

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# TURKEY: RELEASE JOURNALISTS FROM PRISON

Amnesty International is concerned at the recent spate of pre-trial detentions targeting eight journalists, who join dozens of other journalists and media workers in prison for doing their jobs. Six of the eight were remanded in relation to their reporting of the death and funeral of two alleged intelligence officers from the Turkish National Intelligence Agency (MIT). Two others, Kurdish language RUDAW TV journalist Rawin Sterk Yıldız and chief editor for the news website Yakın Doğu Haber Alptekin Dursunoğlu were detained for their social media posts.

Turkey must end the targeting of independent journalists with the arbitrary use of anti-terrorism and other laws and uphold the right to freedom of expression which includes the right to give and receive information.

### **BARIŞ TERKOĞLU, BARIŞ PEHLİVAN AND HÜLYA KILIÇ - ODATV**

Police detained Barış Terkoğlu, Director of News for ODATV, an online news portal, and freelance reporter Hülya Kılıç on 4 March 2020, on the allegation of ‘disclosing the identity of an intelligence officer in the media’ in an article on the ODATV website on 3 March. Hülya Kılıç’s article contained details of the funeral of an alleged intelligence officer who had been killed in Libya. Kılıç’s investigation into the death followed comments by President Recep Tayyip Erdoğan on 22 February in which he disclosed that unnamed Turkish ‘martyrs’ had been killed in Libya. The identities and the circumstances of the deaths of the two individuals were then disclosed by the IYI Party MP Ümit Özdağ during a press conference<sup>1</sup> in the Turkish Parliament on 26 February. The ODATV article redacted the full identity of one of the officers, publishing only the first name and initial of the surname.

Terkoğlu and Kılıç were both questioned by an Istanbul prosecutor who requested that they be remanded in pre-trial detention as part of an investigation under Article 27/3 of the Law No. 2937 on the National Intelligence Agency that criminalizes the ‘publication of the assignment, activities, personal and family identity details on radio, television, internet, social media etc, in writing, through visual, audio and electronic communications’. Terkoğlu and Kılıç were remanded in pre-trial detention on 6 March by the Istanbul Criminal Judgeship of Peace No.4.

Also on 6 March ODATV’s editor-in-chief Barış Pehlivan was called in to testify as part of the same investigation and referred to the Istanbul Criminal Judgeship of Peace which remanded him that same day in pre-trial detention under the same charges. The appeals against the pre-trial orders of Barış Terkoğlu and Barış Pehlivan were pending as of 26 March, while the appeal for Hülya Kılıç was rejected. The three journalists are being held in Silivri prison in Istanbul. If found guilty, they could face three to nine years in prison.

Access to the news portal’s website odatv.com was blocked on 5 March following an administrative decision of the Information Technologies and Communications Institution (BTK). On 7 March, the decision was confirmed by the Ankara Criminal Judgeship of Peace No. 4, and another two internet sites also belonging to ODATV, odatv.com.tr and odatv.net, were also blocked by a BTK decision. The blocking orders were imposed due to the article about the funeral of the alleged MIT operative who had been killed in Libya, entitled ‘ODATV had access to the images from the funeral of the MIT operative martyred in Libya quietly being buried without an official ceremony.’ The article seen by Amnesty International contains two photographs of the individual, his first name and the initial of his surname, his year of birth and the province and district of his birth. The article also refers to and contains a photograph of a wreath from the ‘Agency President’ seen at the funeral as well as images of an unmarked grave.

Barış Pehlivan’s lawyers also issued a criminal complaint about Pehlivan being hit on his back by a prison guard while waiting for his prison registry to be completed on 6 March. Bakırköy Chief Prosecutor’s office published a statement denying the allegations around the claim, stating that the security footage had been examined by Silivri Prison Prosecutor’s Office and it was concluded that Pehlivan had not been subjected to any ill-treatment. According to Barış

<sup>1</sup> The footage of the press statement by the IYI Party MP Ümit Özdağ on 26 February 2020 subsequently published on [https://odatv2.com/vid\\_video.php?id=8HA3C](https://odatv2.com/vid_video.php?id=8HA3C)

Pehlivan's lawyer's statement<sup>2</sup> on 19 March, the Ministry of Justice has assigned two officers to carry out an administrative investigation into the allegations.

Amnesty International believes ODATV were reporting a story of clear public interest in covering the death of the alleged intelligence officer and his funeral, both of which were already in the public domain given the statement by the opposition politician in the Turkish Parliament on 26 February. The blocking of the ODATV websites and arrests of journalists working for ODATV constitute a violation of the right to freedom of expression. While there are instances when freedom of expression can be legitimately restricted in order to safeguard national security, such restrictions must be strictly necessary in order to address a real and identifiable risk of significant harm to a legitimate national security interest.<sup>3</sup> As the material published by ODATV was already in the public domain it is difficult to envisage the ODATV publication causing a significant risk of significant harm.

