



**FRIEDRICH NAUMANN
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GAVELS AGAINST PENS

**The judiciary's assault
on journalism in Russia and Turkey**

ANALYSIS

Imprint

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About this publication and acknowledgements

Defenses of independent journalists against authoritarian or malign regimes remain weak across the world. Russia and Turkey - united in not just the increasingly authoritarian way they are ruled but also in their "in-betweenness" - have been no exception in this regard.

Since the start of its occupation of Ukrainian territories in February 2022, an even bleaker outlook prevails in Russia. At the same time, officials in Turkey, which is on the verge of a historic election, have been showing hostility towards neighbors, even threatening war against Greece on several occasions.

This publication, supported by the Friedrich Naumann Foundation (FNF), is a joint product of two civil society organizations - Journalists and Lawyers for Freedom of Expression (JAM), recently founded in Berlin to offer legal and professional support to exiled journalists from Turkey, Russia and other regions, and Mass Media Defence Centre (MMDC), a civil society organization working in the field of media rights protection and the promotion of freedom of expression standards in Russia.

The trials examined here show the tactics used by the authorities to label and accuse journalists of terrorism or crimes against the state. This publication is written in the hopes of presenting a better picture of how the legislative processes are used against independent media to encourage readers to draw lessons in developing better legislation, as well as international mechanisms that protect journalists from abusive justice systems.

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Istanbul, December 2022

1. Introduction

1.1. Russia and Turkey: A pair of dice cast, a story still being written

by Nate Schenckan - Senior Director of Research for Freedom House

In global discussions, Russia and Turkey have become stand-ins for autocracy, with Presidents Vladimir Putin and Recep Tayyip Erdoğan serving as evidence for “the age of the strongman”¹ But the repetition of this metonymy can obscure differences. Turkey is more politically competitive and freer in its media and civic space than Russia.² Even as over the last 15 years Erdoğan has seized the commanding heights of Turkey’s media,³ imprisoned civil society and opposition leaders, and rammed through constitutional changes to establish a super-presidential system centered on himself, the president garners at best a plurality of support heading into the 2023 elections.⁴ Many journalists⁵ face harsh constraints on their work and have been imprisoned or forced into exile.⁶ Yet there remains a robust press in the country, as independent journalists create new media outlets or reinvent old ones, and civil society organizations continue to operate even in the face of harsh punishments.

Russia’s invasion of Ukraine in February 2022, on the other hand, has shrunk Russia’s media and civic space even further—a development that comes after many years in which they were already only allowed to reach a narrow slice of the country.⁷ Opposition leaders Alexei Navalny, Ilya Yashin and Vladimir Kara-Murza are all imprisoned. And unlike in Turkey, there has never been a real multiparty period in Russia, nor the development of democratic institutions. These differences matter for informed discussion of authoritarianism and resistance to it. Even as Putin’s war in Ukraine shows the incompetence and cruelty of the system he has built, there is no significant opposition to his continued authority.

What unites the two examples of Russia and Turkey is not that they are equally authoritarian in outcomes, but that in both cases the current leadership has rejected the lowest common denominators of liberal democracy: free and fair elections, mandatory systems of consultation with popular representatives, protection from arbitrary action by the state, and equality before the law. Putin and Erdoğan’s disdain for democracy is rooted in a shared worldview that has enabled close growing collaboration despite extreme foreign policy disagreements over the last decade. Through this disdain, both leaders are driving their countries toward ruin—though one can hope in Turkey’s case there remains an off-ramp.

The first plank of this shared worldview is **distrust toward the West and its purported values of liberalism**. In this view, the Western-dominated order is hypocritical and unfair. It excludes nations that should have a rightful place at the table, and it asserts its own sphere of influence while refusing to recognize appropriate spheres of influence for powers it deems unworthy. This exclusion is built on racism and Islamophobia, exposing the hollowness of the supposedly liberal West. So-called universal human rights ignore fundamental cultural differences and are an excuse to humiliate other powers for non-compliance.

The second plank is **a belief that the nation is under existential threat externally and internally**. Putin and Erdoğan agree that external powers are collaborating with internal forces—the opposition, religious and ethnic minorities—in attempts to fracture their otherwise unified nations in order to divide the state territorially. In the stories conveyed by the two presidents and their propaganda apparatuses, this threat is not new. In fact, it spans across generations, dating back to the collapse of the Ottoman and Russian Empires, which only came about because of traitors within colluding with enemies abroad. In the present day, this threat takes the form of “color

¹ Among many others, see <https://www.penguinrandomhouse.com/books/705318/the-age-of-the-strongman-by-gideon-rachman/>; https://www.washingtonpost.com/opinions/global-opinions/erdogan-putin-and-the-strongman-ties-that-bind/2016/08/11/ab0fe27a-5fdc-11e6-af8e-54aa2e849447_story.html# (accessed: 11.01.2023)

² Both Russia and Turkey are rated «Not Free» in «Freedom in the World,» but on the report’s 0-100 scale, Russia received a 19 in 2022 (<https://freedomhouse.org/country/russia/freedom-world/2022>), and Turkey received a 32 (<https://freedomhouse.org/country/turkey/freedom-world/2022>) (accessed: 11.01.2023). Those scores cover through 31 December 2021—before Russia’s 2022 invasion of Ukraine and the ensuing domestic crackdown. In Freedom on the Net 2022, which covered through 31 May 2022, Russia scored 23 and Turkey 32.

