

# PEN NORWAY

## A short history of the Gezi case

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Published: 30 September 2022



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**C**onstruction vehicle operators broke into Gezi Park, situated in Istanbul's main square of Taksim on March 27th, 2013 in order to carry out instructions to uproot trees. Little did they know they would kick-start an episode that would go down in history.

Various individuals became the pioneers of a great resistance as they acted as human shields to protect the trees, began to keep watch in Gezi Park, and stood their ground despite the extraordinarily harsh interventions of the police.

Working without construction permits and despite the Protection of Natural Assets Board's decision that outlawed any attempt against Gezi Park, the construction vehicles attempted to break into the park and were repelled. Hundreds of thousands of people took to the streets when the state resorted to violence against the group of people remaining inside and protecting the park.

The Gezi protests were a reaction against anti-abortionists, gender discrimination, interventions against freedom of expression, murders, massacres, and security operations particularly such as the Ergenekon and Balyoz [Sledgehammer] cases. Protests started in Istanbul but quickly spread all over Turkey. Ten people, eight of whom were demonstrators, lost their lives, and thousands were injured.

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Numerous lawsuits have been filed over the incidents. The case known as the Taksim Solidarity Case saw the acquittal of 26 individuals at the time. The lawsuit filed against the football supporter group “Beşiktaş Çarşı” resulted in acquittal. At the time, the courts were mainly interested in whether the demonstrations were unauthorised or not. We realised only later, however, that the courts were already after something else even back then. From the very first day, steps were taken to go beyond this scope of mere legality and to fabricate “culprits”.

## **Judicial Panel Discharged, Aggravated Life Sentences and 18 Years of Imprisonment**

On April 25, 2022, the 13th Assize Court of Istanbul announced its decision in the Gezi Case. The court sentenced Osman Kavala, The Chairman of the Executive Board of Anadolu Kültür, to aggravated life imprisonment and Ayşe Mücella Yapıcı, Çiğdem Mater Utku, Ali Hakan Altınay, Mine Özerden, Can Atalay, Tayfun Kahraman and Yiğit Ali Ekmekçi to 18 years in prison. Together with the judgments the Court has issued arrest warrants for all the defendants except for Kavala who has been under pre-trial detention.

This was despite the fact that 30th Assize Court of Istanbul had, 26 months ago, acquitted the very same defendants who were on a trial with the same evidence and accusations.

This judicial panel, however, was soon discharged. First, a second judicial panel was commissioned within the court and then the members of the former panel were assigned to different courts. And once the Court of Appeal overturned the acquittal the file was sent to the 13th High Criminal Court of Istanbul instead of the 30th. This was done by means of employing an unbelievable method. A judge, who previously drafted the motion to combine the case in question with another case involving Beşiktaş Çarşı Group in this court, ended up assessing his own motion while on duty at the 30th Assize Court of Istanbul and approving it. Thus, not only the judicial panel but also the court had been changed. The new panel included Murat Bircan, a judge who did not hide the fact that he used to serve in the administrative structures of the ruling AKP party until just 3 years ago. Bircan voted in favour of conviction and as such played a decisive role in the conviction verdict, which was given by two votes to one.

## **Otpor and Canvas Groups**

The reasoned judgment of the trial was completed on 8 June 2022. The result was not unexpected. References were made to the Gezi indictment which claimed that Kavala and the Open Society Foundation designed the Gezi protests to overthrow the government, and that the groups named Otpor and Canvas, which were stated to have previously organised protests known as the Orange Revolutions in the Ukraine and Egypt, were utilised to ensure the Gezi protests were effective. The indictment emphasised the same allegation and cited as proof Kavala’s travels abroad and the fact that artist Mehmet Ali Alabora, one of the fugitive Gezi defendants, had been present in the same country together with the Otpor leaders at the same time. There was no evidence that a meeting took place, and also the leaders of Otpor had announced that there was no such meeting, but the Turkish judiciary was convinced that there was.

