

**P E N
N O R W A Y**

Media Under Seige

PEN Norway Turkey Indictment Project

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About the Author

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Media Structure From the 1990's Onwards

Only one word could be used for media outlets described as mainstream in the 1990s: cartel. The mainstream media bodies that made up the cartel began by de-unionising the workforce. This new attitude came hand in glove with the arrival of neoliberal policies in Turkey, ushering in a new era of de-unionisation in the media.

The owners of mainstream media outlets had impeccable relations with the General Staff, who decided what would and wouldn't be published with regard to the Kurdish issue - frequently discussed under the banner of "the fight against terror". When the conservative Welfare Party became part of the ruling coalition in the latter half of the 1990s, these precautionary arrangements were supplemented by reactionary briefings from the General Staff. The mainstream media realised their limitations, but perhaps because their business was going well, they didn't object. Sales were good and they were able to engage in a number of industries, including banking.

In the same period, Metin Göktepe, a journalist at Evrensel Newspaper, was tortured to death, while other journalists like Uğur Mumcu and Çetin Emeç were assassinated. Numerous people working for Özgür Gündem newspaper, which focused on the Kurdish issue, were kidnapped and killed. Its offices in Diyarbakır were bombed. Human rights advocates became the victims of unsolved murders. Lists of journalists, known as "memorandums", were given to the media by the General Staff, and those named there were forced to work under constant threat.¹ Journalistic accreditation also began to fall under the remit of the General Staff. In comparison to the present day, the mainstream media had more freedom to report issues outside the restricted areas. However, these areas included the very subjects that needed to be reported on, subjects that would determine Turkey's future and shape its history...

Following the rise to power of the Justice and Development Party (JDP) in 2002, a wind of EU harmonisation blew over Turkey and continued until 2007. In this comparatively democratic climate, the media experienced relative comfort compared to previous years. But before long, the picture was changed by legal challenges aimed at closing down the JDP, rumours of a coup in Ankara and the ruling party's alliances with Gülenists and other religious sects. The first seeds of the current situation were sown immediately after the 2007 election.

With the launch of a number of operations carried out under the umbrella term of Ergenekon, Turkey entered a new era of special operations. The JDP, and its then leader

Recep Tayyip Erdoğan, were angry at the media, and this was clearly reflected in nearly every one of their political commentaries. This period of tension was followed by the first steps to purge Turkey's biggest media group, Doğan Group, from the media pool, when the group were landed with historical tax fines. Firstly, in 2007 the Doğan Group were hit by a fine of TRY 1 billion 174 million lira (USD 630 million at the then exchange rate), and two years later they received a second fine of TRY 5 billion 630 million (USD 3 billion 630 million at the then exchange rate). Eventually, most of these fines were revoked by judicial rulings, but Doğan Group had heard the warning.

The justification given for the operations was that a secret Gladio organisation, called Ergenekon, was mobilising for a coup.² However, as time passed, it appeared that the main aim of the Ergenekon operations was to eradicate people or groups that were an obstacle to the Gülenists. Nevertheless, the government itself was fully behind the operations. Under pressure from the government and the Gülenists, the media were forced to show support for the operations. Anyone who behaved contrary to this would find themselves splashed across the Gülenist newspapers and other news outlets close to the government in stories accusing them of being part of the Ergenekon plot. There was a proliferation of stories outlining who would be arrested or detained. Journalists were on tenterhooks. Every journalist knew they could be arrested at any moment while simply doing their job in the normal way.

The JDP's two overtures towards resolving the Kurdish issue from 2009 onwards meant that at least on that subject, the media could be relatively relaxed. Unfortunately, this climate also did not last long. The media had initially been asked to show their support, but after both processes ended in failure, their reporting on certain matters was unwanted, just like in the 1990s. Throughout the subsequent so-called "Trench Operations" carried out by the police and army in numerous provinces and districts of the south east, the silence of the media was palpable as heavy weapons and armoured vehicles were deployed and people were ordered under curfew.³ The same media that, during the resolution process, had broadcast live from Kurdish Newroz celebrations and once headlined with the letters of PKK leader Abdullah Öcalan, now even refrained from sentences or statements including the word "peace".

Before coming to the years running up to the attempted coup on 15 July 2016, it will be worth recollecting some dates.

- 12 September 2010 referendum: The structure of the judiciary, which was said to be under military tutelage in Turkey, was completely transformed by this referendum. However, the new structure was even less independent than before.

The judiciary, which could make relatively autonomous rulings, was now the strongest arm of the JDP-Gülenist alliance.

