov.tr/eskiler/2023/02/20230201-7.htm>

publish official announcements and advertisements is left entirely to the arbitrary discretion of the administrative authority.

The expression "duties imposed" on online news websites, in the Regulation, is also unclear. The qualifications required by the Press Ads Agency for the right to publish official announcements and advertisements include content requirements for newspapers and online news websites. And these requirements have the potential to determine the principles and editorial policies of the journalism profession and contain uncertainties that may disrupt the pluralistic media structure. It has been stipulated that internet news websites must also publish in accordance with the Code of Press Ethics. Otherwise, the penalty of banning advertisements will be imposed in accordance with Article 49 of Law No. 195. In particular, Article 114 of the regulation violates the Constitution and ignores the presumption of innocence and freedom of the press. The first paragraph of the article stipulates, in connection with the publication of official announcements, that in the event that a criminal case is brought against a periodical publication due to the content of the publication or the acts of the publication's legal or natural person concession-holders, the majority of its partners or the legal person representative, if any, in the context of the crimes under the "Crimes Against the Constitutional Order and the Functioning of this Order" or the Anti-Terror Law, the right to publish official announcements and advertisements will be suspended by the Board of Directors of the Press Ads Agency upon the proposal of the General Directorate of the Press Ads Agency, for a period not exceeding the period specified in Article 49 of Law No. 195. A similar provision is included in the second paragraph, for journalist employees. In this paragraph, it is stipulated that, in the event of such a criminal case filed against any of the persons declared as members of the editorial staff, upon the written notification by the Agency, such person(s) should be removed from the editorial staff within 5 business days from the date of notification to the periodical that is the addressee of the written notification. Otherwise, the right of the periodical to publish will be suspended. However, the filing of a criminal case against a person does not mean that guilt is established. By violating a fundamental principle of criminal law, that is the presumption of innocence, the state's positive obligation to support the press economically has been transformed into an instrument of censorship and repression.

TGS and the Association of Journalists filed a lawsuit against these unlawful regulations, demanding a stay of execution. The lawsuit also requested that the Provisional Article 9 of the Press Law, which is the basis of the regulation, be taken to the Constitutional Court through a concrete norm review, as it is unconstitutional. The trial is ongoing as case 2023/1033 E. before the Council of State.

E. Press Card Regulation dated 2023

With Law No. 7418, press card regulations were included in the Press Law No. 5187. Furthermore, the Additional Article 8 introduced authorized the Directorate of Communications to issue regulations on the form of press cards, the requirements applicable to media organizations, the quotas, the working and decision-making procedures of the Commission, the types of applications and the documents to be requested for the applications. Pursuant to this authorization, the Directorate issued the new Press Card Regulation published on the Official Gazette dated April 10th, 2023¹⁸.

We are of the opinion that the new Press Card Regulation's provision imposing the Code of Press Ethics in the context of the procedures to revoke a press card, and the regulations stipulating that members who violate the discipline at the Press Card Commission meetings can be warned and removed from the meeting without any legal basis, are unlawful. We are preparing to take the regulations to court.

¹⁸ <https://www.resmigazete.gov.tr/eskiler/2023/04/20230410-9.pdf>

VI. JOURNALISTS IN PRISON, ARRESTS AND RELEASES

During the past year, **at least 53 journalists** were held in prison. Some of these have been released, while others have remained in prison, as either detainees or convicts. This section first provides information about the journalists who are currently in prison as of the date of this report. It then presents data on journalists who were arrested and released during the past year. Finally, observations on personal interviews carried out by the Journalists Union of Turkey, with journalists in prison, will be discussed.

A. Journalists in Prison

The list of journalists who are deprived of their freedom due to their professional activities, as per the review of their case files by the Journalists Union of Turkey, is presented in **Table 3**.

According to the latest information available as provided in the list,

- As of 1 April, 2023, **42 journalists** have been deprived of their freedom, in various prisons of Turkey, due to their journalism activities.
- Among these journalists, **29 are detainees**, while **11 are convicted**. We have no clear information about the current condition of two journalists.
- **9 female** and **33 male** journalists are being held in prison.

Table 3: List of Journalists Held in Prison as of 1 April, 2023

	FULL NAME	EMPLOYER	POSITION
1	Abdulkadir Turay	Dicle News Agency	Reporter
2	Abdurrahman Öncü	Pel Prodüksiyon	Cameraman
3	Alaaddin Akkaşoğlu	Kütahya Akis Bölge Gazetesi - Gediz Gazetesi /Karşı Gazetesi	Publisher
4	Ali Ünal	Zaman Newspaper	Columnist
5	Aziz Oruç	Mezopotamya Agency	Editor
6	Berivan Altan	Mezopotamya Agency	Reporter
7	Ceylan Şahinli	Mezopotamya Agency	Reporter
8	Cihan Acar	Bugün Newspaper	Reporter
9	Diren Yurtsever	Mezopotamya Agency	Managing Editor
10	Deniz Nazlım	Mezopotamya Agency	News Editor-in-Chief
11	Elif Üngür	Pia Yapım	Server
12	Emrullah Acar	Mezopotamya Agency	Reporter
13	Ercan Gün	Fox TV	News Editor

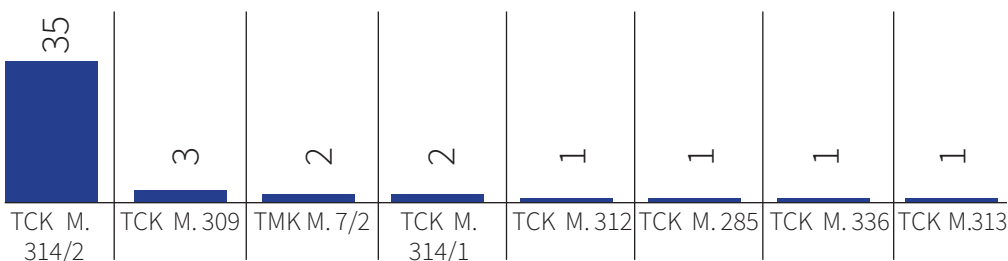
	FULL NAME	EMPLOYER	POSITION
14	Erdal Süsem	Eylül Sanat Edebiyat Magazine	Editor
15	Erol Zavar	Odak Magazine	Owner and Managing Editor
16	Gültekin Avcı	Bugün Newspaper	Columnist
17	Hakan Yalçın	Mezopotamya Agency	Reporter
18	Hatice Duman	Atılım Newspaper	Owner and Managing Editor
19	İbrahim Koyuncu	Gün TV	Cameraman-Video Editor
20	Kenan Karavil	Radio Dünya	Broadcast Coordinator
21	Lezgin Akdeniz	Mezopotamya Agency	Reporter
22	Mahmut Gülecan	Özgür Halk Magazine	Managing Editor
23	Mazlum Doğan Güler	Pia Yapım	Cameraman
24	Mehmet Ali Ertaş	Xwebûn Newspaper	Managing Editor
25	Mehmet Baransu	Taraf Newspaper	Columnist
26	Mehmet Şahin	Xwebûn Newspaper	Columnist
27	Murat Çapan	Nokta Magazine	Managing Editor
28	Mustafa Gök	Ekmek ve Adalet Magazine	Agent in Ankara
29	Mustafa Ünal	Zaman Newspaper	Agent in Ankara
30	Neşe Toprak	Pel Yapım	Server
31	Ömer Çelik	Mezopotamya Agency	Reporter
32	Öznur Değer	JinNews	Reporter
33	Ramazan Geciken	Pel Yapım	Cameraman
34	Safiye Alagaş	JinNews	News Director
35	Sami Tunca	Mücadele Birliği Magazine	Managing Editor
36	Salman Gozelyüz	Mezopotamya Agency	Reporter
37	Serdar Altan	Tigris Euphrates Journalists Association	Co-Chair
38	Sertan Önal	Halkın Günlüğü Newspaper	Reporter
39	Sezgin Kartal	Karşı Mahalle	Reporter
40	Suat Dođuhan	Ari Yapım	Publisher
41	Ümmü Habibe Eren	JinNews	Reporter

	FULL NAME	EMPLOYER	POSITION
42	Zeynel Abidin Bulut	Xwebûn Newspaper	Editor

B. Charges Against the Journalists in Prison

The counts of charges directed in the bills of indictment for detained and convicted journalists are presented in **Table 4**. It should be noted, at this point, that a given journalist may be facing multiple charges. Accordingly, 35 of the 42 arrested journalists are charged with **'Being a Member of an Armed Criminal Organization'** under Article 314/2 of Turkish Criminal Code. Two journalists charged with membership of a terrorist organization were also charged with **'Propaganda for a Terrorist Organization'** under article 7/2 of the Anti-Terror Law, while one journalist was charged with **'Breach of Confidentiality'** under Article 285 and **'Disclosure of Prohibited Information'** under Article 336. Two journalists are in prison on charges of **'Establishing or Leading an Armed Terrorist Organization'** under Article 314/1, one journalist on charges **'Crimes against the Government'** under Article 312, and one journalist on charges of **'Armed rebellion against the Government of the Republic of Turkey'** under Article 313. In addition, three journalists are in prison on charges of **'violating the Constitution'** under the abolished Article 146 of Turkish Criminal Code (now Article 309 of Turkish Criminal Code).

