PEN NORWAY

Legal Report on Indictment

Ayça Söylemez

Author: Florian Bohsung

Published: 28 November 2024

PEN Norway Turkey Indictment Project:

PEN Norway's Turkey Indictment Project has been running since January 2020.

During that time, with an international team of judges, lawyers and academics we studied 29 indictments in cases involving freedom of expression. These include the prominent Cumhuriyet newspaper trial, the Büyükada human rights defenders' trial and the five-year Gezi Park trial.

Each report takes a single indictment and compares it to Turkey's domestic law and to international law. The deepening crisis in the rule of law in Turkey since 2016 has meant that not one indictment has yet met domestic procedural standards or the tenets set out in Article 6 of the European Convention on Human Rights, concerning the right to a fair trial.

With this in mind, we continue to work with leading human rights lawyers globally to study indictments in the cases of journalists, civil society actors and lawyers and will continue to make recommendations for training of judges and prosecutors and for the continuing improvement of the indictment writing process in Turkey.

The importance of this work was demonstrated in 2022 when the defendants in the Gezi Park trial were all convicted and jailed for long sentences based upon facts in an alarmingly inadequate and flawed indictment. The project continues in 2023.

All reports can be accessed via our website: www.norskpen.no

And the two final reports of 2020 and 2021 are available at:

2020: https://norskpen.no/wp-content/uploads/2021/06/PEN-Norway_Turkey-Indictment-Project-Report-2020.pdf

2021: https://norskpen.no/wp-content/uploads/2022/03/PEN-Norway-Turkey-Indictment-Project-Report-2021_Eng.pdf

Additionally, as part of the project, guidelines on indictment writing for prosecutors in Turkey has also been published, and the guidelines can be accessed here: Guidelines-on-Indictment-Writing-for-Prosecutors-in-Turkey.pdf (norskpen.no)

The project is conceived and led by PEN Norway's Turkey Adviser, Caroline Stockford and the indictment reports are supervised by PEN Norway's Legal Adviser on Turkey, human rights lawyer Şerife Ceren Uysal.

Legal Report on Indictment

Ayça Söylemez

Author: Florian Bohsung

1. Introduction

This report discusses indictment No 2023/7513 against journalist Ayça Söylemez, issued by public prosecutor Burak Özer on the 14th of July 2023. The indictment charges Ayça Söylemez with marking Judge Akın Gürlek as a target for terrorist organizations based on her article 'Talented Mr Judge' from the 18th of February 2020.

The second part of this report will give a brief summary of the facts. The third part will analyse whether the indictment meets the standards laid out in Turkish domestic law, and under the European Convention on Human Rights (ECHR). In the conclusion some recommendations will be given on how indictments may be improved in the future.

2. Summary of the Case Background Information

On the 18th of February 2020, human rights editor, journalist, and columnist Ayça Söylemez published the article "Talented Mr Judge"[1] in the daily newspaper *BirGün*. In it she discusses multiple cases handled by today's Deputy Minister of Justice Akın Gürlek, who was president of the 37th High Criminal Court in Istanbul at the time. The cases Gürlek presided over and which are mentioned in the article regarded politicians and journalists such as Canan Kaftancıoğlu,[2] the former İstanbul provincial chair of the main opposition Republican People›s Party (CHP), Selahattin Demirtaş, the imprisoned former co-chair of the Peoples' Democratic Party (HDP), Şebnem Korur Fincancı, the former chair of the Turkish Medical Association (TTB), lawyers from the Progressive Lawyers Association (ÇHD), the Academics for Peace, and executives, writers, and staff from Sözcü newspaper.

"On the 18th of February 2020, human rights editor, journalist, and columnist Ayça Söylemez published the article "Talented Mr Judge"23 in the daily newspaper BirGün. In it she discusses multiple cases handled by today's Deputy Minister of Justice Akın Gürlek, who was president of the 37th High Criminal Court in Istanbul at the time."