- 2013 Gezi resistance: Resistance that began in opposition to the felling of trees in Istanbul's Gezi Park turned into a protest against the governments authoritarian policies. Throughout the protests, the government applied great pressure on media bodies not to cover the events. In fact, the media earned the moniker "penguin media" after publishing a penguin documentary while the most severe interventions were being made at Gezi Park.
- 17-25 December 2013 operations: The JDP-Gülenist alliance collapsed due to power struggles and corruption investigations targeting the JDP; the latter were driven by special authorised courts at the behest of the Gülenist. This triggered the purging of the Gülenists, with operations mounted against Gülenist companies and the seizure of their media outlets.
- 7 June 2015 election: When the People's Democracy Party (PDD) passed the 10% vote threshold in the general elections for the first time, the JDP were left with insufficient votes to form a government on their own. Two days before the election, a bomb exploded in the PDD party headquarters in Diyarbakır. After the election, an ISIS suicide bombing took place in Suruç. When two police were subsequently killed in Ceylanpınar, the JDP ended the resolution process. As a new government could not be formed, a re-election was held on 2 November. Shortly before the election, there was another ISIS suicide bombing, this time at a peace meeting in Ankara. The JDP gained enough votes in the re-election to form a government on their own.
- 15 July 2016: An attempted military coup connected with the Fetullah Gülen movement took place. Shortly after suppressing the coup, a state of emergency was declared.

What Was It? What Happened?

From 2002 onwards, the government put a great deal of effort into establishing its own media. Existing pro-government newspapers and TV channels were supplemented by others that had been transferred to government supporters after being taken over by the state. However, as the influence of Doğan Group media was still unrivalled, pressure on them increased. This firstly resulted in the sale of Milliyet Newspaper to the Demirören group in 2011.⁴

The departure of Doğan Group from the media was finally complete in 2018, when all its TV channels and newspapers, including Hürriyet, Kanal D, CNN Türk and Posta, were

sold to Demirören.⁵ The government now controlled pretty much all the mainstream media. There were just a few newspapers left, like Cumhuriyet and Sözcü, and some TV channels, like Halk TV and Fox TV. This was met by an explosion in online publications.

Ownership was not the only method of media control pursued by the government. In the view of the state, journalists could not be left to their own devices!

The Press Advertising Authority (PAA), one of the most important organisations facilitating the viability of local media, introduced a raft of rules forcing local newspapers to merge in 2013. Consequently, the number of local newspapers throughout Turkey fell from 292 to 112 by 2019. The Authority's policy of distributing public advertisements according to a newspaper's circulation and predefined standards left local anti-government press particularly starved of oxygen. Numerous media outlets closed down.⁶

The PAA's approach, which could be broadly summarised as strengthening media close to the government while weakening any opposition media, was not just implemented at a local level. Advertising should have been allocated objectively, but instead the PAA found ways to use them for the benefit of government-friendly media.

In 2020, pro-government newspapers received over TRY 141 million 932 of public funds from the PAA, almost 78% of all its funding. The nine opposition newspapers, including Cumhuriyet and Sözcü, only got 22% of all official bulletins. By contrast, fines issued in the form of withholding advertising from newspapers increased by 150% in 2020. Ninety-seven percent of all fines on national newspapers were served on BirGün, Cumhuriyet, Evrensel, Korkusuz and Sözcü - all titles which had a critical stance towards the government. Since January 2021, Evrensel newspaper alone has received 103 of such fines.⁷

In the 1990s, there had been particular criticism of the cartel media's hold on Turkey's distribution monopoly. In response, various distribution companies owned by different groups gave alternative media the opportunity to join one distribution network if rejected by another. However, these companies were closed in the JDP period, and a monopoly was created by the transfer of Doğan Group's Yaysat network to Demirören. Numerous publications with alternative outlooks were either rejected by Yaysat or excluded by exorbitant prices.⁸

The debate about yellow press passes, which had been ongoing in Turkey for many years, took a completely different turn after the attempted coup in July 2016. Since the 12th July 1980, in accordance with Law No. 212, the Directorate of Press and Information has issued yellow press passes to journalists registered with the national

insurance scheme, regardless of their political views, as long as they have been working a certain amount of time. This was followed by the implementation of an accreditation system, particularly in the second half of JDP rule. The Prime Minister's Office and other ministries only permitted accredited journalists to observe their journalist briefings, excluding others even if they had yellow passes. The General Staff had already been implementing this system since the 1990s. These accreditation practices became more stringent after Erdoğan was elected president. The State of Emergency decree following the attempted coup tied the General Directorate of Press and Information to a newly established Presidential Ministry of Communications. New Press Pass Regulations were issued, and the new decrees were later established in law. The Ministry of Communications established a Press Pass Commission, as in the past, but did not send all applications to the commission. The Presidency kept press pass applications "under review", citing the regulations. To sidestep potential judicial challenges, the applications were kept under review without being turned down. Journalists who did not have a press pass, still referred to as a yellow pass although the colour had changed to turquoise, were now restricted and prevented from doing their job even on the streets. As people working in online media are not entitled to join the national insurance scheme under Law No. 212, they too were excluded from the press pass system. Consequently, those blacklisted by the government as opposition media workers could not track public press briefings. The police also made things difficult for journalists on the streets, for example, by banning or detaining those without a turquoise card at protests.⁹

When professional associations launched a legal challenge, the Council of State suspended the Press Pass Regulations, but the Ministry of Communications came back with new, even more severe and abstract regulations, which continued to be implemented.