Table 4: Count of Charges Brought Against the Journalists in Prison



C. Arrested Journalists

According to the data available to us, **27 journalists were imprisoned** in the past year. The details about these journalists are shown in **Table 5**.

Table 5: Journalists Arrested in the Period April 2022 - April 2023

	FULL NAME	EMPLOYER	POSITION	DATE OF ARREST
1	Ali İmat	Mutlu Şehir Osmaniye	Editor-in-Chief-Copyright Holder	February 27th, 2023
2	Aziz Oruç	Mezopotamya Agency	Editor	June 16th, 2022
3	Berivan Altan	Mezopotamya Agency	Reporter	October 28th, 2022
4	Ceylan Şahinli	Mezopotamya Agency	Reporter	October 28th, 2022
5	Diren Yurtsever	Mezopotamya Agency	Managing Editor	October 28th, 2022
6	Deniz Nazlım	Mezopotamya Agency	News Editor-in-Chief	October 28th, 2022

	FULL NAME	EMPLOYER	POSITION	DATE OF ARREST
7	Elif Üngür	Pia Yapım	Server	June 16th, 2022
8	Emrullah Acar	Mezopotamya Agency	Reporter	October 28th, 2022
9	Hakan Yalçın	Mezopotamya Agency	Reporter	October 28th, 2022
10	İbrahim İmat	Mutlu Şehir Osmaniye	Journalist	October 27th, 2022
11	İbrahim Koyuncu	Gün TV	Cameraman-Vi- deo Editor	June 16th, 2022
12	Lezgin Akdeniz	Mezopotamya Agency	Reporter	June 16th, 2022
13	Mazlum Güler	Pia Yapım	Cameraman	June 16th, 2022
14	Mehmet Ali Ertaş	Xwebûn Newspaper	Managing Editor	June 16th, 2022
15	Mehmet Şahin	Xwebûn Newspaper	Columnist	June 16th, 2022
16	Neşe Toprak	Pel Yapım	Server	June 16th, 2022
17	Ömer Çelik	Mezopotamya Agency	Reporter	June 16th, 2022
18	Öznur Değer	JinNews	Reporter	October 28th, 2022
19	Ramazan Geciken	Pel Yapım	Cameraman	June 16th, 2022
20	Safiye Alağaç	JinNews	News Director	June 16th, 2022
21	Salman Gozelyüz	Mezopotamya Agency	Reporter	October 28th, 2022
22	Serdar Altan	DFG	Co-Chair	June 16th, 2022
23	Sezgin Kartal	Karşı Mahalle	Reporter	January 13th, 2023
24	Sinan Aygöl	Bitlis News	Editor-in-Chief	December 14th, 2022
25	Suat Doğuhan	Ari Yapım	Publisher	June 16th, 2022
26	Ümmü Habibe Eren	JinNews	Reporter	October 28th, 2022
27	Zeynel Abidin Bulut	Xwebûn Gazetesi	Editor	June 16th, 2022

D. Journalists Released from Prison

A total of **11 journalists** were released from prison.

Three of the arrested journalists were released at their first hearing before a judge or on appeal against their arrest warrants.

Six convicted journalists were released after serving the full sentence. One imprisoned journalist, who had no finalized sentence, was released from prison after the Court of Cassation overturned his conviction.

Table 6: The List of Journalists Released from Prison in the Period April 2022 - April 2023, and the Applicable Procedure for Release

	FULL NAME	EMPLOYER	POSITION	PROCEDURE FOR RELEASE
1	Rifat Söylemez	Adana Haber Gazetesi	Publisher	Serving the full sentence
2	Nuh Gönültaş	Bugün Newspaper	Columnist	Serving the full sentence
3	Faruk Akkan	Cihan News Agency	General Manager	Serving the full sentence
4	Vahit Yazgan	Zaman Newspaper	Agent	Serving the full sentence
5	Nedim Türfent	Dicle News Agency	Reporter	Serving the full sentence
6	Sinan Aygöl	Bitlis News	Editor-in-Chief	Acceptance of Appeal against Arrest Warrant
7	Ali Ahmet Böken	TRT	News Coordinator	Serving the full sentence
8	Fevzi Yazıcı	Zaman Newspaper	Images Editor	Overturning by the Supreme Court of Appeals
9	Harun Çümen	Zaman Newspaper	Former Managing Editor	Serving the full sentence
10	Ali İmat	Mutlu Şehir Osmaniye	Editor-in-Chief Publisher	Acceptance of Appeal against Arrest Warrant
11	İbrahim İmat	Mutlu Şehir Osmaniye	Reporter	Acceptance of Appeal against Arrest Warrant

E. Prison Observation Report

As we have reported in our previous reports, for the past four years the Ministry of Justice's negative attitude towards TGS Management's requests for prison visits has not changed. This unlawful practice, the details of which you can find in the reports for 2019, 2020 and 2021,¹⁹ continued in regards the application made in 2022 as well. The application for visiting 16 journalists, including members of the TGS, who are imprisoned in Diyarbakır Penitentiary was also rejected by the Ministry, without any justification.

We then applied to the Diyarbakır Chief Public Prosecutor. This application culminated in the permission to visit just three union member journalists, by the Union President Gökhan Durmuş and Diyarbakır Representative Mahmut Oral. On July 5-6, 2022, the President and the representative met with detained journalists Aziz Oruç, Ömer Çelik and Zeynel Abidin Bulut.

In addition to this visit by the management, the TGS Legal Department also paid regular

¹⁹ bkz. <https://tgs.org.tr/konu/bilgi-belge/raporlar/>

visits to prisons. In the last year, the Legal Department visited 30 journalists held in Silivri Prisons No. 5 and 9, Bakırköy Women's Prison, Mardin Type-E Prison, Van High Security Prison, Sincan Women's Prison, Sincan High Security Prison No. 1, Diyarbakır High Security Prisons No. 1 and 2 and Women's Prison. During the visits, the journalists described their trial processes, and communicated the problems they experienced and the requests they had, to the Union's lawyers.

A total of 55 separate interviews were conducted on various dates in the aforementioned prisons. During these meetings the journalists visited reported many rights violations. When the violations are examined as a whole, it is seen that the treatment violates the United Nations Standard Minimum Rules for the Treatment of Prisoners, known as the Nelson Mandela Rules, the European Committee for the Prevention of Torture (CPT) Standards as well as the Law No. 5275 on the Execution of Sentences and Security Measures. The problems identified in prisons are as follows:

- **Naked Search:** Mezopotamya Agency Managing Editor Diren Yurtsever, MA reporters Berivan Altan and Ceylan Şahinli, and JinNews reporters Habibe Eren and Öznur Değer were forcibly strip-searched by two correctional officers while entering Ankara Sincan Women's Prison. Although women journalists filed complaints about the strip search, no effective investigation was carried out and the case ended in non-prosecution. The appeal against the decision of non-prosecution was also rejected.