Crucially, in her article Söylemez explicitly mentioned Akın Gürlek by name and so almost five months after the publication of the article on the 13th of July 2020, Gürlek made a complaint against Söylemez, accusing her that she marked Gürlek as someone in charge of the fight against terrorism as a target for terrorist organizations and consequently, the public prosecution opened an investigation into the allegations. Following this, it took almost three years until Söylemez was asked to provide testimony during which she defended herself claiming that because of the cases Gürlek had handled he was a publicly known figure, and that she did not mention any illegal organisations. She stated:

> I wrote about the cases [Gürlek] handled and the verdicts given in those cases, which are already publicly available information. Therefore, it cannot be said that I made Akın Gürlek a target of any organization. In conclusion, the mentioned column article is written entirely within the framework of my role as a journalist, with the sole purpose of informing the public and within the framework of freedom of the press and expression.[3]

Despite Söylemez highlighting that Gürlek had made similar allegations against journalists in multiple cases before, which were either not prosecuted or had led to acquittal of the accused, the prosecutor issued an indictment on the 14th of July 2023, which was accepted by the İstanbul 29th High Criminal Court ten days later. The indictment claims that Söylemez 'mentioned [Akın Gürlek …] by his name, and disclosed the cases he had handled in the course of his duty, that the content of the article subject to the investigation qualifies as marking individuals as targets and serving them to armed terrorist organisations as specified in Article 6 of Law No. 3713'.[4]

On 22 November 2023, Ayça Söylemez appeared before the Istanbul 29th High Criminal Court for the first hearing of her trial. Söylemez and her lawyer Güçlü Sevimli were present during the hearing. Her defence statement repeated what she had claimed during her testimony given to the police, saying that her article was covered by the right to freedom of expression, and that she had not disclosed any information that was not publicly available already.

In the closing statement, the prosecution requested that Söylemez was sentenced for 'marking a public official assigned with the fight against terrorism as a target.'

On the 19th of March 2024, the Court heard the closing arguments of the defence and subsequently decided to acquit Söylemez of all charges. This decision is reliving but it still remains that the indictment in itself should have never been written, or at least the Court should have never accepted it in this form.

3. Analysis of the Indictment

The first part of this analysis of the indictment against Ayça Söylemez focuses on the question whether it complies with the requirements under Turkish domestic law. Since Söylemez indictment closely resemble the indictment against Canan Coşkun which has been reported on by PEN Norway already, and the flaws are also the same, the analysis will only briefly summarize the issues and instead focus more on the parts that have not been raised in Coşkun's indictment instead. Additionally, the analysis will focus more on the jurisprudence under the ECHR.

3.1 Domestic Law

As already discussed in multiple other PEN Norway publications the Turkish Code of Criminal Procedure (CCP) requires under Article 170 that an indictment contains details about the alleged crime that could be linked with the incident in question, a definition of that crime together with its elements, the specific actions of the suspects that constituted the crime, the relationship between the evidence and the crime and finally, the exculpatory evidence. A text without such elements cannot be regarded as an indictment in the legal sense of the term, even if it contains an allegation.[5]

Article 170/3 CCP specifies the elements that every indictment must include. One of these requirements is that the representative or legal representative of the victim or the injured party is specified (Article 170/3-d CCP). The indictment fails to meet this requirement as only the legal representative of Söylemez is mentioned but not the one for Gürlek. Furthermore, the indictment fails to specify that Söylemez is not detained as it would be required under Article 170/3-k CCP. Finally, it is required that the date

the complaint was made against the accused is mentioned in the indictment (Article 170/3-g). In this case, the date is missing from the document. In fact, the indictment only mentions it as 'criminal complaint' as part of the evidence list. No additional information is given for it. Consequently, the indictment fails to meet the basic requirements of a legally valid indictment. Despite these shortcomings, the Court accepted the indictment and started hearing the case.

