



**Turkey:**

**Throttling the Media**

**in Crucial Election Year**

JOINT INTERNATIONAL PRESS FREEDOM  
MISSION TO TURKEY

(OCTOBER 12 – 14, 2022)

MISSION REPORT



## Turkey: Throttling the Media in Crucial Election Year

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This report has been prepared by the International Press Institute with contributions from partner organizations that participated in the mission to Turkey. Members of the mission include:

- » International Press Institute (IPI)
- » Amnesty International (AI) Turkey
- » ARTICLE 19
- » Committee to Protect Journalists (CPJ)
- » European Centre for Press and Media Freedom (ECPMF)
- » Osservatorio Balcani Caucaso Transeuropa (OBCT)
- » Reporters Without Borders (RSF)

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# Introduction

## The Mission

A coalition of seven international media freedom, journalism and human rights organizations participated in an international mission to Turkey from October 12 to 14, 2022, to investigate threats to independent journalism across the country.

The mission included meetings with editors, journalists, local civil society groups, Constitutional Court officials, the AKP chair of the Turkish Parliament's Human Rights Monitoring Commission and representatives of opposition political parties.

The mission also visited Diyarbakir in a demonstration of solidarity with Kurdish journalists, including the 16 Kurdish journalists and media workers arrested in June 2022 on terrorism-related charges<sup>1</sup>.

The mission requested meetings with the presidential spokesperson, the chair of broadcast regulator RTÜK, the chair of the Parliamentary Committee on Digital Platforms, the communications director of the presidential office and representatives of the governing political parties, the AKP and MHP, but these were not forthcoming.

Briefings were held with the European Union Delegation to Turkey and the Ankara diplomatic corps.

The mission concluded with two press conferences held in Istanbul and in Diyarbakir, respectively.

This was the fourth successive international press freedom mission led by the International Press Institute in Turkey, building on those organized in September 2019<sup>2</sup>, October 2020<sup>3</sup> and October 2021<sup>4</sup>.

.....  
<sup>1</sup> IPI statement, June 28, 2022: "IPI renews call for release of 15 Kurdish journalists in Turkey's southeast"  
<https://freeturkeyjournalists.ipi.media/ipi-renews-call-for-release-of-15-kurdish-journalists-in-turkeys-southeast>

<sup>2</sup> Press Freedom Mission 2019: Turkey's Journalists in the Dock  
<https://freeturkeyjournalists.ipi.media/ipi-launches-international-press-freedom-mission-report/>

<sup>3</sup> Press Freedom Mission 2020: Turkey's Journalists on the Ropes  
[https://freeturkeyjournalists.ipi.media/wp-content/uploads/2020/11/20201125\\_Turkey\\_PF\\_Mission\\_Report\\_ENG.pdf](https://freeturkeyjournalists.ipi.media/wp-content/uploads/2020/11/20201125_Turkey_PF_Mission_Report_ENG.pdf)

<sup>4</sup> Press Freedom Mission 2021: Turkey: Spectre of a Digital Lockdown  
[https://ipi.media/wp-content/uploads/2022/05/PFMissionReport\\_TURKEY\\_2021\\_22\\_FINAL.pdf](https://ipi.media/wp-content/uploads/2022/05/PFMissionReport_TURKEY_2021_22_FINAL.pdf)



## 2023: Journalism and the Election Year

As Turkey faces a critical election year, the country's journalists are facing a perfect storm of physical, judicial and regulatory threats designed to silence independent reporting and muzzle public debate.

The passing of the disinformation law in October 2022 is the latest effort to bring the digital space to heel and ensure the social media platforms either submit to a role as conduits for government censorship, or resist and risk enormous financial penalties and ultimately their closure. Media regulators continue to fine broadcasters for critical programming and the courts continue the prosecution of journalists.

Meanwhile a febrile atmosphere generated by political hostility to journalists, backed by a police force that beats up journalists with impunity, has created a tinderbox that could ignite into violence and further suppression at any moment.

With that in mind, it is a wonder that Turkey's independent journalism is as robust as it is. This can be attributed to some incredible and courageous individuals dedicated to their journalistic mission, backed by networks of journalists' organizations, nationally and internationally, ready to support their members and colleagues wherever possible. It is also a result of a public thirst for independent reliable news that cannot be quenched. Turkey's journalists still have a pivotal role to play in this election year and the building of a strong democratic society to come.

### Overview of Key Developments

The mission took place in the week that parliament passed the new **disinformation law** designed to strengthen government online censorship powers in the run-up to the national elections due in May 2023.

The mission also came shortly after news of the **BTK-Gate scandal** when it was revealed that the Information and Communications Technologies Authority (BTK) had been harvesting data of millions of internet users without a court order.<sup>5</sup>

In August, Fahrettin Altun, head of the Presidential Directorate of Communications, announced the establishment of a **"Centre for Combating Disinformation"** within the directorate to "counter the systematic disinformation campaigns directed against Turkey".<sup>6</sup>

<sup>5</sup> Medyascope report, July 22, 2022: "BTK-gate: Internet activity, identity, and personal data of all users in Turkey has been collected by BTK for the past year and a half"  
<https://medyascope.tv/2022/07/21/btk-gate-internet-activity-identity-and-personal-data-of-all-users-in-turkey-has-been-collected-by-btk-for-the-past-year-and-a-half/>

<sup>6</sup> IPI statement, August 17, 2022: " Turkey: IPI concerned over establishment of "Centre for Combating Disinformation"  
<https://freeturkeyjournalists.ipi.media/turkey-ipi-concerned-over-establishment-of-centre-for-combating-disinformation/>



On August 10, the Constitutional Court found in a pilot ruling that the arbitrary and consecutive bans on public advertising in several independent newspapers including Sözcü, Cumhuriyet, Evrensel and BirGün by the Press Advertising Agency (BIK) indicated a systematic discrimination that violated freedom of expression and press freedom. The court referred the BIK regulation to parliament for it to amend the legislation. Despite this ruling, BIK announced on August 22 that it had revoked the right of Evrensel to receive public ads.<sup>7</sup>

In May, the Turkish Radio and Television Supreme Council (RTÜK) imposed fines on four broadcasters – Tele1, Halk TV, KRT TV and Flash TV – for airing a speech by the leader of the Republican People’s Party (CHP), Kemal Kılıçdaroğlu, where he accused President Erdoğan of corruption and of making plans to flee the country should he lose the 2023 presidential elections. In December, RTÜK fined FOX TV for on-air criticisms of Erdoğan by Sera Kadıgil, a spokesperson and MP for Turkey’s Workers Party (TİP), on the morning news. It also fined FOX TV for “terrorist propaganda” on the basis of facial expressions by Medya Mahallesi’s program host.<sup>8</sup>

These are just selected recent examples of how **RTÜK has been weaponized** to punish independent broadcasters: The regulator issued 71 separate penalties in 2021 alone<sup>9</sup>. Between January and September 2022, RTÜK had issued 38 fines for a total of 11.5 million TL of which only three fines hit pro-government TV channels.