- **Quarantine Practice at Prison Entry amounting to Maltreatment:** The quarantine practice for new prisoners entering the prison continues. However, this practice practically amounts to maltreatment. Journalists arrested at the end of an extended detention period are held in so-called observation rooms under the pretext of quarantine without access to any vital facilities. Journalists were also told that a military census was being conducted here.

- **Arrest Review:** Arrest reviews are conducted without a hearing and without notifying the lawyer. This deprives journalists of their right to have a lawyer and to get legal aid.

- **Cameras Violating Privacy in Women's Wards:** Women journalists stated that every part of the ward, from the bathroom door to the shared areas, is monitored by cameras, which violates their privacy.

- **"Obstacle" to Visiting Journalists:** Journalists are prevented from listing certain people as their visitors on the grounds that they are "objectionable" by arbitrary and unjustified decisions of the Prison Administration and Observation Board. Detained journalists reported that press workers were also among the names they specified as visitors.

- **Heating:** Journalists held in Sincan Women's Prison stated that their wards are not heated, that although the heaters are turned on at a very low temperature during the week, the heaters are not turned on at all on weekends, and that they are therefore victimized by the winter conditions in Ankara.

- **Bureaucratic Difficulty and Violation of the Principle of Administrative Action in Writing:** Journalists held in Sincan Women's Prison stated that when they wanted to submit even the smallest and most humanitarian requests, they were told to "apply with a written petition" and that this caused frustration in resorting to bureaucracy, legal and administrative remedies. Although they submitted their applications in writing, journalists reported that their applications were responded to verbally and that this was justified on the grounds of preventing a waste of paper. Moreover, they were told by the prison administration that they would respond in writing if they agreed to pay the applicable fee. Journalists are unable to

exercise their right to appeal as their applications are rejected verbally rather than in writing.

- **Provision of Fixtures and Fittings:** It was reported that there were difficulties in obtaining fixtures. For example, journalists were given tables, but for a long time they were not given chairs, saying that they were not part of the fixtures, and they were told to eat on the concrete floor or standing.

- **Electricity Bill at Industrial Tariff:** It is reported that even though the detainees are not to be charged for electricity, they are charged nonetheless, and over the industrial tariff, which causes a serious economic burden.

- **Profiling:** Journalists imprisoned in Ankara Sincan Prison were forced to wear cards with their names and the name of the organization they were imprisoned for being a member of and were asked questions about their education and religious beliefs under the name of reporting.

- **Conditions of Aggravated Life Sentences for Detained Journalists:** Journalists held in Sincan High Security Closed Prison No. 1 stated that they were kept in isolation in single wards for extended periods, that even though they were moved to a three-person ward at the end of two months, they remained under aggravated life imprisonment conditions, and that they were only allowed to see each other for 1 hour and 30 minutes a day. Journalists stated that they could not use their right to social activities and conversations and that this situation prevented them from socializing. They noted that they were only allowed to exercise for one hour on just one day of the week, and that, if they do so, they were deprived of their right to outdoors airtime for the week.

- **Visitor Bans:** Journalists are prevented from naming certain visitors including members of the press, through arbitrary and unjustified decisions of the Administrative Monitoring Board.

- **Right to Chat:** Although the pandemic is over, the right to chat continues to be arbitrarily restricted by many prison administrations or is not exercised to the extent required by legislation.

- **Duration of Open and Closed Visits:** Detained journalists stated that only 45 minutes of the 1 hour and 30 minutes stipulated by the legislation were provided for open and closed visits.

- **Nutrition:** Complaints persist that meals are non-nutritious, salty, greasy and with too much tomato paste.

- **Access to Health Services:** Journalists, including those with chronic conditions, are delayed in being referred to hospital.

- **Examination in handcuffs:** Detained journalists are examined in handcuffs. Sometimes double handcuffs are used to increase the dose of degrading treatment. Some physicians ignore journalists' warnings that handcuffed examinations violate human rights. However, in a declaration published in December 1994, Turkish Medical Association noted the unlocking of handcuffs as 'the duty of the physician'. The General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) also emphasizes that treatment in handcuffs is not appropriate.

- **Canteen Prices:** In our interviews, we were told that inflation led to even further increases in the already exorbitant prices in prison canteens, putting economic strain on imprisoned journalists and their families.

- **Hobby and Sports Hour:** Such rights, which allowed detainees to socialize, were completely suspended under the coronavirus measures. Towards the end of 2022, it was learned that flexibility was provided in this regard and courses such as painting and baglama

were opened. But the progress on this front is still not at the desired level. Unfortunately, in some prisons journalists are deprived of this right. Women journalists imprisoned in Ankara Sincan Women's Prison complain that although they are allowed to engage in social activities, they are prevented from chatting during these activities and are not allowed to socialize.

- **Ward Searches:** It was reported that frequent and arbitrary ward searches took place in this time period as well, and at times guardians made a mess of the wards, throwing everything to the floor during the searches.

- **Book Restrictions:** In all the interviews, it was stated that the ban on keeping more than ten books in the ward continues to be strictly enforced and that they are only given books once every two months. In addition, the Education Boards withhold even books that have not been banned or confiscated, on the grounds that they contain criminal elements.

- **Publication Restrictions:** Journalists reported that Evrensel and Yeni Yaşam newspapers were not given to them under any circumstances, and that they could only occasionally get BirGün newspaper. The detained journalists also stated that, they could not access the publications they wanted although there was no ban or confiscation order in place.

- **TV Broadcasting:** The prisoners stated that they could only watch certain channels such as TRT, ATV, Beyaz TV, which are allowed by the prison administration; Halk TV, Tele 1, Artı TV, KRT TV, Tele 1 channels were not added to the channel list by the prison administration.

- **Right to Letters:** The journalists we visited stated that their incoming and outgoing letters were arbitrarily confiscated by the prison administration, and that their letters were not delivered to them. Some journalists complained that the deliveries were delayed by as much as a month. The rise in postal and stamp prices is also a serious obstacle for journalists to exchange letters.

- **Coronavirus Measures:** According to the information obtained from the journalists interviewed, the measures imposed due to the pandemic since 2020 have been lifted and there are initiatives to provide social rights.

- **Probation:** It is an ongoing serious problem that journalists who have less than a year left to serve their sentences are deprived of the possibility of supervised release by the arbitrary decisions of the Prison Administration and Observation Boards, despite having fulfilled the conditions.

- **Transfer Conditions:** The transfer requests of journalists who are detained at significant distance from their families or who want to be transferred to open or district prisons are not accepted on grounds of coronavirus measures and prison density problems. Applications are unjustifiably rejected or protracted with no response. This is a violation of the right to respect for the private and family life of journalists who are kept away from their families, and causes economic strain on their families.

VII. INVESTIGATIONS

As has been the case in the previous years, this year also saw a significant number of investigations initiated against the journalists, with respect to their news, photos, and social media shares. Within the framework of these investigations, the journalists were taken into custody as they were doing their job, seeking news, walking on the street, or in their homes. In this section, quantitative data on investigations against journalists will be presented, along with an analysis of the treatment the journalists are subjected to.

According to the data available, the period April 2022 - April 2023 saw, in total;

- At least **80 journalists** were taken into custody. Journalists were detained for **259 hours in total**.
- **33** journalists testified in connection with investigations against them.

VIII. YARGILAMALAR

The trials covered in this section are the ones currently ongoing at the first stage, which came to be known through news on the media, or through applications submitted to the Journalists Union of Turkey. However, we estimate that these trials are just the tip of the iceberg. We assume that there are many cases going on locally, especially outside Istanbul, but they are not reflected in the press. On the other hand, considering that the trials are to be considered an integrated process involving appeal and cassation stages as well, we believe that the number of trials going on is much larger than the ones we are able to report. In this section, we will start with quantitative data about the criminal and tort cases going on and will then proceed with a summary of the Constitutional Court rulings published last year.

In the past year, according to the data available, **280** journalists were tried in **140** cases. **126** of these were criminal cases, whereas **14** are private law tort cases.