³ <https://www.reuters.com/investigates/special-report/turkey-erdogan-media/> (accessed: 11.01.2023)

⁴ <https://www.swp-berlin.org/en/publication/post-2023-election-scenarios-in-turkey> (accessed: 11.01.2023)

⁵ <https://twitter.com/jamesinturkey/status/1576286457781944322?s=20> (accessed: 11.01.2023)

⁶ <https://niemanreports.org/articles/turkey-free-press-newsrooms/> (accessed: 11.01.2023)

⁷ <https://carnegiemoscow.org/2009/02/03/media-manipulation-and-political-control-in-russia-pub-37199> ; <https://www.indexonensorship.org/2013/12/brief-history-russian-media/>; <https://www.ned.org/wp-content/uploads/2015/10/Stifling-the-Public-Sphere-Media-Civil-Society-Russia-Forum-NED.pdf>; <https://www.niemanlab.org/2016/07/paywalls-and-politics-independent-russian-television-station-tv-rain-turns-to-subscriptions-as-its-future/>; <https://www.niemanlab.org/2022/03/russia-blocks-tv-rain-its-last-independent-tv-channel-and-tv-rain-airs-its-last-broadcast/> (all accessed: 11.01.2023)

revolutions” pursued with the funding of nongovernmental organizations and the promotion of street protests. The fear of a color revolution dominated post-Soviet authoritarian thinking in the 2000s, but only rose to prominence in Turkey several years after the Gezi Park protests of 2013 and especially after the 2016 coup attempt. At this point Turkey’s government chose to reinterpret these events through a new lens involving foreign funding and external pressure.

The third plank is **a belief that Western hegemony is collapsing, and from its collapse a new, multipolar world order will be built.** For Russia, which was only weakly vested if at all in the post-Cold War order and never found a role for itself within transatlantic structures, building an alternate order has been its top strategic priority since at least 2007, the year of Putin’s famous Munich Security Conference speech.⁸ For Turkey, it has been more of a recent process to set itself apart from “the West” despite its membership in NATO and the EU-Turkey Customs Union. Erdoğan’s belief in the collapse of the failing West stems from the split over the Arab Spring and especially the war in Syria. The failed transformation of the Middle East appears to have left Erdoğan embittered and cynical about Western power, and more favorably disposed toward ultranationalists within Turkey that have always distrusted the Western alliance and preferred Russia. With the benefit of hindsight, Erdoğan appears a deeply opportunistic leader, capable of pursuing multiethnic reconciliation within Turkey when he thought it would be on his terms, yet pivoting to ultranationalism when he decided it offered better hopes for maintaining power.⁹ But running through his opportunism is a deep distrust of liberal values and a commitment above all to his own unique indispensability.

The fourth plank is that **the leaders themselves are the only solutions.** Both Putin and Erdoğan are deeply convinced that they are indispensable to their countries, and that the state’s survival itself depends on them remaining at the center of power.

The truth or falsity of these four planks—whether those who believe them accurately understand the world—is not important. What matters is what they mean for how Russia and Turkey are ruled. Drawing from this shared worldview, both Putin and Erdoğan are convinced that liberal democracy itself is a hypocritical and discredited system inextricable from the closing historical moment of Western hegemony. As that hegemony dissolves, they believe it is their unique role in history to preserve the interests of their respective states—that the state must stand superior to the demands of a particular process, that they as leaders are uniquely inseparable from the state, and that only by embodying the state can they rescue it from internal and external crisis.

The basic premises of liberal democracy, then, are understood as at best nuisances and at worst conspiracies against the state itself, as embodied by its leader. A free press is not a check on untrammelled power, it is a plot to undermine the state. Civil society organizations that promote minority rights are trying to divide the country; they work with international funders not because of shared values, but because they are joined in a global conspiracy. The law is not a set of principles to be equally applied, it is a tool for the state to accomplish its goals. This is an ideological commitment to crude authoritarianism, in which a single leader or small group must rule by right, and any challenges to its power are illegitimate.

Authoritarianism is a terrible way to run a country. When one leader becomes indistinguishable from the state he leads, that leader’s preferences and fixations become substitutes for the state’s interests. Without any mandated mechanism for consultation, the leader’s motivations, obsessions and neuroses are elevated to the level of dogma. The quality of information available to the leader withers as he dismisses unfavorable news and promotes advisers who tell him what he wants to hear. Professionalism and merit fall aside as criteria for advancement, and corruption infects every layer of the system.

Putin’s war in Ukraine is the example *par excellence* of these problems. Responding to no demand from his inner circle, much less from the public, the president has hurled his entire country into a war that has displaced millions of Ukrainians and killed thousands, while also destroying Russia’s future, for no strategic advantage at all. At the time of writing, Putin’s invasion is in tatters as Ukraine drives back the Russian occupation in Kharkiv, Kherson and the Donbas. Russia’s military mobilization in September 2022 has spurred hundreds of thousands of men to flee the country. Unsurprisingly, the loudest voices in Russia are those hunting for someone else to blame as those closest to power seek to turn attention away from this debacle. After more than 20 years supposedly dedicated to restoring Russia’s power and status in the world, Putin has tossed it all away on a delusion based on fantasy versions of Ukraine and Russia.

Erdoğan has certainly not yet failed as badly as Putin. But the difference is one of degree, not kind. Throughout a wildly turbulent period of Turkish history—shaped by mass protests, a coup attempt, state support for the insurgency in Syria, dozens of terrorist attacks by multiple groups, and the arrival of millions of refugees—Erdoğan has made every issue about his own power. Most crucially, in 2015 when the Kurdish-led Peoples’ Democratic Party (HDP) refused to support his plan for a super-presidential system, Erdoğan tossed aside peace negotiations with the Kurdish movement, turned for support

⁸ <http://en.kremlin.ru/events/president/transcripts/24034> (accessed:11.01.2023)

⁹ <https://www.mei.edu/publications/can-erdogan-survive-without-kurdish-question> (accessed:11.01.2023)

instead to the ultranationalist right he had once scorned, and restarted Turkey's own civil war in its southeast region. He has shown the same kind of unrelenting fixation in guiding Turkey's economy according to his own logic—and in doing so, wrecking it in exactly the way critics warned he would.¹⁰ Just like Putin's obsession with making Russia a great power through his leadership has brought that country to the brink, Erdoğan's conflation of himself and the state has left Turkey weaker and more divided than it was when he began. The equivalent of Putin's invasion is Erdoğan's economy, which he has wrecked in exactly the way critics had been warning he would for a decade.¹¹ Worse is yet to come, as the consequences of Erdoğan's mistaken belief that the regional order will fail also start to come home in the wake of Russia's invasion of Ukraine and the renewed spirit it has created of transatlantic unity—absent Turkey.