Meanwhile, **prosecutions of journalists continue** unabated with up to 42 journalists in jail at the time of the mission in October 2022 according to IPI monitoring. IPI trial monitoring<sup>10</sup> reports for 2021 recorded 241 journalists prosecuted across 135 separate trials. While most trials were adjourned to later hearings, 16 ended in convictions, with 28 journalists receiving a combined total of 83 years in prison sentences. Nine of the convictions were terrorism-related and two for insulting the president.<sup>11</sup>

<sup>7</sup> IPI statement, August 26, 2022: “Turkey: International groups call to restore Evrensel’s right to receive public ads”  
<https://freeturkeyjournalists.ipi.media/turkey-international-groups-call-to-restore-evrensels-right-to-receive-public-ads/>

<sup>8</sup> T24 Article, December 21, 2022: “RTÜK’ten “Medya Mahallesi” programı ile TELE 1 ve Fox TV’ye ceza!”  
<https://t24.com.tr/haber/rtuk-ten-medya-mahallesi-programi-ile-tele-1-ve-fox-tv-ye-ceza,1080377>

<sup>9</sup> IPI Statement, June 1, 2022: “Turkey: Broadcast regulator fines four critical TV stations”  
<https://freeturkeyjournalists.ipi.media/turkey-broadcast-regulator-fines-four-critical-tv-stations/>

<sup>10</sup> Note figures vary marginally for different organizations with TGS recording 44 jailed journalists.

<sup>11</sup> IPI Analysis, January 26, 2022: “IPI: At least 241 journalists faced trial in Turkey in 2021 – nearly half on terrorism charges”  
<https://freeturkeyjournalists.ipi.media/ipi-at-least-241-journalists-faced-trial-in-turkey-in-2021-nearly-half-on-terrorism-charges/>

**Violence against journalists** also remains high. According to the Journalists Union of Turkey (TGS), 57 journalists were assaulted between May 2021 and April 2022. The most disturbing assaults recorded include the killing of Gngr Arslan, managing editor of Ses Kocaeli local newspaper, by a 21-year-old gunman (February 2022); the attack on the home of columnist Memduh Bayraktarođlu after he tweeted a joke about the chairman of the Nationalist Movement Party; the assault of two freelance journalists, Vedat r and Elif Kurttař, by staff at an Adana recycling plant (July 2022); an armed attack on YouTube reporters Ebru Uzun Oru and Barıř Oru after street interviews on the Nationalist Movement Party; and the assault of several journalists and the arrest of at least one reporter by police during the Istanbul Pride march in June 2022.<sup>12</sup>

## Mission Participants

The mission was convened by the International Press Institute (IPI), and comprised representatives from the following organizations:

- » International Press Institute (IPI)
- » Amnesty International (AI) Turkey
- » ARTICLE 19
- » Committee to Protect Journalists (CPJ)
- » European Centre for Press and Media Freedom (ECPMF)
- » Osservatorio Balcani Caucaso Transeuropa (OBCT)
- » Reporters Without Borders (RSF)

The mission was also supported by PEN International and the South East Europe Media Organisation (SEEMO).



<sup>12</sup> IPI statement, June 29, 2022: "Turkey: Photojournalist detained, reporters assaulted while covering Istanbul Pride march"

<https://freeturkeyjournalists.ipi.media/turkey-photojournalist-detained-reporters-assaulted-while-covering-istanbul-pride-march/>

## Meetings

The mission held meetings with the following institutions and stakeholders:

- » European Platform of Regulatory Authorities (EPRA)
- » Global Network Initiative (GNI)
- » Parliamentary Investigation Committee on Human Rights, including the Committee chairperson (AKP)
- » Turkish Constitutional Court (TCC)
- » Delegation of the European Union to Turkey
- » Foreign diplomatic missions in Turkey
- » MPs and representatives of the following political parties (in abbreviation):
  - CHP, İYİP, HDP, SP, DP, Future Party, EMEP, TİP, TÖP
- » Roundtable of Turkish and Kurdish journalists, civil society, and journalism groups

Requests for meetings with the following institutions were declined or left unanswered:

- » Radio and Television High Council (RTÜK), Chair Ebubekir Şahin
- » Parliamentary Committee on Digital Platforms, Chair Hüseyin Yayman (AKP)
- » Presidential Spokesperson İbrahim Kalın
- » AKP Vice Chair Leyla Şahin Usta and MHP Vice Chair Yaşar Yıldırım
- » Fahrettin Altun, Communications Director of the Presidential Office

## Agenda

SEPTEMBER 27	OCTOBER 12	OCTOBER 13	OCTOBER 14	OCTOBER 25
Meeting with EPRA Executive Board Members (Online)	Meeting #1 with opposition political parties (CHP, İYİP, SP, DP, Future P.)	Delegation of the European Union to Turkey	Press Conference #1 in Istanbul	Meeting with GNI & Members (organized by ARTICLE 19) (Online)
	Meeting #2 with opposition political parties (HDP, TİP, EMEP, TÖP)	Meeting with MP Hakan Çavuşoğlu, (AKP Chair of Parliamentary Investigation Committee on Human Rights	Press Conference #2 in Diyarbakır hosted by Dicle Fırat Journalists Association (DFG)	
	Turkish Constitutional Court	Foreign diplomatic missions in Ankara	Roundtable of Turkish civil society and journalism groups  Meeting with Kurdish journalists, journalism groups	

## Key Issues

### Disinformation Law: A Tool for Censorship and Intimidation

On October 13, 2022, Turkey's Parliament passed the so-called "disinformation law", despite fierce criticism from across civil society and the journalistic community<sup>13</sup>. The Parliamentary Assembly of the Council of Europe had notably urged the Turkish authorities not to enact the legislation, stating it would "cause irreparable harm to the exercise of freedom of speech"<sup>14</sup>.

The new legislation consists of 40 articles amending several laws, including the Internet Law, the Press Law, and the Penal Code.<sup>15</sup> It provides a framework for extensive censorship of online information and the criminalisation of journalism, which will enable the government to further subdue and control public debate in the lead up to Turkey's general elections in 2023.

Under Article 29 of the law, which amends the Penal Code, anyone found guilty of deliberately publishing "disinformation and fake news" intended to instigate fear or panic, endanger the country's internal or external security, public order, and general health of Turkey's society will face between one and three years in prison. Any sentence will be increased by half where the information has been published from anonymous accounts, by someone concealing their identity, or as part of an organization's activities.

The Press Law is broadened to include online news sites, thus enabling the government to expand the role of the Press Advertising Agency (BİK) to include digital media. The fear is that, given BİK's record of discrimination against independent media, a similar approach will be extended to online media where it will also have the power to fund pro-government digital media.

Tech companies, under the new provisions, will also face severe sanctions for failure to comply with user data and content blocking and removal requests, which could force them to be complicit with government censorship.

<sup>13</sup> Joint statement, October 6, 2022: "International press freedom groups condemn Turkey disinformation bill placed before parliament"

<https://freeturkeyjournalists.ipi.media/international-press-freedom-groups-condemn-turkey-disinformation-bill-placed-before-parliament/>

<sup>14</sup> PACE statement, October 12, 2022: "PACE urges Türkiye to drop new law criminalizing 'false or misleading information'"

<https://pace.coe.int/en/news/8846/pace-urges-turkiye-to-drop-new-law-criminalising-false-or-misleading-information->

<sup>15</sup> Full text of the Law Nr. 7418, October 18, 2022: <https://www5.tbmm.gov.tr/kanunlar/k7418.html>

The new legislation's vague and problematic language and its future implementation by Turkey's politicized judicial system will put journalists as well as millions of internet users at risk of criminal sanctions and could lead to much greater censorship and self-censorship in the country's already compromised news landscape.