A. Criminal Trials

- Last year, **264** journalists were tried in **126** criminal trials.
- While trials continued in **90** cases, verdicts were announced in **36** cases.
- The total amount of imprisonment issued is **55 years, 11 months and 21 days**.
- **63** journalists was acquitted of the charge.
- A total of **TRY 19,000.00** in judicial fines was issued.
- In the cases of 2 journalists, the announcement of the verdict was deferred.

B. Tort Cases

According to the latest data available, the period covered saw **14 tort cases** being heard.

- In these cases, **16 journalists and 7 newspapers** were tried.
- While 7 of the cases were concluded, the trials in the remaining 7 cases are still ongoing.
- A total of **TRY 120,000.00** in damages was awarded in these cases.

²⁰ The details of the data on detentions and summons for testimony can be found in the Appendix.

C. Individual Application Decisions

i. Constitutional Court Decision on the Structural Problem Posed by the Legislation Provision on Fines for Official Announcements and Advertisements

Especially after 2018, Press Ads Agency imposed significant fines on Cumhuriyet, Evrensel, Sözcü and BirGün newspapers on the grounds of the language used in their news. The newspapers took the matter to court on the grounds that it violated their freedom of expression and press freedoms, but to no avail. Ultimately, individual applications were filed. The Constitutional Court consolidated 14 individual application cases and examined them through a pilot judgment procedure. Accordingly, it determined that Article 49 titled "Sanction" of the Law No. 195 on the Organization of the Press Ads Agency, which is the basis of the sanction, constitutes a structural problem and decided that it should be revised and that the review of the applications to be made after the decision should be postponed for 1 year²¹.

In its review, the Constitutional Court found that Article 49 of Law No. 195 left the issue of which acts would be subject to penalties and how they would be subject to penalties entirely to the authority of Press Ads Agency, and noted that there were no framework provisions for the Press Ads Agency's General Assembly decisions and the decisions of its Board of Directors, and that the law provided for a regulation with unclear limits. It has been observed that the Code of Press Ethics issued on the basis of this article is contrary to the principle that freedoms are restricted only by law as set out in Article 13 of the Constitution and that *"the Press Ads Agency's intervention in the form of official announcement and advertisement suspensions poses a chain of rules that provides an undefined path"*.

According to the Court, the rule, which made it impossible for the applicants to foresee their rights and obligations and regulate their behavior, accordingly, failed to meet the foreseeability condition. In addition, it was emphasized that the Law proposes a formal review of the documents, that in practice, the courts do not resolve the merits of the matter brought before them, and instead only check whether the punishment was carried out following the prescribed procedure. It has been pointed out that the practice regarding the procedure proposed in the Article under review has not yet been established has deepened the uncertainty in the Law regarding the decisions rendered on this issue at the appellate stage and how the courts of first instance will conduct the proceedings in the cases before them.

Ultimately, the Constitutional Court concluded that the interventions subject to the application violated the applicants' rights protected by Articles 26 and 28 of the Constitution in terms of the legality criterion and that the violation was directly caused by the article of the law as it did not provide for the basic guarantees for the protection of freedom of expression and press freedoms.

Continuing the review in terms of the requirements of the democratic social order within the framework of the circumstances of the concrete case, the Court concluded that a fair balance was not observed by the Press Ads Agency, which failed to duly cover the conflicting rights in the applications subject to the case. When the reasoned decisions of the civil courts of first instance reviewing the objections to the decisions of the Press Ads Agency are examined, it is observed that sometimes the assessments of the Press Ads Agency are directly taken as basis, but are not checked whether these assessments meet the balancing criteria. To the courts, it is mostly sufficient to state that the decisions of the Press Ads Agency are compliant with the procedure and the law, and no further evaluation is required.

Looking at the fines imposed by the Press Ads Agency, the Constitutional Court observed that the authority granted to the agency went beyond the purpose of regulating the ethical values of the press and turned into a means of punishment that could create a *"chilling effect"* for some members of the press and that this posed a systematic problem. Having identified the structural problem, in its judgment the Constitutional Court also made

21 Application by Yeni Gün Haber Ajansı Basın ve Yayıncılık A.Ş. And others (B. No: 2016/5903), <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/5903>

its recommendations for new regulation. The minimum requirements of the regulation should, according to the Constitutional Court, be as follows:

- The conditions for the penalties regarding the official announcements and advertisements in Article 49 of the Law should be framed, and the article should be reorganized in terms of form and substance with a certain level of clarity and certainty,
- The limits of the protection offered by the aforementioned article to enhance the ethical qualities of the press should be clarified and concrete criteria should be established, such as setting a criterion/threshold value to determine which actions violate these qualities.
- While regulating the way of appeal against the penalties concerning official announcements and advertisements in the aforementioned article, the capacity in which the courts of first instance will hear these cases and the scope of the trial procedure to be applied in this context should be clearly reorganized.

Indeed, this decision, which provides the clearest determination of Press Ads Agency's unlawful practices and abuse of its authority, is extremely important in terms of press law. Both the accuracy of the determination of the Code of Press Ethics and the dysfunctionality of the objection procedure, as well as the clear demarcation of the boundaries of what the regulation should instead look like, are illuminating. However, despite the Constitutional Court's decision, the Press Ads Agency published its new Code of Press Ethics in a form that is even more ambiguous than before²². In the lawsuit we filed against these principles, the 10th Chamber of the Council of State rejected the request for a stay of execution despite the Constitutional Court's decision, which clearly demonstrated the illegality.

ii. Constitutional Court Decision on Equitable Discount Applied to Journalist's Labor Claim

Journalist Emin Göktaş, who worked as a reporter at a newspaper owned by D. Gazetecilik Sanayi ve Ticaret Limited Şirketi between 2005 and 2009, filed a lawsuit in 2010 for the payment of some labor receivables and a late payment fee of 5% in accordance with the second paragraph of Article 14 of the Law No. 5953 on the Regulation of Relations between Employees and Employers in the Press Profession, which was in force as of the date of the incident.

In the trial, Göktaş's wage, overtime, bonus, national holiday, and paid leave wage receivables and the 5% late payment charge amount to be paid for each day pursuant to the second paragraph of Article 14 of Law No. 5953 which was in force on the date of the incident were calculated. However, 90% equitable discount was applied on the 5% late payment charge. Göktaş filed an individual application claiming that the 90% equitable discount violated his right to property, and that the 8-year duration of the trial violated his right to be tried within a reasonable time.

In its judgment, the Constitutional Court stated that the first instance Labor Court's lack of explanation regarding the grounds on which it applied the equitable discount in its judgment led to a failure to conduct a review with the rigor required by the procedural safeguards regarding the right to property. Still, the Constitutional Court ruled in line with its 2019 judgment annulling the rule on 5% late payment charge. In its annulment decision, the Court annulled the relevant article of the law on the grounds that the 5% late payment charge, which can reach very high amounts, imposes an excessive burden on the employer, and that the sanction to be applied in case of failure to pay wage receivables on time should not impose an excessive and unbearable burden on enterprises, by taking into account real inflation and legal interest rates²³. The Court based its decision on this individual application on the same grounds and ultimately ruled that the application was inadmissible as manifestly ill-founded. On the other hand, the Constitutional Court ruled that the trial lasting 8 years and 6 months was a violation of the right to a trial within a reasonable time and ordered the applicant to be paid TRY 20 thousand TL in non-pecuniary damages²⁴.

22 For details, please refer to the "General Assembly Decision No. 216 on the Code of Press Ethics" under the heading "Legislative Amendments".

23 Constitutional Court, E.2019/108, K.2019/101, 25/12/2019. For details of the decision see TGS 2019-2020 Press Freedom Report, pp.78-79. <https://tgs.org.tr/wp-content/uploads/2020/05/TGS-BASIN-OZGURLUGU-RAPORU.pdf>

24 <https://karartarbilgibankasi.anayasa.gov.tr/BB/2018/37187>

iii. Hacı Boğatekin's Applications

In response to two separate individual applications filed last year by Hacı Boğatekin, the editor-in-chief of Gerger Firat newspaper, the Constitutional Court issued important rulings.