The die is not yet cast in Turkey the way it is in Russia, though. Even after 15 years of progressively increasing attacks on the press, the judiciary, civil society, and the opposition, Turkey retains deeply ingrained traditions of relatively independent institutions, developed over more than 70 years of multiparty democracy. At the peak of his power following the 2016 coup attempt and the 2017 changes to the constitution, President Erdoğan still was not able to rig the 2019 municipal elections in Istanbul and Ankara to prevent opposition candidates from winning the mayoralties of the country's two largest cities. Old habits of democracy die hard, and they are not dead in Turkey.

In Gabriel García Márquez's "The General in His Labyrinth," the novelist tells the story of the last days of the revolutionary South American leader Simón Bolívar. Wracked with disease and out of power, Bolívar struggles to assert himself as he did in his youth. The novel lays out the frustrations and limitations of a world-historical figure who can no longer bend the world to his desires. Putin and Erdoğan remain in power, but time looms over them. On the doorstep of their 70s, and each with two decades of rule already behind them, both Erdoğan and Putin have gone from being young, energetic outsiders to besieged defenders of the systems they built around themselves. Like Bolívar in Márquez's novel, they are trapped by and cannot escape the realities they created. Transforming those realities will rest with the peoples of Turkey and Russia.

¹⁰ <https://www.wsj.com/articles/SB10001424052970204124204577154353478071244>; <https://www.chathamhouse.org/2016/03/erdogans-policies-are-undermining-turkish-economy>; <https://foreignpolicy.com/2018/05/25/erdogan-is-a-mad-economist-and-turkey-is-his-laboratory/> (all accessed: 11.01.2023)

¹¹ <https://www.wsj.com/articles/SB10001424052970204124204577154353478071244>; <https://www.chathamhouse.org/2016/03/erdogans-policies-are-undermining-turkish-economy>; <https://foreignpolicy.com/2018/05/25/erdogan-is-a-mad-economist-and-turkey-is-his-laboratory/> (all accessed: 11.01.2023)

2. Setting a course into authoritarianism

2.1. Russian media after 2000:

The road to full capture

*by Roman Zholud & Anna Romashchenko, Journalists,
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At the start of the 21st century, journalism in Russia looked poised for rapid development, with an array of private TV channels, media holdings not owned by the government, and a press representing a vast spectrum of different ideas. Instead, the most recent history of Russian media became the story of the cleansing of the country's information space.

Television

Television is the most predominant form of media in Russia, and where the cleansing of media outlets started after Vladimir Putin became president in 2000.

At that time, the country's biggest private television station, NTV, was part of Mediamost, a holding company owned by businessman Vladimir Gusinsky. When he clashed horns with the new president, NTV turned into the country's main oppositional TV station. Its management was able to bring together a very strong team of journalists led by Evgeniy Kiselev, creating brilliant original projects.

Even then, criticizing the actions of those in power—and particularly of the president—couldn't remain without consequences in Russia. What would later be called the "capture of NTV" took place in 2001, when the government-owned energy corporation Gazprom, previously a minority shareholder in NTV, staged a takeover to become the majority owner. With no regard for protests from journalists or the public, Gazprom used something close to brute force to fire Kiselev's team of journalists. Gusinsky, who had previously left the country due to facing fraud charges, was forced to sell his shares in Mediamost. The new executives gradually started inserting censorship into NTV's broadcasts: sharp political talk shows were shut down, and not only journalistic investigations but also news hours disliked by those in power were taken off the air.

In 2002, most of Kiselev's journalistic team transferred to the TV-6 station, which belonged to yet another legendary oligarch, Boris Berezovski. By that time, Berezovski's relations with Vladimir Putin had also become strained, and TV-6 too was shortly thereafter shut down. The reason for the closure was—on paper—the station's debt.

In 2003, Kiselev and his colleagues attempted once again to revive their broadcast under the new brand of the TVS network, but this project came to an end before even one year had passed. Its frequency was replaced by the government-owned Sport station.

At the time it occurred, the state capture of NTV was a major social and political scandal, while the capitulation of the other television networks to the Kremlin occurred in a less conspicuous manner.

An example of this process can be seen with the network REN-TV, which stood alongside the old NTV in terms of its oppositional stance in the early 2000s, but slowly lost its independence. The deciding moment was likewise the purchase of the network, in this case by the National Media Group (NMG) in 2008. NMG Holding was founded that same year, using funding from businesses controlled by the government. Later, the government-owned corporation Rostelecom came into possession of 71 percent of NMG's shares. Content on REN-TV, which previously included documentaries on such topics as the murder of journalist Anna Politkovskaya, the terrorist attack in Beslan or the issue of hazing in the military, changed under the new management. The network first began airing a higher number of entertainment programs, while international and national news reports took on a more pro-government tone. Later, its broadcasts came to be filled with pseudo-documentary programs promoting anti-science, anti-history and conspiracy theories.

Another network that changed dramatically after becoming part of the NMG group was Channel 5. A majority of its staff were fired after the ownership change in 2008 and a majority of its programs taken off the air, as the network's policy became unabashedly servile to government authorities.

Today known solely as the home of "Comedy Club" and its many comedic spinoffs, the Russian television channel TNT up until 2002 employed many former NTV journalists and broadcast several news shows and even analytical programs. But all programs which touched upon social and political issues were taken off the air within a year after the station's acquisition by Gazprom.

In the early 2000s, even a station which had 51 percent of its shares owned by the government—Channel 1, then called ORT—National Russian Broadcasting Television—criticized the actions of Russian authorities during the Second Chechen War (1999–2009). However, precisely because of that criticism, the network's remaining shares—at the time controlled by Boris Berezovski—were bought by Roman Abramovic, an oligarch loyal to the Kremlin. After the sale, criticism of government authorities disappeared swiftly from ORT's programming. The government subsequently decreased its direct shares in the channel to 34 percent, but the remaining shares still belong to government-owned corporations or to those known for their close ties to the authorities (such as VTB Bank, Sogaz, NMG and others).