The court had previously commented that the wiretaps dating from 2013 were “not legal” and had ruled for an acquittal. However, according to the 13th Assize Court of Istanbul, which ruled for a conviction on the same case, the wiretaps obtained through a judge’s warrant issued under the offence of “getting organised with the purpose of committing crimes”, could also be used in other cases involving different offences. The court saw no problems there as it believed both groups [Otpor and Canvas] to be organisational structures. A member of the panel objected to this view on the grounds that wiretaps were not legal, but her opinion remained a minority one.

There weren’t any statements in the wiretaps to prove the connection between Otpor and Canvas, but this was also ignored. The reasons for this is that already, in the first days of the Gezi trial, the plan was to exploit these organisations as a pretext to punish the persons that had been identified as potential culprits. One could see that was the case from the way things unfolded back then.

## **Nine years ago: AKP, Fetullah Gülen’s followers and Nationalist Figures Share the Same Opinion**

The indictment of the Gezi trial included the allegation that the Gezi protests were planned and financed to overthrow the government, and that all operations were conducted by ‘a tripartite alliance’. According

to the indictment the names that made up the alliance in question were Soros, Otpor leader Marovic and Osman Kavala.

The indictment is based on the claim that Soros utilised the Open Society Institute to topple governments, that Otpor was established in Serbia and operated to overthrow governments for money through its US connections, and that Kavala has planned and financed the Gezi resistance with his Soros and Otpor connections.

What was interesting, however, is the date when this claim was first voiced. The Gezi protests began on May 27th, 2013. A few days later, the first articles about Otpor began to appear. Banu Avar, a journalist known for her nationalist credentials, was one of the first to forge a connection between Otpor and Gezi. In her article on May 31st, 2013, Avar first criticised Gezi and said *“Led by the BDPKK, the crowd was protesting the destruction of Gezi Park in Taksim, but suddenly found itself as the agent of an international operation! The incidents seem to have been prepared long ago but the crowds were unaware of that. Suddenly, the incidents became the “most viewed” on Twitter and Facebook internationally. Taksim Square was flooded with foreign correspondents and informants... Social networks rocked with posts distinctly reminiscent of the Arabic Spring in Egypt.”*

The next day, Avar associated Otpor with Gezi, and she wrote, *“I worked as a journalist in countries where “Orange Coups” were staged in 2004-2005. I documented the situation in the Ukraine, Kyrgyzstan, Lebanon, Georgia and Kosovo. The AKP government brought the country to the brink of civil war and division. There is no law, no justice! Such episodes are breeding grounds for an orange operation. OTPOR and CANVAS are the COUP organisations of western intelligence agencies. The image of the clenched fist is provoking people on social media. With their open hostility towards the Turkish nation, Amnesty International and similar institutions which have so far been silent about disasters in Turkey, are passing decisions over the Gezi Park protests, while the EU and US politicians are making statements. That is not a good omen. It is our duty to warn people!”*

Just one day after Avar, Erhan Sandıkçı, 19, penned a long and detailed article that was published in a website named “Güncel Meydan”, which in turn was quoted almost literally within the Gezi indictment. In the article titled “What is going on, what is to be done?”, Sandıkçı said the following:

*“... I sensed that something was off and that compelled me to write such an article... The “Arab Spring” which began in North Africa and spread to Syria in 2011 is the work of a global gang. Social media and the spider web of civil society organisations became prominent. I was present in the demonstrations of May 31st during the evening and night. A demonstration was held before huge crowds took to Istanbul’s main İstiklal shopping street. I noticed that some protesters who argued with the police at the front wore helmets that said “#OCCUPYTURKEY”. “#Occupyturkey” was one of the most popular hashtags on Twitter. “#DirenGeziParkı” was a top trending topic both in Turkey and globally.”*

Sandıkçı continued, *“On Facebook, “Occupy Turkey” became the page where the latest information about such demonstrations was posted most quickly. By June 1st, at around 3 a.m, that page had 16 thousand members and it reached 40 thousand members by 11 a.m in the morning of the same day. Most likely, this page will be used to try to direct the*

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Illustration: Murat Başol

course of the demonstrations. “Occupy” means to invade in English. This slogan was first used during the protests on Wall Street in 2011. OTPOR-CANVAS were leading the Occupy Wall Street demonstrations. OTPOR emerged in the Balkans and organised the “civil” resistances that ripped Yugoslavia apart. From the very beginning, the “Occupy Turkey” page has been an effective part of the Gezi Park process. The Occupy Turkey page was created during horrific incidents as (President) Erdoğan attempted to break into METU (Middle East Technical University) with tanks, blasting the protesting students with tear gas and high-pressured water. A review of recent posts shows that the page tried to steer the “support for METU” demonstrations. Knowing that it was a Soros conspiracy that lit the fuse of these incidents, patriots should take to the squares of the city to offer a louder voice and take control of this process,” he wrote.