Firstly, in response to Hacı Boğatekin Application (5),²⁵ the Constitutional Court reviewed the award of damages he was required to pay, due to his news reports on excavation works initiated following a dream a mosque imam had. The imam covered in such reports claimed that he had seen the grave of an Islamic martyr in his dreams and that the martyr had repeatedly asked him to relocate his grave. He then informed the official authorities (the governor's office, the mufti's office and the relevant authorities) and eventually an excavation was carried out with the participation of villagers and twenty imams from neighboring villages. However, the efforts did not lead to the grave of such a person at the place pointed out by the imam. After the issue was reported by Hacı Boğatekin, the imam filed a lawsuit for non-pecuniary damages at the Gerger Civil Court of First Instance, claiming that his privacy had been violated. As a result of the trial, the lawsuit was partially accepted with a ruling that journalist Boğatekin should pay TRY 3 thousand damages to the plaintiff imam. Boğatekin took the matter to the Constitutional Court, claiming that his freedom of expression and right to be tried within a reasonable time had been violated. In its review, the Constitutional Court stated that the incident was an event that attracted the attention of the public and was highly newsworthy in terms of journalism, that the imam, who had somehow convinced many of his colleagues to act together with his words, had caused his own actions to be reported by a journalist, and that therefore the punishment of news and criticism that did not belong to the private sphere of his life and instead helped to understand his actions would have a deterrent effect and would lead to the silencing of different voices in society and public opinion. The Constitutional Court found a violation of freedom of expression and freedom of the press on the grounds that imposing damages on journalist Boğatekin did not meet a compelling social need and sent the case to the court of first instance for retrial. In addition, the 6-year duration of the trial was considered as a violation of the right to a trial within a reasonable time and TRY 30,000 non-pecuniary damages were awarded.

In the second Hacı Boğatekin Application(6)²⁶ published this year, Boğatekin's 1-year prison sentence for praising crime and criminals, which was imposed on him for a 2008 column titled "Feto and Apo", was reviewed. The grounds for the imprisonment sentence were that he had glorified the leaders and members of the PKK terrorist organization by describing them as "Apo's Patriots" and "Kurdish Freedom Movement" and praised their actions, that he had criticized the security forces' efforts against the terrorist organization, and that the expressions he had used could cause a clear and imminent danger to public order. The Constitutional Court found that the journalist conceptualized the security forces as the "Secular Guardians of the Republic", the PKK terrorist organization as "Apo's Patriots" and "Kurdish Freedom Movement", and FETÖ/PDY as "FETO" and "Fetullah's Sectarrians". The Supreme Court stated that Boğatekin had written his article standing at an equal distance from the security forces and the PKK terrorist organization and noted that the security forces and "Apo's Patriots" both have common ideals regarding the secular and democratic republic and that these two forces, which are in conflict with each other, should fight together against FETÖ/PDY, which aims for a regime change, instead of using weapons against each other. The Constitutional Court found that the applicant's conceptualization, even if it was of a nature to disturb the conscience of the public considering the sensitivity of the society on terrorism, neither supported nor condoned the terrorist acts carried out by Abdullah Öcalan and the PKK, and that the courts did not evaluate the applicant's words in the holistic context of the incident, and instead took them out of context. Thus, the Constitutional Court ruled that the freedom of expression was violated. Accordingly, the case was sent back to the court of first instance for retrial, but no damages were awarded.

²⁵ <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2019/24321>

²⁶ <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2020/3630>

iv. Müyesser Yıldız's Application

Journalists Müyesser Yıldız and İsmail Dükel were detained in a house raid on June 8th, 2020 on the charges of 'military espionage'. After three days of detention, Dükel was released, and Yıldız was arrested. In the investigation, in which former soldier Erdal Baran was alleged to have called the journalists and passed on information, Müyesser Yıldız was released with judicial control measures at the first hearing after nearly 5 months in pre-trial detention.

One of the rulings issued by the Constitutional Court last year is on the application of Müyesser Yıldız, regarding the allegations of violation of the right to personal liberty and security and the freedoms of expression and press caused by the arrest measure²⁷. The Constitutional Court ruled, by a majority of eleven votes against four, that there was no violation in this application. Four judges, including the President of the Constitutional Court Zühtü Arslan, wrote dissenting opinions. The majority of the Court ruled that there was no violation of rights on the grounds that the assessments made by the investigating authorities and the judicial bodies deciding on the arrest that there were strong indications of guilt in terms of the crime of obtaining information that should remain confidential given its nature related to the security or internal or external political interests of the state were not unfounded and that the arrest measure was proportionate due to the possibility of influencing the evidence if released, and that national security outweighed the values protected by freedom of the press in regards the act subject to the accusation.

In the dissenting opinions, it was pointed out that the information provided in Yıldız's letter in question was not confidential and could be accessed from open sources, and that the tapes presented as evidence in the file were already collected, therefore the applicant did not have the opportunity to influence the evidence, and that the suspicion of flight could not be demonstrated with concrete facts, leading to her release five months after her arrest, although there was no change in the evidentiary situation.

v. Application by Murat Ağirel and Others

The ruling on the individual application of Murat Ağirel, Barış Pehlivan, Barış Terkoğlu, Ferhat Çelik and Aydın Keser, who were arrested for their news reports on the funeral of the MIT personnel who fell a martyr in Libya in 2020, is another ruling published in 2022²⁸.

The five journalists stated that they were arrested without strong suspicion of a crime and without any reason for arrest, that the act of disclosure, which is an element of the imputed offense, did not take place because the information about the martyr had been shared with the public by many websites and press organs before, and that the acts subjected to arrest were within the scope of journalistic activity and duty, and that they consisted of providing information on a current issue of public interest. Therefore, they filed an application to the Constitutional Court claiming that their right to personal liberty and security and their freedoms of expression and press freedom were violated due to the unlawfulness of the arrest measure.

The Ministry of Justice, on the other hand, stated that the journalists had already been released and that the damages remedy provided for in Article 141 of the Criminal Procedure Code should be exhausted first. On the merits, the Ministry emphasized that it cannot be said that it is arbitrary and unfounded for the criminal justices of peace to conclude that the arrest measures are proportionate and that the judicial control measures would be insufficient, considering the gravity, nature and importance of the sanction envisaged for the crime charged.

Although existing case law of the Supreme Court of Appeals includes rulings that the damages lawsuits filed under Article 141 of the Criminal Procedure Code do not constitute an effective domestic remedy, the Constitutional Court found the applications inadmissible on the grounds that the damages lawsuits filed by the journalists were still pending.

²⁷ <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2020/18546>

²⁸ <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2020/11655>

vi. Nazan Sala's Application

Nazan Sala, one of the journalists arrested in Van following news reports on the torturing of two villagers, filed an individual application claiming that her right to personal liberty and security was violated due to the unlawfulness of her arrest. The Constitutional Court ruled inadmissibility on the grounds that Sala's lawsuit for damages under Article 14 of the Criminal Procedure Code was pending and therefore the available remedies had not been exhausted²⁸.

IX. INTERVENTIONS ON INTERNET MEDIA

A. Access Block and Content Removal Rulings

The past year saw the issuance of several rulings to block access to a wide range of news content published on the internet. Some of these rulings referred to specific news, while many others involved the closing of internet news sites for good. Furthermore, the amendments of the Law no. 5651 led to many news content being removed. Also, the introduction of the right to be forgotten as the justification in the rulings to block access to news offering public benefits was yet another striking development which occurred this year.

According to the data available²⁹ in the last year at least

- Access to **46 news websites** was blocked on a domain name basis,
- **4148 news items** were blocked on URL basis.
- **682 news items** were ruled to be removed in whole or in part.
- **9 news items** were blocked from search engines on the grounds of the right to be forgotten.

B. Bandwidth Restriction Measure

Paragraph 10 of Article 60 added to the Electronic Communications Law through the Decree with the Force of Law No. 671 issued during the State of Emergency declared in 2016 authorizes the President of the Republic to take measures in cases where a delay could be harmful due to one or more of the reasons listed in Article 22 of the Constitution, such as national security, public order, prevention of crime, protection of public health and public morality or protection of the rights and freedoms of others. However, while this power is recognized as exceptional, it is applied broadly and to the detriment of freedoms, as we have seen in the past year on two critical occasions when the public's need for news was most pressing. This unlawful practice led to the restriction of freedom of communication and freedom of the press and, moreover, caused a mass violation of the right to life.