The 2022 Disinformation Law comes two years after the Turkish government's previous attempt to bring the social media platforms to heel. The 2020 Social Media Law set out to force social media companies to establish legal entities in Turkey or be faced with fines and the reduction of their bandwidth.<sup>16</sup> Following an initial period of resistance, all the major platforms eventually complied. Despite this apparent government victory, the summer of 2021 saw the government increase its rhetoric against the platforms for failing to adequately remove "disinformation" as the country faced a major financial crisis and horrendous forest fires leading to an explosion of criticism and dissent online.<sup>17</sup>

The 2022 law introduces an extraordinary and draconian expansion of the rules and penalties that can be applied.<sup>18</sup>

The platforms must now open local offices, with legal representatives based in Turkey, within six months and engage legal representatives based in the country thereby raising the possibility of employees being targeted in the event of a perceived failure of the platforms to follow government demands. Failure to do so can lead to a six-month advertising ban and up to 90% bandwidth reduction.

Refusal to comply with content blocking and removal requests can lead to six-month advertising bans and 50% bandwidth reduction to be increased to 90% reduction after 30 days for non-compliance.

Prosecutors can request user data on citizens investigated for disinformation or crimes against the state. If the user data is refused, prosecutors can ask a court to reduce bandwidth by up to 90%.

The law expands regulation to video and audio messaging services including WhatsApp, Signal and Telegram, who must now also set up companies in Turkey and provide information on numbers of active users, calls and messages. Noncompliance can lead to 30 million TL fines and 95% bandwidth reduction.

<sup>16</sup> HRW statement, July 18, 2019: "Turkey: Social Media Law Will Increase Censorship"  
<https://www.hrw.org/news/2020/07/27/turkey-social-media-law-will-increase-censorship>

<sup>17</sup> IPI statement, August 13, 2021: "Turkish broadcasters fined for reporting on wildfires"  
<https://freeturkeyjournalists.ipi.media/turkish-broadcasters-fined-for-reporting-on-wildfires/>

<sup>18</sup> ARTICLE 19 Statement, October 14, 2022: "Turkey: Dangerous, dystopian new legal amendments"  
<https://www.article19.org/resources/turkey-dangerous-dystopian-new-legal-amendments/>

The Information and Communications Technologies Authority (BTK), which oversees the implementation, can also request information on information systems, algorithms, data processing mechanisms and commercial strategies. BTK can impose administrative fines of up to 3% of global revenue without recourse to the courts, when companies fail to comply.

## Global Network Initiative (GNI)

At a meeting with social media platforms jointly hosted by ARTICLE 19 and the Global Network Initiative (GNI), the mission delegation expressed profound concern about the implications of these powers. The platforms have always insisted that up until now, decisions over content removal or blocking have only been based on their user terms and conditions and that where government requests do not meet their standards, the requests are refused.

**The new law will force platforms to make a choice between upholding universal human rights of their users and risking massive and sudden losses of revenue, or complying with the law and risk becoming agents of authoritarian oppression.**

While some of the platform representatives expressed the view that the political costs of penalizing the platforms would deter the government from applying the powers in full, all recognized the chilling effect of the law on the platforms and their users.

The companies were told by mission members that it is not possible to comply with the law without becoming complicit in human rights abuses. They were urged to prioritize long-term human rights values over short-term profits and they were warned that if they fail to push back in Turkey, there will be global implications as other countries seek to follow Turkey's lead.

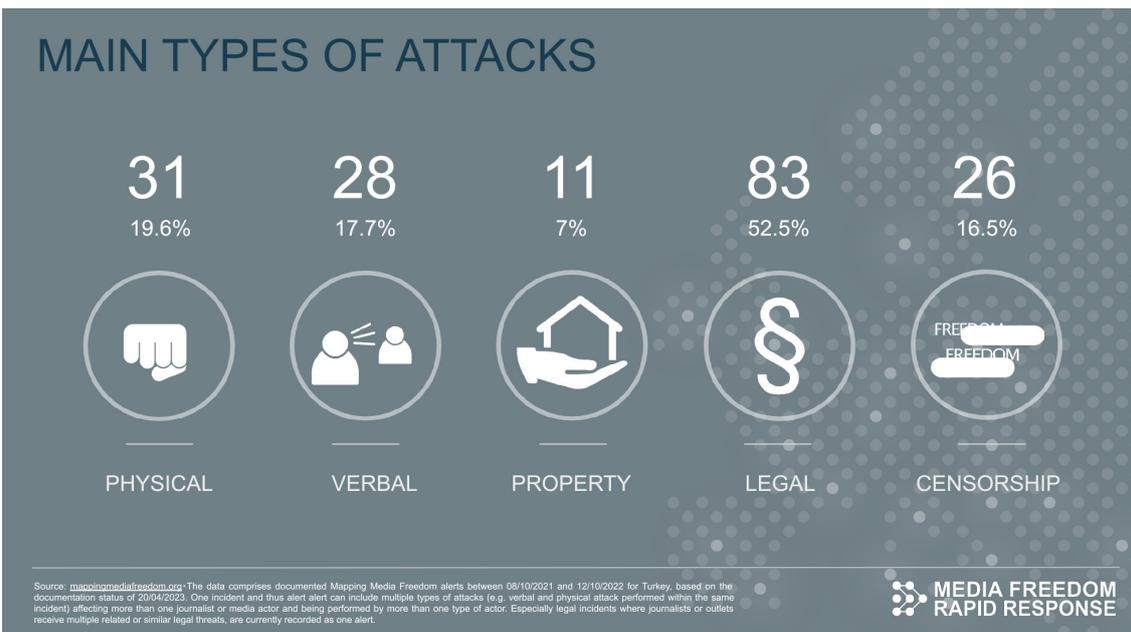
## A Culture of Violence and Impunity

Violence against journalists in Turkey has many forms and perpetrators but the one trait shared by nearly all of the cases is **the expectation of impunity**. Whether the attacker is a civilian or a security officer, the normal response by the authorities is either a superficial investigation that leads nowhere, or, on the rare occasion that the matter makes it to court, a judicial slap on the wrist for the perpetrators.

According to the Mapping Media Freedom database (MapMF),<sup>19</sup> there were 158 violations reported between the two missions, 8 October 2021 and 12 October 2022, impacting 361 journalists, media workers and outlets of which 56 involved a physical or verbal aggression.

<sup>19</sup> <https://www.mappingmediafreedom.org> based on the documentation status of 20/04/2022. While MapMF attempts to provide as comprehensive a record as possible it is not exhaustive and many more violations are likely to go unreported.





The most shocking incident during this period **was the murder of journalist Güngör Arslan**, the owner and managing editor of the local Ses Kocaeli newspaper, who was shot dead in an armed attack in his office on February 21, 2022.<sup>20</sup> In his last article, published the day before his killing, Arslan criticized the mayor of Kocaeli, alleging corruption in a public tender. According to his family, Arslan received frequent threats and had been detained several times over the years on false charges designed to intimidate him. Ses Kocaeli's office had also been previously attacked in 2020 by an unknown group in a possible attempt to frighten the staff.<sup>21</sup>

On January 9, 2023 two defendants were convicted of murder and sentenced to aggravated life sentences. Eight further defendants were sentenced to prison terms from two to 27 years and three were acquitted.<sup>22</sup> While the case may be seen as a rare example of swift and thorough prosecution compared to other journalist murder trials, the verdict has not convinced everyone of justice being served. The family believes that not all the responsible parties have been convicted.