### “A raised fist”

Sandıkçı’s article was published on dozens of websites without reference. The article included images that showed the evolution of the “raised fist” symbol in the different countries where it appeared, and also mentioned Otpor’s and Canvas’ initiatives in different countries. From the very first day, Gezi was linked to Otpor using various maps and images.

### The Press Intervenes

On June 6th, a pro-government newspaper titled “Türkiye” featured a news story about Otpor taking centre stage in Turkey as the architect of the Orange Revolution and Arab Spring. The story did not cite any sources but claimed that the same group tried to steer the process during the METU protests, that it was mobilised before the Taksim demonstrations, and that the Gezi Park incidents were being directed by these groups. Another article titled “The Codes of the Deep Coup” published in Türkiye newspaper on June 8th claimed that the organisations that Soros supported had been plotting the Gezi Incidents via the media and students.

By June 10th, the former Mayor of Ankara City, Melih Gökçek, and Yiğit Bulut began to voice the same claims based on a Youtube video that had Turkish subtitles and that made claims about Otpor’s involvement in the Gezi protests. On June 13-14, the very same claims were reported in detail, this time in Takvim newspaper and on a TV channel called A Haber.

A succession of news stories were now coming in. Everything that happened in Gezi was to be associated with Otpor and Canvas.

## Prosecutors of “Fetullah Gülen’s followers” Working Hard

We now see from the case file that the “investigation of the organisations” associated with the Gezi protests was initiated while the Gezi protests were still going on. The fugitives-to-be, prosecutors and police chiefs who would be prosecuted later on the grounds that they belonged to the Islamist Fethullah Gülen’s followers had prepared a legal report about Kavala at that time and based it on the Otpor and Canvas allegations. Then phone calls had been made. For some reason, however, this report and evidence were put on hold. This was probably because the alliance between the AKP and the Gülenists broke down after the prosecutors, who were members of the exiled cleric Fetullah Gülen’s followers, launched an operation in the week of December 17-25, 2013, that targeted various government ministers who had initiated the purge against all followers of Gülen.

### Evidence Summoned Up

Following the attempted military coup by the Gülenists on July 15th this evidence was summoned back up. As the country was under a state of emergency, prosecutors launched an investigation against Kavala, examining the statements made at the time. On November 1st, 2017, Kavala was arrested on two separate charges as part of the investigation that would go down in the history of law. Two separate charges were brought against Kavala, who was one of the leading figures of the civil society movement in Turkey: Provoking the July 15th coup attempt and financing the Gezi incidents.

While Kavala was in prison, the prosecution filed a motion for his release on the charges in the July 15th file. After a while and together with other defendants, a Gezi lawsuit was filed against Kavala, who had been released on the aforementioned charges. Kavala was acquitted in this file to the great dismay of the government. This time an arrest warrant was issued based on the previous file on which he was released, thus blocking his release. However, there was a problem. The European Court of Human Rights had previously convicted Turkey for the Kavala case.

Therefore, the judiciary thought it would be better to modify the accusation. First, Kavala was arrested on charges of espionage, and then released on the charge of violating the constitutional order in the July 15th file. Then, a new lawsuit was filed against Kavala on the charge of espionage.

Meanwhile, the Regional Criminal Court of Appeal overturned the acquittals ruled in the Gezi trial. The case was then transferred to the 13th Assize Court, where it was merged with the espionage case against Kavala and the Beşiktaş Çarşısı case, which had previously ended in acquittal but had been overturned by the Court of Cassation.