Similarly to the indictment against Coşkun, the indictment against Söylemez contains a short list of documents that are used as evidence against her. Namely these documents are considered 'Criminal complaint, open source research report, suspect's defence, criminal record, register and the scope of the whole investigation document.' Just as in the case of Coşkun, the most critical piece of evidence, the Söylemez's own journalistic article is not listed. While this formality might be considered just a careless oversight since the article is quoted in its entirety in the indictment, the same cannot be said for the 'open research report' nor the 'investigation document' which are not referenced in the final indictment at all. In fact, the prosecutor does not even make an attempt to establish a clear and transparent connection between the alleged crime and the incident in question. After quoting the article in its entirety, and giving an excerpt of the statement made at the police station by Söylemez, the prosecutor continues to present extensive general information about the right to freedom of expression as guaranteed under Article 10 ECHR, as well as its limitations. A similar section for Article 6 of Law No. 3713 is missing. The prosecutor completely fails to link any of the information presented to the specific case of Söylemez. Instead, the prosecutor considers it as established that the defendant has committed the 'act of marking as a target Akın Gürlek, one of the people who has been fighting against terrorism under legal protection.'[6] As such, it must be considered that the indictment fails to present the definition of the crime and its elements, since no explanation of Article 6 of Law No. 3713 nor any jurisprudence around it is given, and instead provides only an explanation why Article 10 ECHR may be limited in some cases. Furthermore, the indictment does not show which specific action, or in this case, specific sentences/paragraphs, mark Gürlek as a target for a terrorist organization. Thus, it fails to show which specific actions are the crime Söylemez is accused of. Finally, it cannot be said that the evidence presented is in relation to the crime, as outlined above.

"The indictment does not show which specific action, or in this case, specific sentences/ paragraphs, mark Gürlek as a target for a terrorist organization. Thus, it fails to show which specific actions are the crime Söylemez is accused of. Finally, it cannot be said that the evidence presented is in relation to the crime, as outlined above."

Under Article 170/5, the prosecution is required to present not only evidence against the accused but also evidence in favour of them. In the present case, the evidence presented in favour of Söylemez is only the defence statement she provided herself. No additional exculpatory evidence is mentioned. While it makes sense to include the suspects own words in the indictment, it is not sufficient to be in adherence of Article 160 CCP which requires the prosecutor to 'collect and secure evidence in favour and in disfavour of the suspect'. It is further detailed in the justifications of the legislator that the prosecutor should put equal effort into investigating fact in favour and against the effort. From the indictment of Söylemez it can be concluded that no time was spent on exculpatory evidence. The only time that it is mentioned that Söylemez is a journalist and that she was reporting on public hearings of a publicly known judge, is in her own testimony. In her own testimony Söylemez also mentions that she is aware of similar cases against journalists that covered

the work of Gürlek and that they ended in either terminations of the investigations or in the acquittal of the accused. Since she was not informed of the accusations against her, she did not have the chance to bring them to the police station, but she would provide the office of the prosecution with copies of these decisions. None of these decisions with precedent value are mentioned as exculpatory evidence in favour of Söylemez. Failing to include such crucial evidence, especially after Söylemez pointed the prosecutor directly at it, seems to suggest that the prosecution did not take into consideration any evidence in favour of the accused. As a reminder, the UN Guidelines on the Role of Prosecutors underline the duty of prosecutors to terminate investigations when it becomes clear that an accusation is unfounded.[7] Additionally, Article 160 CCP requires that the prosecutors establish the 'factual truth', that they 'secure a fair trial', and 'protect the rights of the suspect'. At this point the handling of the case by the prosecutor gives rise to the question of whether these safeguards for the rights of the accused have been observed.