But bringing private television to heel was not the only strategy Russian authorities implemented in the 2000s. At the same

time, they were also actively developing state-owned television.

In addition to Rossiya (later Rossiya 1), other TV channels started to emerge on the foundation of the all-Russia state television and radio company. Among them was the 24-hour informational television network Vesti (created in 2006), which was later renamed Rossiya 24. In 2005, the Zvezda station started its broadcast, becoming the official mass media outlet of Russia's Ministry of Defense.

Another station that played a role in this process was Russia Today (later renamed RT), set up in 2005. Its main audience was outside of Russia's borders, but RT's management also started creating and spreading content in Russian for the domestic population. Outside of their work at RT, the station's employees also participated in creating content for REN-TV and Channel 5.

As a result, the Kremlin had practically all television networks that broadcast on social and political issues in Russia under its control by the year 2010. Government propaganda acquired the maximum possible space, and any information that contradicted it found no place on television.

The only successful opposition channel to emerge was TV Dozhd, founded in 2006. In comparison with the leading Russian networks, it had a smaller number of viewers, as it wasn't part of the free-of-charge federal stations that broadcast across the country. Dozhd broadcasts were carried out via paid satellite and cable television platforms. In 2012 and 2013 the network joined tenders to earn federal network status, but was unsuccessful.

In 2014, Dozhd conducted a public survey asking participants whether it would have been worth giving up Leningrad to save hundreds of thousands of lives during the siege of the city in World War II. This caused a public outrage. Facing pressure from the authorities, almost all cable and satellite providers excluded Dozhd from their platforms following this incident. The network was left with only one way to spread its content, which was paid subscriptions to its website. In early March 2022, Dozhd was blocked by Roskomnadzor (the Russian government agency responsible for monitoring and controlling the mass media) as part of its censorship related to war broadcasts. Members of Dozhd's editorial team left Russia and are currently continuing their work outside the country.

Print and online media

A parallel process of dissolving other forms of private media unfolded in a similar fashion after the year 2000. It is worth noting that most government publications (for example Rossiyskaya Gazeta) had a relatively low popularity among the public, which made it important for the authorities to establish control over private media outlets.

The authorities made it clear to the country's media holdings that it was not in the least desirable for them to have independent—let alone oppositional—journalism projects of a large scale. Some publications, particularly popular ones such as

Komsomolskaya Pravda and Argumenty i fakty, turned to pro-government coverage. The newspaper Izvestiya, which had become part of NMG in 2008, also lost its independence. Specially appointed commissioners from the Administrative Directorate of the President of the Russian Federation monitored these publications to ensure that their course stayed "politically correct."

Even those publications that wanted to keep a more independent position gave in under the pressure: they changed their executive management and editorial teams, and sold shares in their companies to new owners. Changes were made to their editorial policies so these media outlets became more loyal to the ruling authorities.

Print and internet media in the "aughts" were significantly behind television in terms of audience sizes. This may be why the authorities only began to establish tight control over this segment of Russian media in the 2010s, when the audience of online publications started to grow rapidly.

In March 2014, the Lenta.ru news website—at the time the most popular online media outlet on the Russian-speaking internet—published an interview with a member of the Ukrainian organization Right Sector. This group was subsequently outlawed and designated as a terrorist organization in December 2014. But even though the interview was published before this designation occurred, Lenta.ru received a warning from Roskomnadzor over it, resulting in the site's editor-in-chief Galina Timchenko being sacked by Lenta.ru's owner, businessman Alexandr Mamut. More than 50 employees of the website left the outlet along with Timchenko. After their departure, the publication changed its concept; critical independent content disappeared from the website and, according to the remaining employees, publication bans were introduced on certain subjects. Timchenko and the other ex-Lenta.ru employees went on to establish the independent online news publication Meduza, registered in Latvia.

In 2014 and 2015, another online publication, RBK, started to break records among local websites in terms of online visitors. Its editorial team, under the management of Elisabeth Osetinskaya, published investigations into members of Vladimir Putin's family, government spending on the Syrian war, and participation of the Russian army in the Donbass conflict. It later shed light on a scandal related to the Panama Papers. All of this occurred to the dismay of the Kremlin. In 2016, police searches took place in the companies of RBK owner Mikhail Prokhorov. As a result, Osetinskaya and about 20 other journalists left RBK, and Prokhorov sold his shares in the outlet. After this incident, no further investigations regarding the activities of Russia's rulers were published by RBK.

In 2019, 12 journalists employed in the political section of the newspaper Kommersant walked out in an act of protest after the firing of Gleb Cherkasov, the deputy editor in chief of the publication. His dismissal had occurred after the newspaper printed a comment about the possible departure of Valentina Matvienko from the post of head of the Federation Council, the upper chamber of the Russian parliament.

In the spring of 2020, the newspaper *Vedomosti* was sold to new owners connected with the ruling elite, who were quick to fire the publication's management. The newly appointed editor in chief swiftly introduced topics on which its remaining staff were forbidden from reporting, resulting in a mass exodus of journalists from the publication.

Smaller new publications picked up the falling banners of old media giants. In addition to *Meduza*, others worth mentioning include *The Insider*, *Proekt* and *Vazhniye Istorii*. For the most part, only two independent publications from the 1990s were able to withstand pressure from the ruling elite: *Novaya Gazeta* and radio station *Ekho Moskvyy*. However, in 2022 those two also fell victim to censorship and were shut down by the government.

2.1. Media in Turkey after 2000: The road to full capture

*by Evin Barış Altıntaş - Journalist and
MLSA Co-Director, Turkey*

The date of 14 April 2001 has proved to be a fateful one for independent and diverse journalism in Turkey as well as in Russia. Just hours after Russia's largest private television station NTV was raided by police in that country, Turkey's newly appointed economic chief Kemal Derviş announced the first steps of his plan to extricate the nation from a deep financial crisis.

Derviş's economic program indeed helped pull Turkey out of a very deep banking crisis, but one of the institutions that it relied on extensively to recoup the debts of sunken banks on behalf of the taxpayers would soon be remorselessly exploited to finalize capture of the media in Turkey.