Amnesty International believes that the authorities are using the case to pursue journalists who are persistently critical of the government and calls for the public prosecutor in Turkey to urgently re-assess whether charges against all three are necessary and proportionate. We also call for the effective, prompt and independent investigation of the allegations of ill-treatment of Barış Pehlivan. We emphasise that the burden is on the authorities in Turkey to demonstrate that restrictions on the right to freedom of expression are necessary and proportionate to the aim of safeguarding national security.<sup>4</sup>

## **MURAT AĞIREL – YENİÇAĞ**

*Yeniçağ* newspaper columnist Murat Ağirel was first questioned on 6 March about his alleged social media post about the deaths of the same two alleged intelligence officers in Libya. He was released on bail pending the outcome of the investigation. Upon the prosecutor's appeal against his release, the Istanbul Criminal Judgeship of Peace No. 5 ruled to remand him in pre-trial detention on 8 March, under Article 27/3 of the Law No. 2937 on National Intelligence Agency. In his statement to the judge, Murat Ağirel said he had shared a tweet on 22 February regarding the death of the intelligence officer in Libya and shortly after receiving offensive replies from what he believed to be fake accounts and a large number of negative reactions, he tried to delete his tweet, but realised his account had been hacked. When he re-accessed his account, he discovered that most of his tweets including the one about the intelligence officer had been deleted permanently. Amnesty International was therefore not able to verify the alleged social media post.

On page 10 of the decision document seen by Amnesty International, two versions of the court's ruling appear – one that rules to release him pending investigation 'taking into account his statements at the police station and in front of the judgeship; (...) [that the] vast majority of evidence has been collected, absence of suspicion of interference with the evidence. The document contains a second ruling remanding him in pre-trial detention on grounds that 'there is concrete evidence of suspicion of the crime, possibility of tampering with or destroying evidence, pressurise witnesses, victims of others etc.' Unless proven otherwise the presence of two diametrically opposing decisions in the same court document raises serious questions as to the independence of the court in remanding Murat Ağirel. After circulation of the decision through social media and media channels, the Istanbul Chief Public Prosecutor's Office published a written statement<sup>5</sup> announcing that the document was fake and that an investigation had been launched against those who prepared, used and shared the document, on charges of "forgery of official documents" under Article 204 of Turkish Penal Code.

Murat Ağirel's lawyers informed Amnesty International that they are planning to issue a counter-complaint to the Council of Judges and Prosecutors against the judge(s) in charge of the decision. The appeal against the pre-trial detention order was rejected on 18 March.

Amnesty International is concerned that the decision to remand Murat Ağirel in pre-trial detention may not have been the result of a fair and independent process and calls for his release from prison pending trial.

Murat Ağirel was remanded in pre-trial detention for social media posts concerning a story of clear public interest based on information already in the public domain. Short of a well-founded risk of significant harm to national security, Amnesty International urges the authorities in Turkey to reassess the necessity and proportionality of bringing charges against him.

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<sup>2</sup> [https://twitter.com/artity\\_/status/1240627473672310784?s=12](https://twitter.com/artity_/status/1240627473672310784?s=12)

<sup>3</sup> The Global Principles on National Security and the Right to Information (Tshwane Principles), Principle 3(b)(i)

<sup>4</sup> The Global Principles on National Security and the Right to Information (Tshwane Principles), Principle 4

<sup>5</sup> <https://www.aa.com.tr/tr/turkiye/istanbul-cumhuriyet-bassavciligidan-sehit-mit-mensubu-sorusturmasina-iliskin-aciklama/1759280>

## **AYDIN KESER AND MEHMET FERHAT ÇELİK – YENİ YAŞAM**

*Yeni Yaşam* newspaper director of news Aydın Keser and editor in chief Ferhat Çelik were detained on 6 March on the allegation of ‘disclosing the identity of an intelligence officer in the media’ in relation to an article published in the newspaper and its website. On 7 March, the Istanbul Criminal Judgeship of Peace No. 8 ruled to release them on bail subject a travel ban and their reporting to police station twice per week. Upon the prosecutor’s objection, Aydın Keser and Ferhat Çelik were remanded in pre-trial detention by the Istanbul Criminal Judgeship of Peace No.5 on 8 March. The appeals against the pre-trial orders were rejected on 18 March.

The article names two individuals killed in Libya, refers to other newspaper coverage of the deaths and to the men as soldiers, questioning the absence of state funerals for them. It does not disclose details of their assignment in Libya, contrary to what is stated in the reasons for the journalists’ pre-trial detention order.