Before turning towards issues under international law, one more procedural issue with the indictment against Söylemez needs to be raised regarding the Turkish Press Law (TPL). It stipulates in Article 26: 'It is essential that cases of crimes entailing the use of printed matter or other crimes mentioned in this law should be opened within a period of four months for daily periodicals and six months for other printed matter.' Since the article was published both in a daily periodical and on the website of *BirGün*, in this case the six-month period may be applied. In Turkey every news outlet should send all printed publications to the Office of the State Chief Prosecutor *[OSCP]*, at which point the six months period is starting. Even if in Söylemez case the article was not sent to the OSCP, Article 26 TPL further states that 'If the material is not submitted, the beginning date of the above-mentioned periods is the date when the OSCP ascertains the action which constitutes the crime.' This means, at the latest, the OSCP became aware of the alleged criminal article when Gürlek made his complaint on the 13th of July 2020. Consequently, the Court should have opened a case against Söylemez on the 13th of January 2021 by the latest. Instead, the indictment was issued on the 14th of July 2023 and the court case opened on the 24th of July 2023. Since the change of the TPL in December 2022, news portals like *BirGün* are explicitly subject to this law, and therefore it applies in this case. This means, that the prosecutor, irrespective of the content of the indictment, failed to issue the indictment in time and should have abstained from doing so. Consequently, the Court should not have accepted the indictment against Söylemez either.

From the forgoing, it is clear that the case against Söylemez fails to meet the procedural standards under Turkey's domestic law. The prosecution failed to issue an indictment containing basic information required by law. It furthermore failed to include exculpatory evidence. Finally, it failed to meet the time limitations. With all of these errors the High Criminal Court should have rejected the indictment but failed to do so and opened the case against Söylemez.

3.2 ECtHR Jurisprudence

Under the ECtHR the case of Söylemez may give rise to multiple violations. The procedural errors mention above may give rise to a violation of the right to a fair trial under Article 6 ECHR. Additionally, the merits of the case may give rise to potential violations of Article 10 ECHR, the right to freedom of expression and the included right to freedom of press.

3.2.1 Article 6 – The Right to a Fair Trial

As has been found in previous reports of the PEN Norway Indictment Project[8], an indictment which does not comply with Article 170 CCP cannot possibly be in compliance with Article 6 of the ECHR. Specifically, Article 6/3-a requires that the accused receives 'detailed' information about the 'nature and cause of the accusation against them.' While the European Court of Human Rights (ECtHR) has held in *Pélissier and Sassi v. France* Article 6/3-a does not have any formal requirements,[9] but the Court also clarified that 'in criminal matters the provision of full, detailed information concerning the charges against a defendant, and consequently the legal characterisation that the court might adopt in the matter, is an essential prerequisite for ensuring that the proceedings are fair.'[10] While derogations from some of the rights laid out in the ECHR are permissible, they always need to be required by law, necessary in a democratic society, and have a legitimate aim mentioned under Article 6. As it has been established in the Section 3.1 of this report, the indictment fails to fulfil the requirements laid out under Article 170 CCP. Therefore it is clear that 1) the right to a fair trial has been infringed, and 2) the

infringement was not required by law. Consequently, the indictment against Söylemez is in violation of Article 6 ECHR.

3.2.2 Article 10 – The Right to Freedom of Expression

Article 10 ECHR reads: 'Everyone has the right to freedom of expression.' The right itself derives from freedom of thought and as such is, as the indictment proclaims, 'one of the fundamental conditions for the progress in democratic societies'. Over three paragraphs the indictment continues to explain that the right to freedom of expression means that 'individuals should be able to use all verbal, graphical, written and game-like means of communication. Because this freedom is not only a personal right; it is also a social right.' However, immediately after making such claims, the prosecutor claims that 'granting the individuals the freedom to destroy freedom can kill democracy'. If freedom of expression were to be completely unchecked, it would allow for 'people with different political views [… to] naturally endeavour to convince, steer and win over those who do not have a clear political view, which would lead to a conflict of interest between opposing views.' As a result, the prosecutor sees that anarchy would disrupt the public order, and consequently the institutional framework would be in danger. The prosecutor then considers that because it is possible to limit the freedom of expression it is proven that the Söylemez article mentioning Gürlek is marking him as a target for terrorist organizations, without any explanation of why the specific piece would not fall under the freedom of expression.