First, the court separated the files once again and then handed down the notorious judgment in the Gezi trial. And did so by acquitting him of the espionage charges which led to Kavala’s detention.

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## An Indictment Similar to the Articles Published Six Years Before

At this point, it would be useful to re-asses the indictment on which the whole process was based.

At the heart of the indictment that was written six years after the Gezi protests, was the Otpor Canvas theory, which was introduced in the early days of Gezi and embraced by the government. The indictment stated as follows:

In the first days of the uprising, some individuals who argued with the police in front of the group of demonstrators wore helmets and t-shirts that had the inscription @OCCUPYTURKEY. One of the most popular hashtags on Twitter, where the demonstrations were basically organised, was #occupyturkey. The hashtag in question was created on May 28th, 2013, and a total of 500,000 Tweets were posted under the hashtag. For a great number of days, the hashtag #DirenGeziParkı had been the trending hashtag in the Twitter list for trending Turkish and global events. On Facebook, the page titled #OccupyTurkey became the page where the latest information about this uprising were posted most quickly. The page, where the course of the uprising was steered, had tens of thousands of subscribers within a day or two... The page in question was created during the student protests that started on December 18th, 2012 at METU and lasted for days...In short, back in 2012, a collective structure, formed under the supervision of OTPOR/CANVAS by the defendants, repeatedly put out feelers for a popular movement in our country.”

“ Although the indictment stated that the evidence was re-evaluated in 2016 and the possible influence of pro-Gülenist police and prosecutors were eliminated from the investigation, its sources and the allegations remained exactly the same. The reasoned judgment offered Otpor and Canvas as the main justifications for the conviction, as it had been the case within the report and the indictment. ”

These passages are very similar to the report drafted by the Gülenist prosecutors and they are almost identical to the articles by Avar and Sandıkçı. Although the indictment stated that the evidence was re-evaluated in 2016 and the possible influence of pro-Gülenist police and prosecutors were eliminated from the investigation, its sources and the allegations remained exactly the same. The reasoned judgment offered Otpor and Canvas as the main justifications for the conviction, as it had been the case within the report and the indictment.

### What did they say afterwards?

In 2019, a website named Artı Gerçek featured interviews with Avar and Çağrı, the authors of the articles in 2013. Avar briefly said, *“Each country has its own distinct conditions. I do not think that the people accused in the Gezi Indictment are guilty. But I think there were certain plotters who wanted to manipulate Gezi. I surveyed this issue not only in that article but also in my book titled ‘Kaçın Demokrasi Geliyor’ [Watch Out, Democracy is Coming].”*

Sandıkçı said, *“As I was writing that article 6 years ago, I was also attending the protests. In other words, I did not have a blanket view of Gezi as “a conspiracy of foreign powers” which we should avoid being part of, on the contrary I was actively participating in it... Partly due to my mindset as a 19-year old person, I wrote that article with inflated skepticism... And the Gezi indictment “quoted” my article generously. The indictment referred to many “online” resources, YouTube links, etc. with the exception of the website where my article was published. (If it weren’t an indictment but a scientific article, this would have been called plagiarism.) There is, however, no reference because they have*

*conveniently quoted the article, which would not please them if they quoted it in its entirety. There is no tangible evidence in the indictment anyway.”*

## **Public Squares are Now Prohibited to the Public**

The constitution of Turkey recognises everyone’s right to make press statements, to assemble and demonstrate without requiring any permission. However, after Gezi, the public squares were gradually prohibited. During the state of emergency that followed the July 15th coup-attempt, postponements and bans were issued even for workers’ strikes. Under the initiative of the governorships, they began to declare almost all protests illegal once the state of emergency ended and the so-called Presidential Government System was introduced. In some cities, bans on public protests have been in place for years. In cities such as Istanbul and Ankara, images of the police interventions against protests make it into the news almost daily.

The government’s attitude towards Gezi is well known. There is no doubt, however, that Gezi is being utilised as a pretext for the ensuing bans on protests. Notwithstanding an ECtHR judgment on the case, the harsh sentences and practices introduced during the Gezi trial mean to send a stark message against both civil society and other future potential protests.■

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