<sup>20</sup> Bianet Article, February 21, 2022: "Journalist Güngör Arslan killed in an armed attack in Kocaeli province" <https://bianet.org/english/human-rights/258025-journalist-gungor-arслан-killed-in-an-armed-attack-in-kocaeli-province>

<sup>21</sup> Gazete Duvar Article, April 20, 2022: "Ses Kocaeli gazetesine silahlı saldırı" <https://www.gazeteduvar.com.tr/gundem/2020/04/20/ses-kocaeli-gazetesine-silahlı-saldırı>

<sup>22</sup> BirGün Article, January 9, 2023: "Gazeteci Güngör Arslan cinayeti davası: 2 kişiye ağırlaştırılmış müebbet" <https://www.birgun.net/haber/gazeteci-gungor-arслан-cinayeti-davasi-2-kisiye-agirlastirilmis-muebbet-416998>

The most common form of violence targeting the media comes from Turkey's police in the form of endless harassment of field reporters. Journalists are regularly insulted, threatened, manhandled, beaten, detained and tear-gassed by police officers. The **security forces** enjoy complete impunity to **systematically obstruct journalists** and, as a result, many reporters do not even bother to file complaints.

Criminal complaints against the police must be made to the prosecutor's office and only they have the power to open an investigation. Should they refuse, the only recourse for journalists is an appeal to the Constitutional Court but most are deterred by the practicality of filing complaint after complaint each time they are obstructed by the police, often several times a year.

Notable incidents last year included:

On June 2, 2022, Istanbul police detained at least six reporters by force while breaking up a demonstration commemorating the Gezi Park protests and attacked at least four other reporters with physical force and/or tear gas.<sup>23</sup>

Istanbul police also obstructed journalists from covering a health strike on June 7, 2022 and from reporting clashes between the security forces and the residents of the Tokatköy neighborhood who were being driven out of their homes due to urban renovation in late August.<sup>24</sup>

In the eastern city of Van, police officers beat reporter Mesut Bağcı on September 1, 2022 while he was covering a protest march. Police officers also threatened three other reporters on the same day.<sup>25</sup> The police officers involved had not been subject to any investigation by the end of the year.

Accountability for police officers abusing their power is rare. Reporter Gökhan Biçici, who was brutally assaulted by the police during the 2013 Gezi Park protests, was denied justice despite the assault being caught on camera and widely reported. When the Constitutional Court finally opened the case in June 2022, the prosecutor initially recommended rejecting it as a cold case given the nine years that had elapsed. Following protests, this recommendation was withdrawn in the second hearing.

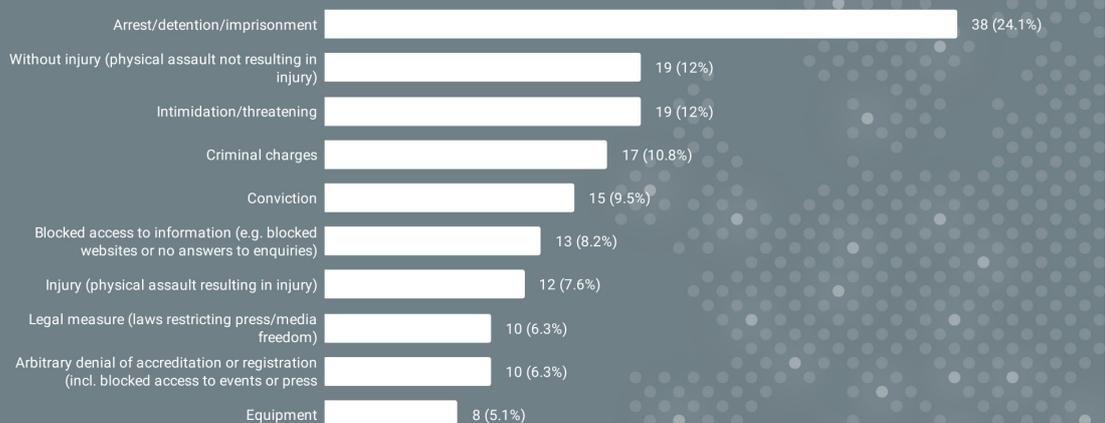
Civilians are responsible for about 25 percent of **physical attacks on journalists**. Assaulted journalists say either the authorities are unwilling to investigate attacks, or the perpetrators get away with minor punishments. Some victims reported that the prosecutors did not even interview them, and relied only on their original police testimonies.

<sup>23</sup> CPJ statement, June 2, 2022: "Istanbul police beat, tear gas, detain journalists while breaking up public protest"  
<https://cpj.org/2022/06/istanbul-police-beat-tear-gas-detain-journalists-while-breaking-up-public-protest/>

<sup>24</sup> Journalists Union of Turkey (TGS) Twitter post, August 22, 2022:  
[https://twitter.com/TGS\\_org\\_tr/status/1561637687832068096](https://twitter.com/TGS_org_tr/status/1561637687832068096)

<sup>25</sup> Mezopotamya News Agency (MA) Twitter post, September 1, 2022:  
<https://twitter.com/MAturkce/status/1565369666997993478>

## TOP 10 TYPES OF ATTACKS



Source: [mappingmediafreedom.org](https://mappingmediafreedom.org). The data comprises documented Mapping Media Freedom alerts between 08/10/2021 and 12/10/2022 for Turkey, based on the documentation status of 20/04/2023. One incident and thus alert can include multiple types of attacks (e.g. verbal and physical attacks performed within the same incident) affecting more than one journalist or media actor and being performed by more than one type of actor. Especially legal incidents where journalists or outlets receive multiple related or similar legal threats, are currently recorded as one alert.

**MEDIA FREEDOM  
RAPID RESPONSE**

On April 9, 2022 dozens of people raided the offices of the local broadcaster Deniz Postası in Kayseri and assaulted journalist Azim Deniz. On March 22, 2022, another investigative journalist Altan Sancar of Diken news site was threatened at gunpoint while driving in his car in Diyarbakır. As the assailant intercepted his car he said: “You have stretched your leg way too much; behave”. Sancar filed a criminal complaint on threat to life.<sup>26</sup>

## Media Capture

During the AKP’s 20-year rule, the party has maintained and consolidated power through a network of self-serving business and political interests involving conglomerates, media companies, and senior political figures. Bianet’s Media Ownership research showed that already by 2016 the ten largest media outlets were owned by companies with **close business ties to government officials**.<sup>27</sup> The high concentration of media in the hands of a small circle of business people benefiting from lucrative state contracts in other industries such as construction, gradually provided the government first influence and then control over the media. The dominance enjoyed by the government over the media was further exacerbated in 2018, when the Doğan Media Group was forced to sell Hürriyet newspaper and its other media assets to the staunchly pro-government Demirören Holding.<sup>28</sup>

<sup>26</sup> Bianet Article, March 22, 2022: “Journalist Altan Sancar threatened at gunpoint” <https://m.bianet.org/english/human-rights/259475-journalist-altan-sancar-threatened-at-gunpoint>

<sup>27</sup> Media Ownership Monitor Turkey (2016) database: <https://turkey.mom-gmr.org/en/owners/>

<sup>28</sup> Article by IPI contributor Reza Gabriel Hartmann, December 18, 2019: “‘The admiralship is sinking’: Mass layoffs next blow to Turkey’s mainstream media” <https://freeturkeyjournalists.ipi.media/the-admiralship-is-sinking-mass-layoffs-next-blow-to-turkeys-mainstream-media/>

The public service media, Turkish Radio and Television (TRT) and Anadolu Agency (AA), have long been **fully captured by government appointees**. In July 2021, TRT's entire executive board was replaced after passage of a presidential decree which resulted in the appointment of mostly members with close relations to the government.<sup>29</sup>

Efforts to capture the media are not limited to the private and public media companies, but have been reinforced by significant institutional changes designed to strengthen the government's regulatory powers over the media.