> "it is clear that the case against Söylemez fails to meet the procedural standards under Turkey's domestic law. The prosecution failed to issue an indictment containing basic information required by law. It furthermore failed to include exculpatory evidence. Finally, it failed to meet the time limitations. With all of these errors the High Criminal Court should have rejected the indictment but failed to do so and opened the case against Söylemez."

The foregoing line of argumentation raises multiple questions. Firstly, it seems that the prosecutor has an interpretation of democracies that deviates wildly from the common understanding of the concept. Secondly, and more importantly, there is no clear connection between explaining possibilities to limit the right to freedom of expression under some conditions and considering the accusation against Söylemez as proven. The remainder of this report will assess whether the Söylemez article should have been covered by the right to freedom of expression under Article 10 ECHR, in connection with Article 6 of Law No. 3713.

The first question that has to be checked, is whether there has been an interference with Article 10 of the ECHR. Without a doubt, criminalizing a news article must be considered an interference with the right to freedom of expression. As such, to establish whether there is a violation of Article 10 ECHR it must be checked whether the interference is required by law, it pursues a legitimate aim, and whether the interference is necessary in a democratic society.[11]

3.2.2.1 Interference required by law

The prosecutor deems it proven that by mentioning Gürlek by name, Söylemez marked him as a target for terrorist organisations. As such, her article would fall under Article 6 of Law No. 3713 and consequently an interference would be required by law. However, as mentioned before, the indictment fails to explain how the article falls within the scope of Article 6 and which parts specifically mark Gürlek as a target. Additionally, the indictment fails to mention for which terrorist organizations

in particular Söylemez marked Gürlek as a target. Finally, the indictment does not provide any evidence that Gürlek, as a judge, must be considered a person involved in the fight against terrorism. Since the names of judges are readily available on the internet, it is unclear what information Söylemez published, that was not already public. Therefore, there is no convincing argument in the indictment that the news article fulfils all the elements of Article 6.

Independent from the missing argumentation of the prosecution, Article 6 of the Anti-Terrorism Law needs to satisfy the tests that it is sufficiently precise to enable someone to understand that a given conduct falls within the scope of the law. Additionally, the consequences of such actions will need to be sufficiently foreseeable.[12] Otherwise, the article may not be considered 'law' within the meaning of Article 10 ECHR.

PEN Norway has recently published an article[13] on Article 6 of Law No. 3713 showcasing how the vagueness of the article contributes to journalists increasingly being targeted by public prosecutors. Importantly though, every case that has been brought against journalists so far under Article 6 of the Anti-Terrorism Law has, as mentioned before, either not been prosecuted, or has ended in the acquittal of the accused. Therefore, besides potentially failing the precision test, it cannot be said that the practice of the courts has made sure that the consequences of publishing an article regarding a judge are sufficiently foreseeable. This means that, while the national courts have a margin of appreciation in how they apply domestic laws, it seems highly unlikely that the ECtHR would come to the conclusion that Article 6 of Law No. 3713 requires an interference in the given case. Thus, it is highly likely that the Court will identify a violation of Article 10 ECHR. While it would therefore not be necessary to check the remaining tests of legitimate aim, and necessity in a democratic society, this report will briefly discuss them to have a complete picture of the legal situation.

> "As member of the judiciary, Gürlek does not have a right to be anonymous. Such a development would be a gross violation of the right to a fair trial and also be a clear sign of a failing democracy. Söylemez's article highlighted that members of the judiciary may not operate with complete impunity."

3.2.2.2 Legitimate aim of interference

Article 10/2 ECHR provides an exhaustive list of possible aims that are compatible with which authorities may justify an interference. In Özgür Gündem v Turkey the Court accepted that Section 6 of Law No. 3713 of 1991 (the precursor of the current Law No. 3713) may pursue the legitimate aims of protecting national security and territorial integrity and of preventing crime and disorder.[14] While the wording of the current Article 6 of Law No. 3713 has changed slightly, it is not so significantly different that a different interpretation by the Court is likely. In the case of Söylemez it may additionally be argued that the aim of maintaining the authority and impartiality of the judiciary could constitute another legitimate aim. However, having a legitimate aim in itself is not sufficient but the interference must also be necessary in a democratic society to not be a violation of Article 10 ECHR, which will be discussed in the final section.