The first of these incidents was the bombing on İstiklal Avenue on November 13th, 2022 in which 6 people lost their lives. Immediately after this act of terror, which took place on the most crowded avenue in Turkey, access to social media platforms such as Twitter and Whatsapp was slowed down. This situation caused panic among those who could not reach their relatives and prevented the public from getting information about the incident.

Another critical incident was the bandwidth restriction put on social media platforms on February 8th, while the search and rescue operations that started two days after the February 6th earthquakes were still in progress, with citizens who were trapped under the rubble calling for help. As of 16:06, access to Twitter was blocked and users could only access the

²⁸ <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2020/35622>

²⁹ <https://>You can find the details of the access blocking rulings in the Appendix

platform via VPN. Data from NetBlocks, which measures internet slowdowns, confirms this practice. TikTok, another application used by journalists and citizens in the earthquake zone for solidarity and coordination, was also restricted at 16:08, and there were also problems accessing Ekşi Sözlük, Instagram, WhatsApp and Google services. The measure of restriction of Twitter was discontinued around 02:00 on February 9th, after Deputy Minister of Transport and Infrastructure Ömer Fatih Sayan announced that he had held a video conference meeting with Twitter's Global Head of Government Relations John Hughes and Twitter's Director of Public Policy for Turkey Ronan Costello. Sayan said Twitter officials promised to cooperate more with Turkey in the fight against disinformation. Adil Karaismailoğlu, Minister of Transportation, responded to questions on this issue on Habertürk broadcast on April 7th, 2023 as follows: *"The situation required it, and and it was done. It was something that had to be done."* Numerous citizens, political parties and civil society organizations have filed criminal complaints against the authorities on charges of manslaughter due to the bandwidth restrictions.

X. INTERVENTIONS AGAINST PRESS ORGANIZATIONS

A. Interventions by RTUK

This year, the Radio and Television Supreme Council (RTUK) continued to impose significant fines on media outlets for their news and critical program content. Broadcasts following the February 6th earthquakes and fines issued ahead of the May 14th, 2023 presidential and parliamentary elections raised serious concerns about the democratic electoral process. According to the Supreme Council Decisions published on RTUK's website until April 2023 and reported in the press, the details of which we provide in the **Appendix**,³⁰

- Media organizations were subjected to **58 distinct administrative fines** amounting to a total of **TRY 13,703,913.56**. As can be seen in **Table-6**, where we analyze the distribution of fines by entity, the highest fine is the administrative fine of TRY **5,436,177.00** imposed on Fox TV in a single instance.
- A total of 33 broadcast suspensions were issued.
- When we examine the reasons for the decisions; In the past year, **38%** of the rulings issued by RTUK were based on article 8, paragraph one, sub-paragraph (ç) of the law no. 6112, which states that “[Broadcasts] shall not be in violation of human honor and the privacy of private life, and shall not contain disparaging, insulting, or slandering statements, going beyond the concept of criticism, against persons or entities” while 27.5% were based on sub-paragraph (i) containing the provision “is required to be based on the principles of impartiality, factuality, and accuracy, and should not pose an obstacle to the free development of opinion in the society; news which can be investigated within the framework of the professional principles concerning the press shall not be broadcast without due investigation and confirmation of accuracy...” as the grounds for fines and penalties applied.

In addition, on February 9th, 2022, RTUK gave a 72-hour deadline to apply for a license for international news websites, which were required to apply for a license as per the 2019 amendment to the Law. Deutsche Welle (DW) and Voice of America (VOA) had stated that they would not apply for a license, saying "the aim is to impose censorship" and announced that they would take the matter to court. On June 30th, 2022, access from Turkey to all pages of Germany's international media outlet DW and the website of VOA were blocked.

Table 7: Distribution of Fines Imposed by RTUK between April 2022 and April 2023 by Entity

Name of Entity	Administrative Fine	Broadcast Suspension
Flash Haber TV	TRY 163,658.00	-
Fox TV	TRY 13,007,041.00	-
Halk TV	TRY 2,739,578.00	16
Habertürk	TRY 629,558.00	-
Kafa Radyo	TRY 48,296.00	-

³⁰ The details of RTUK decisions are provided in the **Appendix**

KRT	TRY 76,920.00	-
Sputnik	TRY 11,493.00	3
Tele1	TRY 1,175,865.56	8

B. Interventions by the Press Ads Agency

Especially after the changes introduced in 2018 regarding the Government System, the penalties involving official announcements and advertisements were increased significantly, putting serious pressure on the press the editorial freedom of which was guaranteed. The sanctions imposed by the Press Ads Agency on these media outlets were, however, overturned by the Constitutional Court.

Individual applications were filed by Cumhuriyet, Evrensel, Sözcü and BirGün newspapers on the grounds that the penalties of withholding official advertisements and announcements violated their freedom of expression and press freedom. Reviewing the applications in combination through the pilot ruling procedure, the Constitutional Court ruled that Article 49 titled "Sanction" of the Law No. 195 on the Organization of the Press Ads Agency, which is the basis of the penalties for withholding advertisements, should be revised due to the determination that it constitutes a structural problem and that the review of the applications to be made after the ruling should be postponed for 1 year.³¹

However, despite this decision, Press Ads Agency's unlawful practices continued:

- With its decision dated August 22nd, 2022, Press Ads Agency completely canceled the advertisements and announcements to be published in Evrensel newspaper, on top of its practice to withhold them since 2019. The notification sent to Evrensel pointed out the allegations that readers bought more than one newspaper from dealers, institutional subscriptions, and the failure to keep regular registers as the basis of the decision to cancel ads. Evrensel newspaper then filed another appeal to Press Ads Agency. However, the Press Ads Agency rejected this objection, stating "Due to the lack of reasonable and acceptable justification for multiple sales". Upon this decision, Evrensel newspaper took the process to court in December 2022.³²
- On October 17th, 2022, Press Ads Agency officials called Evrensel newspaper and said that a solidarity advertisement planned to be published in the newspaper's city supplement over the weekend was "contrary to the Code of Press Ethics" and could not be published. The solidarity announcement by the TMMOB Chamber of Mapping and Cadastral Engineers was as follows "Evrensel, which is our voice in our struggle against the looting of our cities, coasts and forests with rent projects, cannot be silenced! Solidarity Keeps Us Alive!" Press Ads Agency claimed that the words 'rent' and 'looting' in the advertisement violated the Code of Press Ethics.³³
- With the decision announced on July 18th, 2022, Press Ads Agency decided to suspend birgun.net's additional indicator rights for seven days due to a complaint filed by Dokuz Eylül University regarding the news article titled 'Dokuz Eylül'de çöküş yaşanıyor' published in BirGün Ege on July 30th, 2021. This penalty was imposed based on decision no. 129 on the Code of Press Ethics.³⁴

31 For a review of the judgments, please see the section titled "Judgments" under the section "Constitutional Court - ECHR Judgments". On 10/3/2022, the General Assembly of the Constitutional Court ruled on the application by, Yeni Gün Haber Ajansı Basın ve Yayıncılık A.Ş. and others (B. No: 2016/5903), <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/5903>

32 <https://www.evrensel.net/haber/477084/basin-ilan-kurumu-itirazimizi-2-kez-reddetti-evrenselin-mahkeme-sureci-basliyor>

33 <https://www.evrensel.net/haber/472275/basin-ilan-kurumundan-basilmamis-ilana-sansur-rant-ve-yagma-demek-yasak>

34 <https://www.birgun.net/haber/basin-ilan-kurumu-ndan-birgun-net-e-7-gun-ek-gosterge-cezasi-395727>



May 1, 2021/ Photo by: Vedat Arık

XI. A GLANCE AT THE SECTOR

As we underline over and over, the fight for the freedom of the press rises on two pillars to provide some balance and to enable progress. The first is editorial independence, while the economic and labor union rights constitute the second. As shared above, the attacks and pressures on editorial independence continued between April 2022 and April 2023, as in previous years. On the other hand, journalists have maintained their tendency to organize, in other words to come together for their economic and union rights, for the last three years. Moreover, this success in terms of collective rights has been achieved despite the low wages and poor working conditions in the sector, as well as the current level of unemployment.