Amnesty International believes that, as with the ODATV journalists, Aydın Keser and Ferhat Çelik are being unfairly investigated for their criticism of the state authorities in violation of their rights to freedom of expression. Short of a well-founded risk of significant harm to national security, Amnesty International urges the authorities in Turkey to reassess the necessity and proportionality of bringing charges against them.

## **RAWİN STERK YILDIZ – RUDAW TV**

Rudaw TV reporter Rawin Sterk Yıldız was detained by police together with cameraman Mehmet Şirin Akgün and two others, Idris Sayılığın and Naci Kaya of the Mesopotamia News Agency, while they were at the border of Turkey with Greece on 28 February, reporting on the attempts by refugees and asylum seekers to cross the border. They were initially detained on the allegation of ‘entering a first-degree prohibited military zone’. Rawin Sterk Yıldız and Mehmet Şirin Akgün’s detentions were extended by the Edirne Criminal Judgeship of Peace No. 1 for 48 hours on 3 March 2020 for the second time as part of a criminal investigation for ‘membership of a terrorist organization’.

Idris Sayılığın was released on 3 March following his lawyers’ objection to the initial remand decision. Mehmet Şirin Akgün and Naci Kaya were released on 4 March following successful appeals against their police detention by their lawyers.

Rawin Sterk Yıldız was transferred to Ankara where he was remanded in pre-trial detention by the Ankara Criminal Judgeship of Peace No. 7 on charges of ‘making propaganda for a terrorist organisation’ on 6 March 2020 for tweets relating to Turkey’s military operation in Idlib and the number of Turkish soldiers who were killed on 27 February. The charges also covered other tweets comparing the situation of Palestinians with Kurds, a Facebook post from 2015, and one by another person posted on his Facebook page. He is being held in Sincan prison near Ankara. An appeal against the decision to remand Rawin Sterk Yıldız in pre-trial detention was pending as of 26 March.

Amnesty International examined the social media posts about which Rawin Sterk Yıldız was questioned. These posts consist of news and commentary, consistent with the exercise of the right to freedom of expression.

## **ALPTEKİN DURSUNOĞLU – YAKIN DOĞU HABER**

Alptekin Dursunoğlu runs the news website Yakın Doğu Haber (Near East News). On 29 February, he was detained for three twitter posts regarding the ongoing military operation in Syria’s Idlib province and another from 15 July 2016<sup>6</sup>. Two of the posts were Turkish translations of tweets in Arabic including one referring to ‘terrorist groups supported by Turkey’. On 1 March, he was remanded in pre-trial detention by Istanbul Criminal Judgeship of Peace No.8 on charges of ‘inciting the public to hatred and enmity’. An indictment was drawn up and he was convicted on 16 March at the first hearing in his trial and sentenced to 50 days in prison, a sentence that was commuted to a fine of 1,000TL (€150).

Amnesty International is concerned about Alptekin Dursunoğlu’s conviction and sentence for social media posts that consist of sharing news pieces from Arabic language sources. His conviction and sentence for the content of these posts, which appear to be critical of Turkey’s military operation, is in violation of his right to freedom of expression.

## **CONCLUSION**

Amnesty International is deeply concerned that Law No. 2937 on National Intelligence Agency is being used to target journalists for political reasons, and in a manner which is likely to have a chilling effect on the right to freedom of expression. In this case all of the journalists that reported on the funerals of the two alleged intelligence officers killed in Libya were engaging in investigations following the public statement of president Erdogan on the deaths of unnamed

<sup>6</sup> [https://twitter.com/Alptekin\\_D/status/754061829710684161](https://twitter.com/Alptekin_D/status/754061829710684161)

'martyrs' and following the public naming of the deceased by the opposition Member of Parliament Ümit Özdağ. The journalists published open source material readily available to anyone with the names provided by Ümit Özdağ MP, and many of them chose to redact the full names of the deceased.

There are limited circumstances in which states can restrict the right to freedom of expression. While these do include safeguarding national security, the Global Principles on National Security and the Right to Information (Tshwane Principles) state that it can only be necessary to restrict the disclosure of information where there is "a real and identifiable risk of significant harm to a legitimate national security interest," and even in such circumstances the "risk of harm from disclosure must outweigh the overall public interest in disclosure." In the current case, given that the journalists were reporting information that was already in the public domain, and given the significant public attention that had already been cast on the deaths, Amnesty International is deeply concerned that these prosecutions are unnecessary and disproportionate.

Amnesty International calls on the authorities in Turkey to reconsider whether prosecutions are necessary and proportionate in light of the strong public interest in investigating this story, and the journalists' decision not to publish any material not already in the public domain, and release the journalists from pre-trial detention pending the review of the investigations.

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