3.2.2.3 Necessity of an interference in a democratic society

For this final test, two aspects should be highlighted: 1) Söylemez is a member of the press and as such has a special status with regards

to the right to freedom of expression and 2) Gürlek's role as a judge and a 'public official in the fight against terrorism'.

The indictment does not take into consideration at any point that Söylemez wrote and published the article as a member of the press. Article 10/1 of the ECHR explicitly states that the right to freedom of expression includes the right to 'impart and receive information'. The ECtHR has held in multiple instances that:

> Subject to paragraph 2 of Article 10, it is applicable not only to 'information' or 'ideas' that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. Such are the demands of pluralism, tolerance and broadmindedness without which there is no 'democratic society'.[15]

While the Court considers that journalists are not released from their duty to adhere to the applicable laws, it clarified that the margin of appreciation given to the authorities is limited if they are dealing with members of the press due to their role as 'watchdogs' of their respective governments.[16] The Court recognizes that convictions against journalists may have significant effects to discourage members of the press from informing the public on matters of public interest, and thus preventing the press from fulfilling this role.[17] In this regard the Özgür Gündem judgement[18] must be highlighted, in which the Court ruled that the interest to protect the identities of people involved in the fight against terrorism is significantly decreased, if these people are public figures or their names are already publicly available, since the potential harm would be minimal. In such a case, it cannot be considered that there are justified grounds under Article 10/2 ECHR to place criminal sanctions on journalists and limit their right to freedom of expression and disseminattion of information.[19] Since Gürleks name and his role as judge at the High Criminal Court was publicly available, and Söylemez was reporting on hearings which were held publicly, it cannot be said that there was a pressing social need to interfere with Söylemez' right to freedom of expression.

Next to this it also must be mentioned that Söylemez only criticised the work of Gürlek as a judge, and not Gürlek as a person. In his official capacity as a judge (and thus as an integral part of the judiciary) he has to accept that criticism against him may have wider limits than criticisms of ordinary citizens.[20] While the judiciary must be protected against gravely damaging attacks that are essentially unfounded, questions regarding the functioning of the judiciary must be considered to be of public interest.[21] As such, Söylemez not only had the right of freedom of expression to voice her criticism but also the public has a right receive this information. The Court has furthermore held that Member States have a narrow margin of appreciation to limit the freedom of expression, where measures may discourage the press from participating from debates concerning a legitimate public interest.[22] It is clear that assuming Gürlek's work may not be scrutinised, simply because as a judge he can be considered a public official in the fight against terrorism, and he could be targeted by a terrorist, falls outside the margin of appreciation granted to the Member States. As a judge, Gürlek may, and should, benefit from being protected from attacks against his person to ensure the independence and objectivity of the judiciary. However, by becoming a judge he accepted that his name and his judgments would be publicly accessible and that his work might make him a target. As member of the judiciary, Gürlek does not have a right to be anonymous. Such a development would be a gross violation of the right to a fair trial and also be a clear sign of a failing democracy. Söylemez's article highlighted that members of the judiciary may not operate with complete impunity.

From the forgoing it can be concluded that the interference with Söylemez's right to freedom of expression was not necessary in a democratic society. Consequently, this test also results in a violation of Article 10 ECHR.

4. Conclusion and Recommendations:

As this report has shown, the indictment against Söylemez not only fails to meet the minimum legal procedural requirements, but also does not provide any reasons that prove beyond a reasonable doubt that Söylemez fulfilled the legal elements of the crime marking public officials in the fight against terrorism. The complete lack of any legal reasoning raises serious questions about the professional qualification of the prosecutor. Furthermore, the fact that a court accepted the indictment in this form

indicates an eroding legal system which is no longer considering basic legal principles, like the assumption of innocence, the right to a fair trial, and upholding and defending human rights like the freedom of expression.