A. General Assessment of the Sector

Within the labor regulations in general, the sectoral regulation defines the legal field of activity for each trade union. For a union to have the license to bargain collectively, first of all its membership base should grow to at least one percent of the registered employees in the line of business in which it operates (the line of business threshold). A union that meets this requirement can legally start the collective bargaining process if it reaches a majority in the workplace where it is organizing.

Within the "Press, Broadcasting and Journalism" sector, in which the Journalists' Union of Turkey (TGS) operates, there are 14 categories, which are defined by regulation, and which refer to different sub-sectors. These categories include "Newspaper printing", "Other printing", "Book publishing", "Newspaper publishing", "Magazine and journal publishing", "Radio broadcasting", "Television programs and broadcasting operations", "News agency operations", "Bookbinding services", and "Coinage". In other words, the "Press, Broadcasting and Journalism" line of business, which defines the legal area of operations of TGS, refers to a wider framework than the rather limited scope of journalism as a profession.

In January and July of each year, the Ministry of Labor and Social Security publishes statistics on the number of registered workers in the country, the number of unionized workers and the unionization rate. According to the latest statistics released in January 2023, the total number

of registered employees in our industry is 99,384. In the previous period (July 2022), this number was 96,995. Although the comparison of the last two periods suggests an increase, a decline is noticeable when the long term is considered. For example, in January 2013 statistics, the number of registered workers in the sector was 104,141. In other words, from January 2013 to January 2023 the registered employment in the line of business has experienced a contraction of 4.56%³⁵

B. Number of Journalists Employed by Press Organizations

In addition to the data released by the Ministry in the relevant months, the monthly lists of workplaces, which are only accessible to union executives,³⁶ also provide important data on the number of registered journalists. According to the research we conducted based on these lists, the number of registered employees in journalism businesses and the change in the last four years are as follows.

Table 8: Number of registered employees in enterprises engaged in journalistic activities (2020-2023)

Category	Number of Employees			
	2020	2021	2022	2023
Newspaper publishing	9.748	10.105	10.148	11.934
Television programs and broadcasting operations	7.139	8.038	8.354	9.341
News agency operations	3.920	4.097	4.378	4.969
Radio broadcasting	945	1.184	1.027	997
Total	21.752	23.424	23.907	27.241

As can be seen in Table 8, the number of registered employees in journalism enterprises has been on an upward trend in the last three years.³⁷ The highest number of jobs is in the "newspaper publishing" category, while the lowest number of jobs is in the "radio broadcasting" category. Even though journalists constitute the vast majority of the overall figure, the administrative staff which fulfill supporting roles for journalism activities³⁸ are also included in the same number.

In sum, a careful analysis of the data for 2023 reveals that the rate of registered employees considered to engage in actual journalism in the "Press, Broadcasting and Journalism" line of business (27,241) over the overall employee count of the business (99,384) is 27.4%.³⁹ What does this number and ratio tell us? We have stated above that legally a union must pass a threshold (1%) to have the license to engage in collective bargaining. Even though in recent years TGS expanded the scope of its designs for the line of business, historically speaking, it is a union the organization practices and history of which is based on the core group engaged in journalism. However, since the number of registered workers in its line of business refers to a larger whole, the quantitative upward or downward movement of this larger number directly affects the TGS.

³⁵ For the statistics, visit

<https://www.csgeb.gov.tr/istatistikler/calisma-hayati-istatistikleri/sendikal-istatistikler/isci-sayilari-ve-sendikalarin-uye-sayilari-hakkinda-tebligler/>

³⁶ The data announced by the Ministry at the beginning of each month are accessible only to central management of individual unions. The figures are not made public. Here, the "List of Workplaces in This Line of Business" published by the Ministry as of April 2020, 2021, 2022, and 2023 is taken as the basis of analysis.

³⁷ In order to compare the available data with that of the Social Security Institution (SSI) and to present a clearer picture, on January 2023 the union made an information request to the relevant institution on the basis of occupational codes. However, since the numbers sent to us in 2021, which we included in the press freedom report, were not shared with TGS this year, as had been the case last year, we cannot include them heremade public. Here, the "List of Workplaces in This Line of Business" published by the Ministry as of April 2020, 2021, 2022, and 2023 is taken as the basis of analysis.

³⁸ The term administrative staff refers to other employees such as those employed in human resources, accounting, cleaning and transportation departments.

³⁹ It should be underlined that the figures announced by the Ministry and the assessments based on these figures should take registered employment into account. Non-registered employment (without social security, as freelancers etc.), a very common practice in the press sector, is not included in this analysis. Based on our observations and interviews in the field, we can say that the total number of unregistered journalists is approximately 40,000

C. Two Threats: Unemployment and Precarious Employment

Unemployment and precarious forms of employment continue to be among the top obstacles to press freedom.

According to data released by TurkStat on March 23rd, 2023:⁴⁰

1. In 2022, compared to the previous year, the number of unemployed persons aged 15 and over in Turkey decreased by 337 thousand people, falling to 3 million 582 thousand. Unemployment rate decreased by 1.6 points to 10.4%.
2. Again in 2022 compared to the previous year, the youth unemployment rate, which covers the 15-24 age group, decreased by 3.2 points, falling to 19.4%.
3. The unemployment rate among associate and bachelor's degree holders declined from 12.4% in 2021 to 11.3% in 2022.
4. The unemployment rate among journalism graduates, in turn, declined from 18.3% in 2021 to 15.7% in 2022.
5. In 2022, journalism graduates (15.7%) continued to have the third highest unemployment rate after social services (22.4%) and arts (16.2%) graduates.

These data show that the unemployment rate among journalism graduates is high compared to the general unemployment rate. On the other hand, TurkStat announced that in 2022 it had adopted a new procedure for calculations, in line with international standards.⁴¹ This change led to an overhaul of the figures. For instance, according to TurkStat data, among journalism graduates, the unemployment rate was 23.8% in 2018, 21.8% in 2019, and 28.2% in 2020. In 2021, when the new calculation procedure was applied for the first time, this rate decreased to 18.3%. Thanks to this new calculation method, the upward trend in the unemployment rate has been broken and the decline seems to continue in 2022. Regardless of the method of calculation, even if it is assumed that unemployment among journalism graduates has decreased, the fact that they continue to be the third group with the highest unemployment rate calls for reflection.

This level of unemployment pressure puts pressure on both entry and duration of stay in active employment. The pressure is turning into an on-the-ground threat to the job and income security and collective rights of working journalists. Our meetings and observations as a union led us to the conclusions that:

With exceptions, wage levels in local media are in most cases at the minimum wage level,

Before starting to work informally, journalists were forced to work in many media organizations (including online media), regardless of whether local or national, under the title of "royalty" or "intern", sometimes without pay, sometimes below the minimum wage and without insurance,

The gap between the salaries of senior journalists and new journalists in media organizations, whether local or national, has closed to a great extent,

many local media outlets have inflated the number of staff required to receive official advertisements from the Press Ads Agency (and that people who work as journalists in these institutions are forced to work without insurance and for low wages),

The job descriptions offered in recruitment processes are vague or the applicants are expected to perform more than one job (editor, reporter, photojournalist, editing operator, voice-over, etc.) for a low salary,

40 TurkStat "Labor Statistics, 2022", <https://data.tuik.gov.tr/Bulten/Index?p=Isgucu-Istatistikleri-2020-37484>

41 Sevinelim mi? TÜİK'e göre gazetecilik mezunlarında işsizlik bir yılda 10 puan azaldı", <https://journom.com.tr/gazetecilik-istihdam-verileri-egitim-tuik>

Especially in local media organizations, news monitoring through agencies is preferred instead of employing reporters,

In media organizations long working hours are imposed on journalists who lack union guarantees, and overtime work is not paid,

Journalists have almost no bargaining power over wages and working conditions in media organizations in the lack of union guarantees.