The **Presidential Communications Directorate** was established in July 2018 by a presidential decree.<sup>30</sup> In addition to coordinating the Presidential Office's domestic and international communications the Directorate was empowered to officially accredit and authorize national and foreign press activities as well as issue the official press cards for journalists.

In 2020, hundreds of reporters' **official press cards** were canceled, and many journalists' applications have been left stagnant for years.<sup>31</sup> Turkey's highest administrative court, the Council of State (Danıştay), studied the 2020 amendments to the Press Law and ruled that criteria used by the Directorate to cancel cards, such as "acting against the national security and public peace" were **in violation of press freedom**. Several amendments were subsequently suspended. Later in 2021, the Council of State also suspended the Directorate's power to grant press cards to staff members of municipalities' press departments, the Communications Directorate, the Radio and Television High Council.<sup>32</sup>

**The Press Advertising Agency (BİK)**, the body responsible for the fair distribution of public ads to print newspapers based on their circulation, was placed under the authority of the Communications Directorate with the 2018 presidential decree. Since then, independent, critical newspapers have been increasingly punished with arbitrary public advertising bans.

<sup>29</sup> IPI Statement: "Turkish public broadcaster TRT moves farther from objective coverage with new appointees" <https://freeturkeyjournalists.ipi.media/turkish-public-broadcaster-trt-moves-farther-from-objective-coverage-with-new-appointees/>

<sup>30</sup> Presidential Decree Nr. 30488, July 24, 2018 <https://www.mevzuat.gov.tr/mevzuatmetin/19.5.14.pdf>

<sup>31</sup> Euronews report "Türkiye'de yüzlerce gazetecinin basın kartı iptal edildi", January 24, 2020: <https://tr.euronews.com/2020/01/24/turkiye-de-yuzlerce-gazetecinin-basin-karti-iptal-edildi>

<sup>32</sup> Cumhuriyet report, "Danıştay'dan basın kartı kararı: 'İletişim Başkanı yetkili olamaz'", November 15, 2022 <https://www.cumhuriyet.com.tr/turkiye/danistay-basin-karti-yonetmeliginin-yurutmesini-durdurdu-2003097>

According to local reports, BİK issued 324 days of advertising bans in 2019, 808 days in 2020 and 636 days in 2021, cutting crucial public advertising revenue for newspapers.<sup>33</sup> Of the top 10 newspapers that received the largest public advertising in 2020, nine belonged to pro-government companies. The only independent newspaper on the list was Sözcü which had the third highest circulation in 2020 but ranked only sixth in the list of public ad revenue.<sup>34</sup>

In August 2022, the **Turkish Constitutional Court (TCC)**, in an assessment of the applications of Evrensel, BirGün, Cumhuriyet, and Sözcü newspapers, ruled that BİK's arbitrary bans indicated a systematic discrimination that violated freedom of expression and press freedom. The court referred the BİK regulation to parliament for amendment.<sup>35</sup>

BİK had particularly targeted Evrensel newspaper whose rights to receive public advertising was first suspended in September 2019.<sup>36</sup> Despite the TCC ruling, Evrensel's right to receive public ads was permanently abolished on August 22, 2022.<sup>37</sup>

The **broadcast regulator RTÜK** has also been weaponized to punish independent broadcasters for critical reporting. In 2022, RTÜK issued 54 penalties to five independent broadcasters totalling 17.335.000 Turkish Lira (approximately 823.000 Euros) of fines.<sup>38</sup> These fines were mainly in response to political criticism such as airing the speech of the CHP leader who accused Erdoğan of corruption.<sup>39</sup> By contrast, pro-government channels received a total of four penalties totalling 1.674.000 TL (approximately 80.000 Euros). In 2021, RTÜK issued 71 separate penalties.

<sup>33</sup> 2021 Media Monitoring Report, Media4Democracy:  
[https://media4democracy.org/public/uploads/reports\\_5835411.pdf](https://media4democracy.org/public/uploads/reports_5835411.pdf)

<sup>34</sup> Doğruluk Payı Bulletin on August 11, 2022:  
<https://www.dogrulukpayi.com/bulten/2021-de-gazetelere-639-gun-ilan-kesme-cezasi>

<sup>35</sup> Bianet report, "AYM'den pilot karar: BİK'in ilan kesme cezalarında sistematik sorun var", August 10, 2022:  
<https://m.bianet.org/bianet/medya/265687-aym-den-pilot-karar-bik-in-ilan-kesme-cezalarinda-sistematik-sorun-var>

<sup>36</sup> Global call to lift public ad ban on Evrensel, March 16, 2020:  
<https://freeturkeyjournalists.ipi.media/turkey-global-call-to-lift-public-ad-ban-on-independent-newspaper-evrensel/>

<sup>37</sup> Global call to lift public ad ban on Evrensel, March 16, 2020:  
<https://freeturkeyjournalists.ipi.media/turkey-global-call-to-lift-public-ad-ban-on-independent-newspaper-evrensel/>

<sup>38</sup> Evrensel campaign on public ad abolishment, August 2022:  
<https://www.evrensel.net/haber/468770/bikin-hukuksuz-ilan-iptali-kararina-karsi-okurlarimizdan-dayanisma-mesajlari-geldi>

<sup>39</sup> <https://www.cumhuriyet.com.tr/siyaset/rtuk-uyesi-chpli-ilhan-tasci-kurulun-2022-karnesini-cikartti-elestirene-ceza-yagdirildilar-2017534>

The **Center for Combating Disinformation** was established in the summer of 2022 by the Presidential Communications Directorate while the parliament was in recess.<sup>40</sup> The directorate started a weekly “disinformation bulletin”, which is in practice used to dismiss critical news about the president and government policies.<sup>41</sup>

## Endless Injustice: Persecution of Kurdish Journalists

In southeastern Turkey, the situation of journalists keeps deteriorating. In support of Kurdish journalists, mission representatives from IPI, RSF and OBCT traveled to Diyarbakır where they held a press conference at Dicle Fırat Journalists Association (DFG) to discuss the threats to independent journalism in the region.

This visit took place four months after **a wave of arrests that affected several Kurdish media** in Diyarbakır. On June 8, a total of 22 people, 20 of whom were journalists, were detained in Diyarbakır while their homes and offices were raided. After having their detention periods twice extended, they were finally brought before a court eight days later. Sixteen of the journalists were jailed on charges of “membership of a terrorist organization”. The prosecution interrogated the journalists about the programs they made, the news they presented, and their conversations with news sources. Computers, cameras, sound and light systems, hard disks in montage-editing computers, books, newspaper archives, and magazines published in Turkey were presented as evidence of criminal activity.<sup>42</sup>

Two weeks after the mission press conference, nine more Kurdish journalists were arrested and jailed on October 29 on the same charges. In just half a year, 30 journalists working in the pro-Kurdish media were detained, with 25 of them jailed.<sup>43</sup>

### Challenges and concerns raised by the journalists

The mission met with various Kurdish media outlets, including Xwebûn, Mezopotamya Ajansı, and JinNews; members of the Dicle Fırat Journalists Association; and freelance reporters and photographers.