Considering that Gürlek has brought similar accusations against other journalists in the past, the accusation as well as the indictment may be interpreted as a deliberate attempt to limit the freedom of expression of the press by intimidating journalists who are reporting on the misuse of power. Courts should not be complicit in such attempts but be the defenders of a free press, rejecting indictments that have no legal basis. This also highlights that Turkey must improve the selection criteria for judges and public officials and only select those that are of impeccable character. The dangers of giving powers of the judiciary to officials that may not respect their duties and are unable to show restraint cannot be underestimated.

This indictment also demonstrates the clear need to improve the quality of training of all branches of the judiciary. A public prosecutor who is unable to adhere to basic procedural requirements, like Article 170/2 CCP, and more importantly, who initiates proceedings without sufficient suspicion that a crime has been committed is a clear indictor for subpar training.

Most importantly, this indictment is another reminder that Turkey arbitrarily targets journalists who are critical of the political and judicial climate. It is recommended that Turkey starts respecting freedom of expression, the freedom to disseminate information, and the right to receive information. A democratic system must guarantee the free exchange of ideas and thoughts. Only in this way can it be strong and can it benefit society. This means Turkey must do everything in its power to stop attacks against freedom of speech and attacks against its journalists. Ultimately, the acquittal of Söylemez on the 19th of March 2024 is welcomed. Nevertheless, Söylemez should never have been in this situation and should never have been accused. ■

About the author:

Florian Bohsung is a young human rights activist and a researcher. He studied International Human Rights Law at the University of Groningen in the Netherlands. For the past year he has worked for the Legal Center Lesvos in Greece.

Endnotes

1 Birgün Gazetesi, “Yetenekli Hâkim Bey,” Birgün Gazetesi, February 18, 2020, accessed February 28, 2024, https://www.birgun.net/makale/yetenekli-hakim-bey-288416.
2 His indictment has been analysed by Pen Norway in 2021: Şerife Ceren Uysal, “Legal report on indictment: Canan Coşkun,” PEN Norway Turkey Indictment Project (Pen Norway, 2021).
3 See: Gazeteci Ayça Söylemez’e “hedef gösterme” davası (bianet.org)
4 See: Indictment against Ayça Söylemez
5 See for example: Şerife Ceren Uysal, “Legal report on indictment: Hikmet Kumli Tunç,” PEN Norway Turkey Indictment Project (Pen Norway, 2021), 5–6; Uysal, “Legal report on indictment: Canan Coşkun,” 5.
6 See: Indictment against Ayça Söylemez
7 Guidelines on the Role of Prosecutors, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders Principle 14 (07 September 1990).
8 Uysal, “Legal report on indictment: Hikmet Kumli Tunç,” 13.
9 Pélissier and Sassi v. France, para 53 (European Court of Human Rights March 25, 1999).
10 Id., para 52.
11 This test is laid out in Article 10/2 ECHR
12 Öztürk v. Turkey, para 54 (European Court of Human Rights September 28, 1999).
13 Şerife Ceren Uysal, “Turkey’s journalists in the firing line for ‘targeting officials’” (Pen Norway, 2023).
14 Özgür Gündem v. Turkey, para 56 (European Court of Human Rights March 16, 2000).
15 Stoll v. Switzerland, para 101 (European Court of Human Rights December 10, 2007).
16 Id., para 102, 105.
17 Id., para 110.
18 Özgür Gündem v. Turkey.
19 Id., para 65.
20 July and Sarl Liberation v. France, para 74 (European Court of Human Rights February 14, 2008).
21 Morice v. France, para 128 (European Court of Human Rights April 23, 2015).
22 July and Sarl Liberation v. France at para 67.
23 Birgün Gazetesi, “Yetenekli Hâkim Bey,” Birgün Gazetesi, February 18, 2020, accessed February 28, 2024, https://www.birgun.net/makale/yetenekli-hakim-bey-288416.