D. A Struggle for Dignity: Trade Union Activity

With its organizing campaigns TGS is working hard to dispel the pessimism caused by unemployment and precarious employment in the sector. The following table presents the development of the unionization rates in the line of business based on the most recent ministry data available,⁴² and TGS' contribution to the unionization rates in the line of business..

Table 9: Figures and Rates of Unionization in the Line of Business

Period	TGS	Medya-İş	Basın-İş (TÜRK-İŞ)	Basın İş (DİSK)	Lider Medya Sen
January 2023	1671 / %1,69	5565 / %5,6	3053 / %3,08	411 / %0,42	1 / %0,01

The table above presents information on the membership count / ratios of the five unions operating in the "Press, Broadcasting and Journalism" line of business. The data shows that only three unions are authorized to sign collective labor agreements (as they are above the 1% threshold). The institutions where TGS is authorized as of April 2023, along with their fields of activity and levels are as follows:⁴³

Table 10: Entities where TGS is authorized

No.	Name of Entity	Field of Activity	Activity Level	Initial Effective Date of CBA
1	Evrensel Newspaper	Newspaper	National	2014
2	Bianet	Website	National	2016
3	Dokuz Eylül Newspaper	Newspaper	Local	2017
4	Yön Radyo	Radio	National	2018
5	Reuters News Agency	News Agency	International	2019
6	Refinitiv Enformasyon	Information	International	2019
7	Gazete Duvar	Website	National	2019
8	İz Newspaper	Newspaper	Local	2021
9	AFP	News Agency	International	2021
10	BBC	Broadcasting organization	International	2021
11	AP	News Agency	International	2021

42 <https://www.csgeb.gov.tr/istatistikler/calisma-hayati-istatistikleri/sendikal-istatistikler/isci-sayilari-ve-sendikalarin-uye-sayilari-hakkinda-tebligler/>
43 All TGS agreements are available at this address: <https://tgs.org.tr/konu/toplu-is-sozlesmeleri/>

12	Cumhuriyet Newspaper	Newspaper	National	2022
13	Podfresh	Podcast	National	2022
14	Dokuz8 Haber	Website	National	2022
15	Medya AŞ	Press and public relations	Local	2022

In addition to the above-mentioned institutions where the TGS is already authorized for / has signed collective bargaining agreements, there are also media outlets where the TGS was authorized for the first time in January 2023 and onwards and is currently at the collective bargaining table. The table below shows these institutions, their areas of activity and their levels.

Table 11 : Entities where TGS is at the collective bargaining table

No	Name of Entity	Field of Activity	Activity Level
1	RAI	Broadcasting organization	International
2	Sputnik	Website and radio	International
3	EPA	Photo	International
4	Yenigün Gazetesi	Newspaper	Local

In addition to these two tables, there are also media outlets where the TGS won the majority, but the process was taken to court due to the employers' objection to the authorization. These entities can be seen in the table below.

Table 12: Entities objecting to TGS' authorization

No	Name of Entity	Field of Activity	Activity Level
1	Hürriyet Newspaper	Newspaper	National
2	Halk TV	Television	National

The TGS's authorization case regarding Hürriyet newspaper has been ongoing since November 2019, while the authorization case regarding Halk TV has been ongoing since June 2021.

A review of the last three tables in combination leads us to the following four elements:

1. Considering only the media sector, TGS is authorized in 13 out of 15 enterprises with collective bargaining agreements.⁴⁴
2. TGS is the authorized union in a total of 15 enterprises. If collective labor agreements are signed in four more enterprises, where negotiations are at various stages, this number will be 19.
3. Despite the employers' objections to authorization, protracted lawsuits for authorization and the threats of dismissal against the employees, TGS continues to grow.
4. TGS stands out as the only union among journalists with a history of and experience in organizing.⁴⁵

⁴⁴ The other two enterprises are AA and TRT.

⁴⁵ Here, Medya İş, organized at AA and TRT comes to mind. Medya İş may be operating in accordance with trade union regulations and being treated as a trade union. However, this entity is excluded because it lacks the basic characteristics of trade unions (democratic governance, free decision-making without political interference, transparency, etc.) and operates under the guidance of the political power.

XII. CONCLUSION

In this report, which focuses on the issue of impunity, we have analyzed examples of impunity of perpetrators as the main cause of attacks against journalists and tried to put forward solutions. Trials lasting for years, dragging the cases to the statute of limitations, decisions of non-prosecution in the investigations opened, trials of the perpetrators without arrest after show trials, reward-like sentences given with good behavior deductions pave the way for new attacks and encourage potential perpetrators. On the other hand, journalists go to prison one after another for thought crimes, and every day a new investigation comes knocking on their doors. This contradiction, which Mr. Kaboğlu has also identified, summarizes our situation: *"Those who exercise freedom of the press and freedom of expression are punished by inventing 'thought crimes!' Those who obstruct the exercise of freedom of the press and freedom of expression through criminal acts, on the other hand, are left without punishment."*

Undoubtedly, the problem of impunity is not only the problem of journalists, but also of all intellectuals, rights activists and, in fact, the whole society. However, journalists are open targets and subjected to more pressure because of the influence they have through their public reporting.

Impunity is essentially a problem of justice and we have been persistently seeking justice for many years. It is not possible to solve this justice problem by punishing a few perpetrators, because punishing only one pawn of a perspective that has permeated all the cells of the state apparatus will not be enough to solve the problem. On the other hand, we know that the removal of a brick will be enough to bring down that wall. Of course, for this to be possible, the independence of the judiciary and the separation of powers are necessary. We need a political power that is limited by the law, not one to which the law is a servant.

The number of journalists in prison, which had decreased in previous years due to the expiration of sentences for journalists arrested in 2016 and later, doubled last year due to arrests in Diyarbakır and Ankara. Consequently, there has been a significant increase in the number of detained journalists. Although an amendment to the Criminal Procedure Code halved detention periods, this year journalists were detained longer than the case in previous years. In fact, as of this writing, two weeks before the May 14th elections, ten journalists have been detained in a new wave of arrests in Diyarbakır and three have been arrested so far.

"In the report, we noted that attacks and mob attempts against the press in the earthquake zone infringe on the right to receive and share information by creating life safety concerns. It is also possible to determine how the 'disinformation crime', which entered into force last year, was utilized by the government during social crises such as the earthquake, and how justified the concerns about the criminal regulation are.

With the legislative amendments, the "Code of Press Ethics" was placed at the heart of the regulations that facilitated interventions against the press. This overall scene was reinforced further with the Censorship Law. We are worried that in the coming period, these regulations will be frequently used to issue fines against the press and to revoke press cards.

In addition to all these, the legal successes we achieved in press card cases and the lawsuits we filed against the regulations ensured that the press card issue was recognized as a press freedom issue. Furthermore, the Constitutional Court's pilot decision, issued after newspapers filed individual applications against the fines imposed by the Press Ads Agency,

stands as a significant victory against the Agency's interventions.

Upon evaluating this period concerning the economic and trade union rights of journalists, we observe a somewhat positive picture. The journalists managed to unite despite the low wages and poor working conditions in the media sector, as well as the current level of unemployment. On the other hand, gaps in labor and trade union legislation and regulations in favor of the employers continued to constitute obstacles to collective rights. Hundreds of journalists were unable to exercise their right to collective bargaining due to the ease with which employers objected to the authorization determination in workplaces where a majority was achieved, the lengthy judicial process and the dismissals or the threats of dismissals in workplaces during this process. Despite the abuse by employers and the judicial vacuum, TGS has once again managed to stand out as the only labor and professional organization among journalists with a history of and experience in organizing. In the first four months of 2023 alone, it started collective bargaining in four more enterprises, while in 2022 it had signed collective bargaining agreements again in four media outlets. At the time of writing, TGS was the authorized union in 15 enterprises in total, but this number will increase to 19 if it signs contracts in four more enterprises where it is engaged in negotiations at various stages. In summary, despite the existing challenges, the union continues to be a source of hope and morale for thousands of unorganized journalists, in terms of collective rights.