To explain how this happened requires taking a step back—and an acknowledgement that Turkey was never a rose garden in terms of media freedoms. Since the start of an economic liberalization process in the 1980s, Turkish media have always been in the hands of corporate holdings, and reported in line with their owners' economic interests. However, there was a vast ideological diversity in terms of media outlets compared with today, when it is not uncommon for every major media outlet to run the same headline for their front page story. With the exception of a few independent outlets and a few news stations, Turkish President Recep Tayyip Erdoğan has secured full power over the media scene.

Prior to coming to power in 2002, Erdoğan's Justice and Development Party (AKP) and its ideological ancestors had suffered a lot at the hands of the media. The conglomerates running Turkey's media outlets had so much influence over incumbent governments and public opinion that they could shape politics and policy decisions. In fact, the pre-2000s media played a major role in the country's unarmed military intervention of 28 February 1997, during which an Islamist government was forced to resign.

Soon after its electoral victory in 2002, the AKP made it a priority to win over media tycoons, or to seize their outlets and hand them over to the ruling party's cronies. One institution that was crucial to this endeavor was the Saving Deposits Insurance Fund (TMSF), which had been instrumental in collecting debts from bankrupt banks—whose owners also controlled media outlets—following the 2001 economic crisis.

Starting in 2002, the TMSF began to confiscate the media outlets owned by three families—the Uzan, Bilgin and Çukurova groups—representing almost 75 percent of the country's national media including news channels, newspapers, TV and radio stations, and magazines.

First in line was the Star Group of the Uzan family, whose İmarbank had allegedly swindled hundreds of depositors out of millions of lira prior to 2001. This group including Turkey's first private television channel, Star TV, was seized in 2004. Another milestone was the seizure of the Bilgin family's Sabah-ATV group in 2007. In 2013, the media holding owned by the Çukurova Group—which included the widely watched Show TV and SKY 360 news stations—was taken over by TMSF, only to be resold to the pro-government Ciner Group later on.

The fourth powerful media group at the time was the Doğan Group, owner of the widely selling *Hürriyet* newspaper as well as many other mainstream media and television channels. In 2009, it was threatened with an astronomical tax fine; under ongoing pressure, it later agreed to sell its remaining media holdings to the government-friendly Demirören family.

The result of all this was that by late 2009, Turkey's most-viewed television stations and widely read newspapers were essentially under the control of the government. At the time, the government also had another powerful arm of its propaganda machine: the Feza Media Group, owned by the AKP's then-ally Gülen Group, which had under its control the *Zaman* newspaper in addition to several magazines and religious publications. As the AKP-Gülen alliance began to shatter, these publications were also confiscated by the government prior to the 15 July 2016 coup attempt, which members of the Gülen religious organization were accused of orchestrating.

Other Islamist-minded newspapers, such as *Yeni Şafak* and *Akit*, would also thrive during this era. State funding flew into these smaller media outlets as well as the newly acquired ones.

The new media elite was also allowed to make use of loans provided by state banks at insignificant interest rates through public tenders whose transparency was questionable. To this day, many questions remain as to how much of this debt was paid back, if any. The result was that one media group could circulate between different businessmen who all needed to remain in the good graces of Erdoğan, thus ensuring favorable coverage of the government.

Despite all this, Erdoğan found it hard to fully trust his business allies, and appointed media commissioners to represent the government's interests. Sometimes his intervention was

even more direct. In one case that became public, Erdoğan called Fatih Saraç, the deputy chairman of Ciner Media (owner of Habertürk TV), to personally chastise him for running a news ticker with a quote from Nationalist Movement Party (MHP) leader Devlet Bahçeli, then a political rival. During this phone conversation, Erdoğan ordered Habertürk to cut the feed. (The MHP and Bahçeli have since become vital coalition partners to Erdoğan and the AKP.)

Following the 2016 coup attempt, a massive purge began in Turkey of public-sector employees, universities—and the media. Under the state of emergency regime put in place after the failed coup, 16 television channels, 23 radio stations, 45 daily newspapers, 15 magazines and 29 publishing houses were shut down through an emergency decree issued by President Erdoğan. Hundreds of journalists were imprisoned on charges of terrorism, crimes against the state, or aiding and abetting the coup plotters and tried in the absence of any solid evidence beyond their place of employment, their news reports or their tweets. Many spent years in prison.

The Doğan group, which the AKP had found hardest to take over, was finally sold to an Erdoğan crony, Yıldırım Demirören, in 2017, on the same day the government first detained businessman and civil society philanthropist Osman Kavala. (The sale was not publicly announced until 2018.)

Full capture of the media may have helped Turkey's government drown out critical news about its deeds among the general public, but it hasn't stopped the country's journalists from reporting inconvenient stories. Further measures continue to be taken to try and stamp this out.

In the six years following the coup attempt, tougher legislation has been passed to crack down on the remaining alternative and Kurdish media. In 2018, Turkey transitioned to a presidential system that gave Erdoğan sweeping powers. Internet legislation adopted after this change forces social media platforms to appoint representatives to Turkey, while new directives have given the media watchdog Supreme Board of Radio and Television (RTÜK) the right to demand "broadcasting licenses" from international online media. A new law on "disinformation" now threatens journalists—and other individual citizens—with up to three years in prison for disseminating news reports outside the government narrative. Approximately 400 journalists were tried between 2016 and 2020, with many convicted; new trials, particularly targeting the Kurdish media, are launched every day. Critical newspapers are denied public advertising, and their journalists refused press cards; if they turn to foreign funds to survive, they are demonized by pro-government media.

3. Never say no to war

3.1. War and censorship in Russia: Not a single word against the 'special operation'

by Roman Zholud & Anna Romashchenko, *Journalists, Mass Media Defence Centre, Russia*

From the moment on 24 February 2022 that Russia launched a war into Ukrainian territory—or, as the Kremlin put it, began a so-called “special military operation”—a complete media censorship went into force.