<sup>40</sup> <https://freeturkeyjournalists.ipi.media/turkey-broadcast-regulator-fines-four-critical-tv-stations/>

<sup>41</sup> Presidential Communications Director Fahrettin Altun's social media post (August 5, 2022) <https://twitter.com/fahrettinaltun/status/1555471191044915201?s=20&t=OramhAqimwuPfk4eZSs6Q>

<sup>42</sup> Euronews article, December 20, 2022: “Diyarbakır’da tutuklanan 16 gazetecinin iddianamesi 6 aydır hazırlanmadı” <https://tr.euronews.com/2022/12/20/diyarbakirda-tutuklanan-16-gazetecinin-iddianamesi-6-aydir-hazirlanmadi>

<sup>43</sup> RSF statement, December 16, 2022: “Turkey: 25 journalists imprisoned in half a year” <https://rsf.org/en/turkey-25-journalists-imprisoned-half-year>



The local journalists are isolated and **suffer from a lack of access** to networks of support, experts, NGOs, and contact with the international community as demonstrated by the lack of broad international attention to the waves of arrests in June 2022.

Kurdish journalists fear being forgotten by the international community, leaving the Turkish government free to act with impunity. Journalists pointed out that, while the disinformation law is alarming, de facto censorship has been applied in southeastern Turkey for decades albeit with a significant increase since 2016.

**Kurdish-language newspapers** are regularly confiscated by law enforcement agencies or banned, accused of breaching Article 26 of Turkey's constitution which guarantees freedom of expression and dissemination of thought. Journalists report that publications are often banned without prosecutors requesting translations or reviewing the content. Publishing in Kurdish is enough to justify censorship.

There is a great deal of **mistrust of the country's judicial institutions**, which are seen as highly politicized resulting in the misuse of the anti-terrorism legislation against media professionals and arbitrary administrative decisions.<sup>44</sup>

Dozens of journalists from southeastern Turkey are the subject of **abusive legal proceedings** under the anti-terror law, and at least 25 are currently held in pre-trial detention<sup>45</sup>, for their coverage of cases linked to Kurdish issues in both Turkey and across the border in northern Iraq, Syria or Iran.

Journalists further complained of their equipment being regularly confiscated and of their phones being put under police surveillance. They said that those who have reported on protests in the Diyarbakir district of Sur have been particularly targeted with investigations into their reporting.

"Of course, our colleagues elsewhere in Turkey have a hard time. But here, it is much worse", one journalist said.

Members of the mission pledged to work together for better collaboration and attention to the situation of Kurdish journalists in Turkey.

Following the closed meeting and the press conference, the delegation showed solidarity with all 16 Kurdish journalists and media workers in prison since June, holding signs calling to #FreeTurkeyJournalists.

It should also be noted that during the visit to Diyarbakır, members of the mission were subject to constant police surveillance. While the activities were not interrupted nor obstructed, every meeting and participant was monitored by the police.

<sup>44</sup> <https://mezopotamyaaajansi35.com/GUNCEL/content/view/182848>

<sup>45</sup> <https://rsf.org/en/barometer>

## Official Meetings

### Parliamentary Investigation Committee on Human Rights

The mission delegation met with MP Hakan Çavuşoğlu, the AKP chair of the Turkish Parliament's Investigative Commission on Human Rights, which is empowered to investigate allegations of human rights abuses. In 2021, Çavuşoğlu did not respond to our meeting requests and so the mission met only with opposition MPs on the commission. We therefore welcomed the opportunity in 2022 to address the chair directly.

The meeting's main focus was the disinformation law which Çavuşoğlu justified by presenting a number of posters with photos and social media posts showing "disinformation" allegedly spread by demonstrators during the 2013 Gezi Park protests.

Mission members acknowledged the global need for targeted digital regulation to address the spread of online disinformation but emphasized that this must be done with strong democratic safeguards. Mission members underlined that the political control over Turkey's judiciary and subsequent lack of rule of law failed to provide adequate protection to journalists and internet users and that, without these basic democratic checks and balances, the new disinformation law will become a very dangerous tool of political oppression.

The mission raised many other concerns related to media freedom and journalists' rights violations including **increasing physical attacks on independent journalists and impunity**. Çavuşoğlu said that there were not many applications to the commission to investigate attacks on journalists and, when pressed, was unwilling to give further details.



Last year, the mission delegation was told that the parliamentary commission chair had the absolute power to determine the commission agenda. As a result, opposition members of the parliament said they were left with no possibility to bring an important issue for discussion by the commission if it is outside the ruling party's political agenda.<sup>46</sup>

The mission also asked if the commission had investigated extensive police violence against journalists particularly during public demonstrations, but Çavuşoğlu avoided answering.

## The Constitutional Court: Non-implementation of Higher Court Rulings and Legal Restrictions on Freedom of Expression<sup>47</sup>

In the context of an increasingly closed space for the media and freedom of expression more broadly, the continued existence of the Constitutional Court, where individuals and media organizations can claim rights' violations and laws can be challenged, is important. However, the delegation has been deeply concerned about appointments to the Court which give the appearance of political bias in favor of the ruling party, indicating a risk of undue influence of the executive over the Court. In this context, when meeting with the Court, the delegation reiterated its support for the role of the Constitutional Court and welcomed efforts to issue pilot judgments, such as the judgment issued in January 2022 regarding blocking decisions.<sup>48</sup>

Discussions with Court representatives focused on the problems with pilot judgments in relation to non-implementation by lower courts, as well as the Parliament's disregard towards Constitutional Court orders to amend legislation. The delegation also drew attention to legal challenges submitted to the Court regarding the new "disinformation law" and the importance of expediting a judgment on this case, given the huge potential impact this would have.<sup>49</sup>

The delegation also raised concerns about the length of the processes and the failure to prioritize urgent cases including those sentenced for "insulting the President" (Article 299 of Turkish Penal Code).

Finally, the delegation expressed concerns about the rule of law and non-implementation of European Court of Human Rights (ECtHR) judgments. Most worryingly, representatives of the Court indicated that they do not believe they must always adhere to ECtHR jurisprudence, as in the Strasbourg cases ordering the release of Osman Kavala and Selahattin Demirtaş, in contradiction with Turkey's commitments under international law, and the Turkish Constitution.

<sup>46</sup> 2021 Press Freedom Mission Report: "Turkey: Spectre of a Digital Lockdown"  
[https://ipi.media/wp-content/uploads/2022/05/PFMissionReport\\_TURKEY\\_2021\\_22\\_FINAL.pdf](https://ipi.media/wp-content/uploads/2022/05/PFMissionReport_TURKEY_2021_22_FINAL.pdf)

<sup>47</sup> Chapter drafted by ARTICLE 19.

<sup>48</sup> Keskin Kalem Yayıncılık and Others (B. No. 2018/14884): Pilot judgment on blocking decisions, 27 Oct 2021;  
<https://kararlarbilgibankasi.anayasa.gov.tr/BB/2018/14884>

<sup>49</sup> As of March 2023, the case is pending before the Constitutional Court.



## Non-implementation of important pilot judgments protecting freedom of expression

The delegation started by raising the issue of pilot judgments; particularly those recommending legal amendments and therefore could, if implemented, have a broad positive impact on freedom of expression in Turkey. While the judgments themselves were welcome, serious concerns were raised over their effectiveness, and over the suspension of the examination of similar cases. The delegation also urged the Court to issue a pilot judgment on Article 8/A of the Law No. 5651 on the Regulation of Publications on the Internet and Combating Crimes Committed by Such Publication, (the “Internet Law”), concerning the blocking of online content, given the hundreds of cases pending at the Court in relation to this article.