The press pass crackdown didn't stop there. When four journalists broke the story of two villagers being tortured and thrown from a helicopter in Van, the indictment against them contended that their activities could not be considered as journalism because they did not have turquoise cards.¹⁰

Journalists Adnan Bilen, Cemil Uğur, Şehriban Abi and Nazan Sala were detained pending trial, but later released. Another, Zeynep Durgut, was charged but not detained pending trial. The indictment cited the fact that "they did not engage in tabloid or sports journalism" as proof that they were not real journalists.

After 15 July, the internet became the salvation of journalists unable to find any amenable medium to work in. Many took their work online, either publishing through collective online news platforms they had set up or on an individual basis. But further

regulations were introduced through the magistrate's court so that internet news sites could be blocked with little oversight. According to reports by Free Web Turkey, at least 1910 URLs were blocked between November 2019 and October 2020. It was found that 42% of the blocked news was about President Erdoğan, his family and close associates. The Information and Communication Technologies Authority also blocked access to numerous news sources on its own authority.¹¹

There was also a glut of investigations by cyber police, who especially combed Twitter for messages about the government. According to 2020 data, over a three-year period, 29,089 people were investigated on charges of insulting the president alone. Of these cases, 34.4% resulted in conviction, 35.1% ended with adjournment of the verdict and just 14.3% were acquitted.¹²

Looking at the tally of 15 July is a good benchmark for the conditions in which journalists are operating. Under the State of Emergency (OHAL) declared on 20 July 2016, a total of 32 statutory decrees were issued. On 19 July 2018, the government ended the state of emergency. It had lasted two years and was extended seven times. In its first two months, a total of 620 press passes and 34 parliamentary press passes were cancelled, and some journalists had their passports confiscated. A total of 204 media organisations were closed by statutory decree: 6 news agencies, 70 newspapers, 20 magazines, 41 radio stations, 38 TV channels and 29 publication distribution companies. Decisions were overturned for 25 media organisations closed within the scope of these decree laws: 17 newspapers, 4 radio stations and 4 TV channels. During the state of emergency, 179 media outlets (53 newspapers, 34 TV stations, 37 radio stations, 20 magazines, 6 news agencies and 29 publishing houses) were closed.¹³

After the attempted coup in 2016, lawsuits were filed against numerous journalists working in Gülenist media outlets, especially during the state of emergency. Some of them were accused of actively participating in the coup and hiding others who were involved in it. Others were prosecuted simply because of news reports they had published. But these operations were not restricted to the Gülenists. Various news reports were the justification for an operation against Cumhuriyet Newspaper, especially a story they had broken about National Intelligence Service (MIT) trucks. As a result of the operation in 2016, journalists including Akın Atalay, Murat Sabuncu, Kadri Gürsel and Ahmet Şık were arrested and lawsuits were filed against 19 people. The decision, announced in April 2018, sentenced 15 people to a total of 81 years and 45 days in prison, while three people were acquitted. The files of Can Dündar and İlhan Tanır were separated. Journalists Akın Atalay, Orhan Erinç, Kadri Gürsel, Güray Öz, Musa Kart, Aydın Engin, Hikmet Çetinkaya, Ahmet Şık, Kemal Güngör, Hakan Kara, Önder Çelik,

Ahmet Kemal Aydođdu, Emre İper and Bülent Utku were convicted, and a judicial review was ordered. On 19 February 2019, the 3rd Penal Chamber of the Istanbul Regional Court of Justice (Appeals) upheld the decision of the Cumhuriyet case. The decision finalised sentences of up to five years for Kadri Gürsel, Güray Öz, Musa Kart, Mustafa Kemal Güngör, Emre İper, Önder Çelik, Bülent Utku and Hakan Kara. Journalists Musa Kart, Emre İper, Önder Çelik, Mustafa Kemal Güngör, Hakan Kara and Güray Öz, who had been sentenced to under 5 years in prison, were sent back to prison again on April 25, 2019. These journalists could have remained free if the Supreme Court had revoked the decision. The Supreme Court was only aiming for Ahmet Şık to be punished.