According to figures from the NGO Roskomsvoboda, between 24 February and 5 May 2022, more than 3,000 sites were subject to censorship related to reporting on the war. (It is important to note that these figures do not include access bans that were issued on the basis of other reasons.) In particular, all of the major independent media websites—Meduza, Ekho Moskvyy, 7x7, Cobesedenik, Dozhd and others—were blocked at this time. Currently, access to these websites in Russia is only possibly with the help of VPN services. Some media outlets have stopped their activities altogether. In addition, the activities of Meta, the parent company of Facebook and Instagram, were declared extremist and banned in Russia.

Together with these developments, the ruling authorities also seriously and strategically tightened legislation already in place. On 4 March new articles went into force in Russia's Code of Administrative Offenses (CAO) and Criminal Code (CCRF) that criminalized “discrediting the use of the Armed Forces of the Russian Federation” (CAO Article 20.3 and CCRF Article 280) and knowingly spreading false information on the actions of the armed forces (CCRF Article 207.3).

According to the position of the Ministry of Justice of the Russian Federation, a “fake” claim about the army is any false statement about facts, and “discrediting” the army is expressing any “negative opinion” about its actions. It says “discredit” should be understood as “deliberate actions aimed at undermining confidence in state authorities, belittling their authority.”

Adoption of the new legislation meant that it is now prohibited to spread factual information about the war that Russian authorities have not admitted is true; expressing views about military operations and events counter to the official line is also banned.

One of the first journalists to face a criminal case under Article 207.3 (“spreading false news about the actions of the armed forces of the Russian Federation on external territory”) was Andrey Soldatov, the founder of Agenta.Ru. The case was initiated by the Main Investigation Department of the Investigative Committee of the Russian Federation on 17 March 2022 based on statements the journalist made on the program “Popular Politics.”

During that program, Soldatov had said the following: “The role of the political element, and thus the special forces, is of utmost importance. This is the only explanation for the fact that units that are completely not trained for such fights are currently participating in ongoing battles. All those pictures showing burned columns of military vehicles of the National Guard. We all know perfectly well from our own experience that the goal of the National Guard is to beat up protesters and not participate in fighting that involves tanks. Still, they are throwing them into the battlefield, and the reason for this is clear: because for the people who plan the operation, owing to political motives, this is not a military operation but it is something like a police operation. Once we take care of the gangs, all will be calm and quiet and everyone will welcome the Russian forces.”

It was the use of the phrase “burned columns” that, according to the investigators, constituted fake news about the use of Russia's armed forces. According to prosecutors, Soldatov, knowingly and “motivated by political hatred” toward the ruling authorities and the military, spread disinformation to a large number of people about the activities of the armed forces.

Soldatov himself had already left Russia in 2020, but during the investigation phase of the case, his bank accounts were frozen and his automobile seized.

Similarly, the editor in chief of the publication Fortanga.org, Isabella Evloeva from the Ingushetia region, was also subject to an investigation on charges of disseminating allegedly false information about the actions of the military. She became the defendant in three criminal cases launched under CCRF 207.3.

The first case against Evloeva was launched in March 2022 based on her statement about the symbol “Z,” which she called “the synonym of aggression, death, pain and manipulation without conscience.” The second case against the journalist was launched in April 2022 for her comments regarding the killings of civilians in the Ukrainian city of Bucha. The third case against her was a report filed by the administration of the Federal Security Services (FSB) in Ingushetia claiming that false information was detected on Fortanga's Telegram channel. On the day the FSB report was made, news reports about losses among the Russian army and about an explosion at the Kremenchuk shopping mall in Ukraine had been posted on the channel.

As a result of these prosecutions, Evloeva had to leave Russia. Her relatives who stayed in Ingushetia had their homes searched by police, were summoned to the police department to be interrogated and were subject to different forms of pressure to try and prevent Evloeva from writing.

Another journalist persecuted for spreading information about the war was the editor in chief of the New Focus magazine, Mikhail Afanesyev from Abakan in the Khakassia Republic.

The case against him was launched 13 April 2022 based on “fake news” found in a New Focus news report about 11 employees of OMON (a special police force that is part of the National Guard) who refused to go fight in Ukraine. According to prosecutors, the article contained unreliable information about the number of National Guard members who were killed, injured or went missing, as well as about their inadequate material compensation and the poor management of their transportation from Khakassia to Ukrainian territory.

Following the launch of the case against Afanasyev, police searched the apartments of the journalist and of his mother, seizing documents, technical equipment (including a computer) and digital media files. On 15 April, Afanasyev was taken into police custody and later arrested. As of the publication date of this report, he remains in detention, facing up to 10 years in prison under Article 207.3.

3.2. War and censorship in Turkey: Zero tolerance for critical reporting on security forces

by Sibel Yüklér - Journalist, Turkey

The dismal state of press freedom in Turkey is well known. As of 2022, the country was still the sixth-largest jailer of journalists in the world.

In almost all of these cases, those who are asked to account for their news reports before the courts are not considered journalists by the country’s powerful president Recep Tayyip Erdoğan and his Justice and Development Party (AKP) government; rather, they are deemed “terrorists.”

Terror-related accusations comprised 38 percent of all accusations leveled against the defendants in a total of 210 free speech trials against journalists, activists and lawyers from 1 September 2021 to 20 July 2022, according to Media and Law Studies Association’s (MLSA) legal monitoring data. In almost all of these cases, the only evidence put forth against the defendants was related to their work and consisted of tweets, news reports or statements.

Turkey’s judiciary, which is clearly subject to strong government influence through the Council of Judges and Prosecutors (HSK) system, has shown particular “sensitivity” to reporting and statements about the operations of the country’s military.

Reporting on attacks inside Turkey

An instructive example of how press freedom is treated in Turkey is provided by the government’s response after a recent terror attack in Istanbul. On 13 November 2022, six people were killed in a bombing carried out in one of the busiest parts of the city, on İstiklal Avenue. As journalists scrambled to access information in the wake of the attack, mechanisms of censorship introduced as part of the Law on Disinformation adopted 13 October 2022 were immediately put to work.