The delegation then brought up the pilot judgment on blocking decisions in the “Keskin Kalem Yayıncılık and Others” case.<sup>50</sup> Published in the Official Gazette in January 2022, this pilot judgment merged nine applications regarding the blocking of 129 URLs, into a single case. In all nine cases, orders had been issued by judges to block online news articles after complaints were submitted by individuals (all politicians, public figures or public servants) arguing that their reputations had been harmed.<sup>51</sup> Unanimously, the Court ruled that blocking decisions made by Criminal Judgeships of Peace violated the right to freedom of expression, in addition to the right to an effective remedy. The judgment stated that Article 9 of the Internet Law relating to the protection of personal rights did not contain sufficient safeguards, and therefore must be amended by the Parliament. The Court stated that they would not review any further applications with similar facts for the following 12 months (until January 2023).<sup>52</sup>

While the delegation welcomed the judgment, the Court’s decision to suspend reviewing similar cases was found to be questionable. Pointing out that even if the legal amendments were introduced, they would not be applied retroactively; the delegation asked what the Court intended to do with the hundreds of similar cases pending before it. Furthermore, the judgment seems to have had no impact on reducing the numbers of new cases, as noted by Professor Yaman Akdeniz, co-founder of Freedom of Expression Association (İFÖD).<sup>53</sup>

<sup>50</sup> Keskin Kalem Yayıncılık and Others (B. No. 2018/14884)

<sup>51</sup> Library of Congress article “Turkey: Constitutional Court Issues New Pilot Judgment on Online News Blocking”: <https://www.loc.gov/item/global-legal-monitor/2022-01-25/turkey-constitutional-court-issues-new-pilot-judgment-on-online-news-blocking/>

<sup>52</sup> Keskin Kalem Yayıncılık and Others (B. No. 2018/14884) ; Expression Interrupted article, “Top court issues pilot judgment on access blocking decisions” January 8, 2022: <https://www.expressioninterrupted.com/top-court-issues-pilot-judgment-on-access-blocking-decisions/>

<sup>53</sup> Expression Interrupted Online Panel, May 19, 2022: <https://www.expressioninterrupted.com/online-panel-content-removals-put-fate-of-news-archives-on-the-line/>

The delegation also expressed concern that Parliament may simply ignore the Court's request to amend the law.<sup>54</sup> Meanwhile, the law remains in force, new investigations and prosecutions are initiated under this provision and the pending applications at the Constitutional Court are suspended.

Not only does Parliament fail to amend laws in accordance with Constitutional Court rulings, it also ignores pilot judgments when submitting new laws. Within the new legal amendments to the Internet Law passed in October 2022 was an amendment to the Press Law that permits the cancellation of press cards when journalists breach "journalism ethics" as defined in Article 49 of the Law on the Organisation of the Press Advertisement Institution (BİK). Article 49 fails to define "journalism ethics" however, and leaves it to BİK to define in practice despite a 2016 Constitutional Court ruling<sup>55</sup> that it must be defined in law and cannot be left to a public institution to define. While the Parliament continues to fail to amend this law, new laws are being passed referring to these problematic provisions, further codifying them into legislation.

The Court acknowledged the risk of Parliament failing to act on their instructions and stated that they have started merging similar cases to rule on all at once to help expedite the backlog. Otherwise, the Court admitted it has yet to decide how it would respond should the Parliament continue to ignore the Court's instructions for legislative amendments.

Finally, the delegation raised concerns regarding a practice called "Virtual Patrol" in which police trawl through an individual's social media history searching for content on which to charge them. Despite the Court ruling it a constitutional violation in February 2020<sup>56</sup>, the practice remains rampant. A recent example is the case of Baransel Ağca, a journalist who was investigated on the basis of Tweets about corruption, and then indicted for a Tweet which investigators claimed insulted religion. His trial is ongoing, when it should have been immediately dismissed on the basis of the Constitutional Court judgment.<sup>57</sup>

<sup>54</sup> This concern is well-founded, given the experience with the Court's pilot judgment in August 2021 recommending amendment of the provision regarding 'committing crimes on behalf of a terrorist organization, without being a member' (Hamit Yakut (2014/6548)). In this case, the recommendation for legal amendments has so far been ignored by the Parliament.

<sup>55</sup> Yeni Gün Haber Ajansı (2016/5903) <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/5903>

<sup>56</sup> Constitutional Court Decision (E. 2018/91, K. 19/2/2020 ) <https://normkararlarbilgibankasi.anayasa.gov.tr/Dosyalar/Kararlar/KararPDF/2020-10-nrm.pdf>

<sup>57</sup> MLSA Statement, September 20, 2022: "Gazeteci Baransel Ağca'nın savunması için Almanya'ya istinabe yazılacak" <https://www.mlsaturkey.com/tr/gazeteci-baransel-agcanin-savunmasi-icin-almanyaya-istinabe-yazilacak/>

In 2021, the Court told the delegation that the rate of implementation of its verdicts by lower courts was improving, claiming that out of 8,000 decisions only 33 had not been implemented or were initially resisted by lower courts. Furthermore, the Court had established a directorate to monitor and help expedite the implementation of its decisions by lower courts.<sup>58</sup>

Given the examples raised above regarding non-implementation of important pilot judgments, the delegation expressed considerable concern at the apparent ineffectiveness of these decisions.

The delegation highlighted that further tools may be made use of, in order to encourage judges to implement Constitutional Court judgments. Circulars, for instance, could be issued by the Ministry of Justice to criminal courts, reminding judges to implement said judgments.

### **Dangerous legal amendments affecting freedom of expression online**

The delegation expressed its alarm at the legal amendments to the Press Law, Internet Law and the Penal Code passed in October 2022 as well as those that had passed in October 2020. Given the already huge number of violations of the right to freedom of expression and information in relation to blocking decisions and the failure of the lower courts to apply the standards set by Constitutional Court judgments such as the Ali Kidik judgment<sup>59</sup>; the strengthening of powers to remove or block content is likely to unleash a wave of new rights violations and a surge in applications to the Constitutional Court.<sup>60</sup>

A challenge to the 2020 amendments was submitted to the Court by the main opposition, the Republican People's Party (CHP), which has now submitted another application regarding the 2022 amendments. The delegation drew attention to the importance of this case, with its broad impact on access to information and freedom of expression. The delegation urged the Court to issue a decision with as broad an impact as possible, with a view to protecting the right to freedom of expression online in the run up to the 2023 elections.

The Court has stated in exchange that they were not able to comment on the issue, as the case was ongoing.

<sup>58</sup> 2021 IPI Mission Report:

[https://ipi.media/wp-content/uploads/2022/05/PFMissionReport\\_TURKEY\\_2021\\_22\\_FINAL.pdf](https://ipi.media/wp-content/uploads/2022/05/PFMissionReport_TURKEY_2021_22_FINAL.pdf)

<sup>59</sup> In the Ali Kidik decision, the TCC developed a “prima facie violation” test for the criminal judgeships of peace to apply in order to block access to Internet content. In this context, access-blocking orders under article 9 of Law No. 5651 may only be issued where violations of personal rights can be recognized at first sight without the need for further investigation. This judgment is binding on all lower courts. Criminal judgeships of peace must therefore make a prima facie violation assessment when evaluating the requests made under Article 9 of the Law No. 5651 and prior to issuing access blocking related decisions.

<sup>60</sup> Article19 Blog by Prof. Yaman Akdeniz, May 19, 2022: “Blog: Regulating disinformation and social media platforms ‘alla Turca’”

<https://www.article19.org/resources/regulation-of-social-media-platforms-in-turkey-internet-law/>

## Rule of law and non-implementation of the European Court of Human Rights judgments

While not directly media-related, two important freedom of expression cases are indicative of the rule of law crisis in Turkey: the case of civil society leader and philanthropist Osman Kavala and the case of opposition politician Selahattin Demirtaş. The outcomes of these cases will have a broad impact on the rule of law and freedom of expression, including freedom of the press; it is therefore impossible to avoid discussion of them even for a delegation focused on press freedom. The implementation of the ECtHR judgments in these cases is currently being examined by the Committee of Ministers of the Council of Europe; however, the ball is in the court of the Turkish authorities to ensure the implementation of the ECtHR judgments by releasing Kavala and Demirtaş.