Özgür Gündem newspaper was closed by statutory decree and 22 of its journalists were arrested in 2016. Özgür Gündem's co-editor and acting editor-in-chief were arrested. When the newspaper began a solidarity campaign called "Rotating Editor-in-Chief", investigations were opened into 49 of the 56 participating journalists. Eleven of these cases were dismissed due to lack of legal grounds. The other 38 cases resulted in a total sentence of 118 months and 15 days and a total fine of TRY 67,000. One of those on trial, Murat Çelikkan, was sentenced to 1 year and 6 months and spent 68 days in prison. Another journalist, Ayşe Düzkan, served her whole sentence of 18 months.

The imprisonment of journalists has been a constant theme of JDP rule. The Council of Europe's 2018 figures stated that 110 journalists were being held in Turkish prisons. Despite the number of detained or convicted journalists not dropping below 100 for many years, the JDP rejected the criticism, claiming, "no-one has been detained because of journalism," and citing the fact that many of the those imprisoned did not have a yellow press pass as proof that they were not real journalists.

Journalists are working under the constant threat of arrest, while also battling with the increasing numbers of cases and investigations into them since 15 July. The fate of Ahmet Altan and Mehmet Altan, who were arrested and prosecuted after 15 July, is one case in point. Although the Constitutional Court and the European Court of Human Rights ruled that Mehmet Altan's case was a violation of rights, the local courts refused to implement the decision. Altan was only released through an appeal court decision based on written explanations sent by the Constitutional Court and after serving an extra 4 months in prison. The Supreme Court later ruled that Altan, who had been sentenced to aggravated life imprisonment, should be acquitted. Despite being in almost the same situation as Mehmet Altan, Ahmet Altan was not released. The Constitutional Court withheld his case for years before eventually rejecting it. Ahmet Altan was sentenced to aggravated life imprisonment, and his sentence was set at 10 years and 6 months by the Supreme Court. Altan was released considering the length of

his pre-trial detention, but arrested again after the prosecutor objected to his release. This detention period lasted about one and a half years.¹⁴

Nedim Türfent has been in prison for five years because of his news reports. Despite the fact that 19 of the 20 witnesses that testified against him, claiming he was the member of an illegal organisation, stated during the proceedings that they had given statements under torture, he was charged and sentenced to 8 years and 9 months.¹⁵

From time to time, the crackdown changes its character and form. Çiğdem Toker, a well-known economic commentator, was faced with legal proceedings amounting to a TRY 1.5 million fine for articles she wrote about illegal tenders. The cases are still going through the court of appeals.

The Paradise Papers story was picked up by journalists across the globe, but after penning a series of related articles, Pelin Ülker became one of only two journalists in the world subjected to legal proceedings as a result. There are also numerous investigations and indictments concerning several other of Ülker's news reports.

Journalist Deniz Yücel was detained in 2017 due to the publication of an interview he conducted with the leader of the PKK. He waited for nearly two years for an indictment to be written, despite an existing precedent in the form of a different decision previously made by the Constitutional Court, which stated that the act "does not constitute a crime". The lawsuit filed against him requested a prison sentence of between 4 and 18 years, but Yücel was released after intense negotiations between Germany and Turkey. After Yücel left Turkey for Germany, he was sentenced to prison and more cases were opened against him.¹⁶

After a member of the National Intelligence Services (MIT) died in an operation abroad, a number of journalists were arrested for exposing his funeral and full identity, despite the fact that his name had already been clearly stated at a parliamentary press briefing. Those arrested were: journalist Mehmet Ferhat Çelik and editor-in-chief Aydın Keser from Yeni Yaşam Newspaper; news editor Barış Terkoğlu, general editor-in-chief Barış Pehlivan and reporter Hülya Kılınç from Odatv; and writer Murat Ağirel from Yeniçağ newspaper. The journalists were released at the first hearing.

Press passes, accreditation, the Press Advertising Authority, online news blocks, social media monitoring, investigations, criminal charges and compensation cases... The many and varied instruments used in the attempt to achieve complete domination over the media, which started from well before 15 July. Sometimes the tactic is to control journalists who won't be silent, despite the consequences, sometimes it is to cripple media outlets that will not be silent, sometimes it is to reduce the number of people

able to access the news and sometimes it is simply for the purposes of political animosity.

A new raft of regulations is being prepared to regulate social media and websites. Bringing online news platforms under Radio and Television Supreme Council licensing laws was seen as insufficient, so further measures are in the pipeline. But journalists have always found a way. Even in the darkest of times, they have continued to report. The disintegration that started with the military coup on 12 September 1980 is now in its final stages. Anything we might class as old media is now almost completely obsolete. The greatest hope is that journalists have now learnt how to work independently and come together to create new mediums. If this can be formally entrenched, the intentions of the JDP or any other ruling party to control the media will implode, and journalists will be able to continue just being journalists.