A few hours after the attack, the Supreme Board of Radio and Television (RTÜK)—which oversees broadcasts on television and radio as well as streaming news websites and online platforms—issued a gag order on the bomb attack. Instantly, live broadcasts from the site of the attack were cut off, creating a major obstacle to the people’s right to information. This was followed by the throttling (slowing down internet traffic by narrowing bandwidth) of social media platforms, which lasted more than 10 hours. The ability to do this had been bestowed to the Information Technology and Communications Council (BTK) by the disinformation law, and the government agency indeed owned up to the throttling in a statement. Observers took this as a sign of how the law will be used in the days to come.

Following the institution of a gag order and an access ban, the Istanbul Chief Prosecutor’s Office announced that individuals posting “negative news” about the bombing would be prosecuted. All of these developments happened under a cloak of censorship, blockages and threats that kept journalists from being able to raise any questions that would illuminate the situation.

Detained for protesting war

While RTÜK and BTK put up a smokescreen around the İstiklal bombing, a government narrative was put forth that linked the attack to the Kurdistan Workers Party (PKK), considered an outlawed terrorist group, and its Syrian affiliate the Democratic Union Party (PYD). Shortly after the attack, Turkey announced that Turkish Armed Forces (TSK) fighter jets were bombing PKK targets in the northern parts of Iraq and Syria in the early hours of 20 November as part of the military’s Claw-Lock Operation.

Turkey’s border towns subsequently became targets of strikes. Rockets fired from Syria toward the border town of Karkamış on 21 November killed five people, including a 5-year-old, according to the Ministry of Interior.

On the same day, a large number of people who took to the streets in Istanbul, Ankara, Van and Diyarbakır provinces to show their stance against war—both outside the country’s borders and the strikes that targeted Turkey’s own cities—encountered police intervention. At least 40 were detained for exercising their right to protest.

Not a war but an ‘Olive Branch’

According to data from Turkey’s Defense Ministry, a large number of operations have been carried out in the north of Syria, particularly in regions under Kurdish control. Their frequency and intensity has increased over the past few years as part of Operation Euphrates Shield launched in 2016.

One such military operation took place 20 January 2018, when the Turkish army launched an insurgency into the Afrin enclave of northern Syria as part of an operation it called “Olive Branch,” citing “counter-terrorism” and “border-area security” as its reasons.

Many civilians were killed during operation “Olive Branch” and thousands were displaced. There were civilian deaths inside Turkey as well, following rocket strikes across the border. Despite these casualties, Turkish officials asked newspapers and TV channels to avoid using the word “war” when covering the developments, and instead to refer to the operation and its aftermath by its military name of “Olive Branch.” Most outlets complied.

Those journalists and civilians who did share news or posts that were critical of the operation paid a price. Within 10 days following the start of the operation, 311 people were detained. Fifteen of them were arrested and remained behind bars for several months, until the day of their first hearing.

No to ‘no to war’

Though no new legislation was adopted, saying no to war, or reporting on the dead and wounded were also banned—and not in a de facto manner. Starting with the Istanbul Governor’s office, for example, many Governorships released decrees against using the slogan “no to war” within the boundaries of their provinces. The decrees were grounded on the argument that the use of this phrase “might cause public outrage in such a sensitive period, might agitate conscientious and humane values and threaten social domestic peace.”

Lawsuits against journalists reporting on those who call for peace

During this period, at least 10 journalists were accused of “terror propaganda” in relation to their reports on Turkish military operations in Syria.

One of these journalists was Bursa Muhallif newspaper editor Ozan Kaplanoğlu, who was sentenced to one year, 10 months and 15 days in prison for using the headline “We’re on the side of peace, not war” in covering a press release critical of the operation.

From ‘conducting propaganda’ to ‘denigrating the Turkish nation’

Another lawsuit was filed against Arti TV’s Ankara representative Sibel Hürtaş and freelance journalist Hayri Demir, who had both tweeted in criticism of Operation Olive Branch. These tweets became the grounds for accusations of “inciting the public to hatred and hostility” and “conducting propaganda for a terror organization via mass media,” charges punishable by up to 10.5 years in prison for the two offenses.

The trial of Hürtaş and Demir lasted for 12 hearings. In the final hearing, the Ankara 15th High Criminal Court ruled to suspend the investigation into the incitement and propaganda accusations, but found that the journalists’ criticism might constitute a crime under Article 301 of the Turkish Criminal Code (TCK), which outlaws “denigrating the Turkish nation, the Republic of Turkey and the State’s agencies and organs.” As a result, the court asked for permission from the Justice Ministry to launch an Article 301 investigation into the two journalists.

Sued over a quote

Another lawsuit regarding the Olive Branch operation was launched against journalist Ahmet Kanbal, who had shared an interview he conducted with Şener Levent, the editor in chief of the Afrika newspaper, which is based in northern Cyprus.

Kanbal was accused of “repeated acts of terrorist propaganda” for sharing his interview in a 31-tweet Twitter thread with the prosecutor demanding up to nine years in prison for the journalist. The headline of the interview was “Şener Levent: Conquest to them, occupation for me.”

Surprisingly, the prosecutor said in his opinion that the social media posts did not constitute evidence of a crime, and instead fell under the scope of freedom of expression, demanding Kanbal’s acquittal. In the end, Kanbal was acquitted in the case heard by the İzmir 2nd High Criminal Court.

Targeted for reporting on torture and violations of the right to life

Many journalists were also targeted with legal actions—and, often, outright arrests and imprisonment—for reporting on inhumane treatment of civilians at the hands of Turkish security forces and grave violations of the right to life.

In October 2020 four journalists from the Kurdish-focused Mesopotamia News Agency (MA) and JinNews Agency were arrested for reporting on the torture of two Kurdish civilians from a village in Van. The two men, Servet Turgut and Osman Şiban, had been detained, severely beaten and then pushed out of an airborne gendarmerie helicopter. Turgut died in a hospital, while Şiban survived after spending some time in a coma. Parliamentary deputy Ahmet Şık, a former journalist himself, had also issued a detailed report on the torture of the Van villagers. The four journalists from MA and JinNews were kept in prison for six months until their first hearing on 2 April 2021 on charges of “membership in a terrorist organization,” an accusation of which they were all later acquitted.