After the lower courts' refusal to implement the binding ECtHR judgment in Kavala's case, Kavala's legal team has submitted an application before the Constitutional Court. The delegation asked the Court when it would be likely to deliver a decision on this application still pending before it, reminding that Kavala has been unjustly detained since October 2017, therefore his case should be of highest priority. The delegation also asked when the Court would issue a decision on Demirtaş' second detention application. No date was given on either case.

With regard to cases relating to "insulting the president", the delegation welcomed the fact that the Court had issued three violation decisions, but questioned why the Court does not apply the jurisprudence developed in the ECtHR's Sorli judgment.<sup>61</sup> The Sorli judgment called for Article 299 to be amended in line with Article 10 of the European Convention on Human Rights ("ECHR") since affording special protection from insult for heads of state is not in compliance with the Convention. If implemented, this judgment would have implications for thousands of cases in Turkey.

While the representatives of the Court stated that they could not comment on ongoing cases, their most concerning response was their opinion that the Constitutional Court was under no obligation to follow judgments from the ECtHR.

The meeting highlighted severe systemic deficiencies which must be urgently remedied in order to protect the right to freedom of expression in Turkey. Urgent measures need to be taken to ensure that pilot judgments are implemented by the lower courts and that legal amendments are made by the Parliament. The delegation also recalls that Turkey ratified the ECHR in 1953 and agreed to abide by the final judgment of the ECtHR in any case of which it is a party under Article 46(1) of the Convention. Article 90 of the Turkish Constitution also states that "International agreements duly put into effect carry the force of law and that when there is conflict between national laws and international agreements concerning fundamental rights, the provisions of international agreements shall prevail".<sup>62</sup>

<sup>61</sup> Vedat Sorli v. Turkey ( ECtHR No. 42048/19)

<sup>62</sup> Constitution of the Republic of Turkey (English) <https://www.refworld.org/docid/3ae6b5be0.html>



## Summary and Priorities for Action

Turkey's presidential and parliamentary elections are due to take place in May 2023. The free flow of independent news and information is an essential condition to any democratic election.

Combined, the weaponization of courts and regulatory bodies to punish independent journalists; the capture of mainstream media by pro-government oligarchs; increasing online censorship including through the recent 'disinformation' law; and the hostile climate both online and offline toward critical journalists seriously impede the press's ability to freely cover the pivotal May elections. Given the importance of independent media reporting for democracy, this situation casts serious doubt on the fairness of the vote.

The mission called on politicians across the political spectrum to pledge to end the crisis facing journalism and commit to extensive reforms in their manifestos guaranteeing media freedoms after many years of deteriorating conditions.

At the same time, stakeholders met by the mission expressed grave concern over the possibility of a greater crackdown on journalists and a heightened threat of physical violence ahead of the vote. We call on the government to guarantee that journalists are able to do their work free of intimidation and harassment in particular during the election period.

### Priorities for action

Following its meetings, the international delegation has identified the following priorities for action:

**Disinformation law and digital censorship:** The government must repeal the disinformation law and put an end to the framework of digital censorship that has been built by the administration. In particular, the new penal code article criminalizing disinformation offers the authorities yet another tool after years of abusing Turkey's anti-terror law to target critical journalism.

Stakeholders met by the mission also raised fears that the **Center for Combating Disinformation**, established in the summer by the Directorate of Communications, will add another layer to the system of digital repression by increasing monitoring and harassment of journalists online.



Sustainable improvement for press freedom in Turkey cannot happen without ensuring the **impartiality and independence of the judiciary**. Turkey's captured prosecution services and courts, combined with poorly drafted laws that are not in compliance with international standards, have led to the prosecution, conviction, and jailing of hundreds of journalists over the past decade for their journalism. Despite the reduced number of journalists in jail, the Judicial Reform Package<sup>63</sup>, a 2019 initiative presented by the government as an effort to safeguard rights, has not succeeded in stopping the prosecution and legal harassment of journalists.

While the **Turkish Constitutional Court (TCC)** has issued some important pilot rulings pointing to structural problems with laws impacting free expression, there are still major challenges around implementation of the TCC's rulings by both lower courts – a problem the TCC says it is working to address – and by lawmakers. Important freedom of expression related cases have faced years-long delays awaiting decisions from the TCC, underscoring serious concerns that justice delayed is tantamount to justice denied.

At the same time, meeting partners in Turkey have highlighted the problem that most TCC judges are nominated directly or indirectly by the president. Recent appointments to the court have given rise to serious concerns regarding political influence and underscore the need to free the nominations process from such influence.

Turkey's **media regulatory bodies** must be depoliticised and reformed. They have all abused their powers to target and penalize independent media:

- » The Press Advertising Agency (BİK) has consistently imposed arbitrary penalties on independent newspapers by withdrawing state advertising, thereby denying them an important source of revenue. This August, the Constitutional Court ruled that BİK's arbitrary sanctions constitute a rights violation stemming from a structural problem. Despite the ruling, BİK subsequently permanently revoked the right of one of these newspapers, Evrensel, to receive public ads.
- » The Television and Radio High Council (RTÜK), Turkey's broadcast regulator, has regularly targeted independent media. RTÜK issued 42 fines in the first nine months of 2022, according to reports by MP Utku Çakırözer. These have almost exclusively been leveled against independent broadcasters.
- » In 2022, the Information and Communications Technologies Authority (BTK) was embroiled in a scandal known as "BTK-Gate" following the revelation that it had been harvesting data of millions of internet users without a court order. Since December 2020, internet service providers have been required to send BTK hourly reports on websites visited, data location, apps used, and the names of the users. Such mass surveillance has clear implications for the rights of journalists and sources.

<sup>63</sup> IPI analysis on the Judicial Reform Package, October 1, 2019: Turkey reform proposals fall far short of needed change

<https://freeturkeyjournalists.ipi.media/turkey-reform-proposals-fall-far-short-of-needed-change/>

The **safety of journalists** is under increasing pressure as online threats and the verbal targeting of journalists by politicians spill out into violence on the streets. The Mapping Media Freedom<sup>64</sup> platform has recorded 26 cases of assaults against journalists in Turkey in the past year alone. This rise in violence does not take place in a vacuum but is a result of the demonization of critical journalism as illegitimate and a threat to national security. Moreover, the impunity that has emerged in some of these cases risks fuelling further violence.

During the mission, the delegation called on all political parties to condemn any attacks on journalists and **guarantee the rights of journalists to freely and safely cover** the 2023 election campaign.

Over the past year, the prosecution and detentions of critical, independent media have continued. This mission visited Diyarbakır to show solidarity with **15 journalists and a media worker who had been held there in pretrial detention** since June **despite a lack of official charges** at the time. The mission renews its call for the release of all jailed journalists in Turkey and its support for their colleagues and families.

Finally, the process of **press accreditation** must be reformed and depoliticized so as to enable all journalists to do their work. Accreditation must be taken out of the hands of the Directorate of Communications, which has abused its position to remove the press cards of hundreds of critical journalists, and be replaced by a system run by journalists and media organizations themselves.

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<sup>64</sup> Mapping Media Freedom Platform: <https://www.mappingmediafreedom.org/>