Around the same time, journalist Dinar Karataş was arrested 26 November 2020 on charges of “membership in a terrorist organization” for a news report which detailed alleged human rights violations and mistreatment of civilians during military operations being conducted by security forces in Soğukpınar village, located in the Tutak district of the eastern province of Ağrı. Karataş’s report had included claims of murders of civilians as well as torture.

The journalist, who was facing five to 10 years in prison, was eventually acquitted during the trial heard by the Erzurum 3rd High Criminal Court. In one of the most striking arguments in his defense, Karataş said: “My news report was based on hospital records that had clearly established torture and should have been grounds for an investigation into the security forces. Instead, I am here on trial.”

Tried for photographing a murder in broad daylight

One of the most well-known and shocking cases against a journalist who brought to light brutal crimes committed by law-enforcement officers is that of Abdurrahman Gök. He photographed the last moments of Kemal Kurkut, a 21-year-old university student who was participating in Newroz celebrations in Diyarbakır when he was killed in broad daylight by bullets from a police gun.

The circumstances of his death became publicly known through Gök's photographs, which showed the events frame-by-frame as a half-naked Kurkut ran through the Newroz fairgrounds and was shot dead by the police.

In its first announcement about the killing, the Diyarbakır Police Department claimed that a "suicide bomber" had been eliminated during the Newroz festival. Although a few other journalists had photographed Kurkut's killing, all of them had been detained and forced to hand over their digital materials. Only Gök was able to save the photos he took by rapidly transferring them from his camera to a separate memory card.

Gök was put on trial for filming the horrendous police shooting. His home was raided dozens of times and he faced three investigations, two of which turned into court cases. The journalist faced 25 years in prison on charges of membership in and making propaganda for a terrorist organization. He was eventually acquitted of the "membership" charges, but was given a sentence of 1 year, six months and 22 days in prison for making "propaganda for a terrorist organization" due to sharing photos on his social media that he had taken as a war correspondent in Syria in 2014.

Meanwhile, the police officer who allegedly shot and killed Kurkut was acquitted in the trial where he faced charges of "killing with possible intent," the latest addition in a long list of police murders awarded with impunity.

It is clear that reporting on war, violence and crimes carried out by security forces or law enforcement has grave consequences for Turkey's journalists. But many continue to do so despite the high potential price.

4. Crimes against the state; the state against journalists

4.1. How journalists in Russia were made into traitors and terrorists

by Roman Zholud & Anna Romashchenko, *Journalists, Mass Media Defence Centre, Russia*

Accusations that involve crimes against the state are among the harshest that can be made. In contemporary Russia, they have become an instrument for punishing incoherent journalists. The lengthy detention times, secrecy and gag orders on both the investigation and the court proceedings often involved in such accusations have proven very useful in repressing journalism.

The case against Ivan Safronov: The war ‘secret’ that wasn’t

A former journalist at the publications *Kommersant* and *Vedomosti*, Ivan Safronov had been working since May 2020 as the information policy adviser to Dmitry Rogozin, the general director of the state corporation *Rokosmos*. Later than same year, a case of “high treason against the state” was launched against him under RFCC Article 275. The prosecutors maintain that Safronov was recruited by representatives of the Czech special forces and passed them secret information in 2017 regarding the military-technical cooperation between Russia and African countries as well the actions of Russia’s armed forces in Western Asia and the Middle East.

The investigation in this criminal case went on for two years, during which Safronov was kept behind bars at the Lefortovo detention center.

During the preliminary investigation phase, a great deal of pressure was exerted on his lawyers, including the arrest of one of them—Ivan Pavlov, head of the rights collective *Team 29*—in April 2021. Pavlov was accused of disclosing data from the preliminary investigation into Safronov under RFCC Article 310. The investigators alleged that Pavlov had given journalists a copy of the decision to bring Safronov in to testify and told them about a secret witness in the case. In September 2021, Pavlov announced that he could no longer work as a lawyer, and moved out of Russia to Georgia. In March 2022, the Saint Petersburg Chamber of Lawyers suspended Pavlov’s lawyer’s license.

In addition, the website of *Team 29* was blocked in 2021 at the demand of the General Prosecutor’s Office, which claimed *Team 29* was actually the Czech-registered NGO *Spolecnost Svobody Informace*, which Russia had included on its list of “undesirable organizations.” The official reason given for the blocking was that the site was disseminating materials of an undesirable organization. Following this ban, *Team 29* decided to shut down its website and deleted all of its media projects and publications archive.

In March 2022, the General Prosecutor’s Office sent the criminal case against Safronov to a court. In the information statement published on its official website, the prosecutor’s office maintained that the investigation had “established and documented facts about a lengthy period—from 2015 to 2019—during which secret and top-secret information was obtained and collected by Safronov, including information regarding military-technical cooperation between Russia and states that are members of the Collective Security Treaty Organization, as well as the countries of the Middle East, Africa and the Balkan Peninsula.” According to the General Prosecutor’s Office, Safronov had “systematically passed on the collected information to representatives of foreign intelligence agencies, with awareness that this information could be used by governments—members of the NATO bloc—against the Russian Federation.”

With the exception of the final hearing where the verdict was announced, all court hearings against Safronov were held behind closed doors, on the grounds that there were classified documents involved in the case. The prosecution asked for 24 years in prison for the journalist, who pleaded not guilty. Prior to the court pleadings, Safronov was offered a reduced sentence of 12 years in a penal colony if he confessed his crime. The journalist rejected this and protested his innocence in his final statement, saying that he had never participated in espionage. “There is not and has never been an element of crime in my actions,” he said. “I insist on my innocence and demand a full acquittal.”

The trial concluded in September 2022 with Safronov sentenced to 22 years in a maximum security prison and a monetary fine of 500,000 rubles (around \$8000).

The civil society community has harshly criticized the criminal case against Ivan Safronov. The activist center *Memorial* (which has since been shut down by Russian authorities) argued that the case was based on fabricated evidence and targeted Safronov solely for his journalistic activities. The international press freedom group the *Committee to Protect Journalists* (CPJ) demanded Safronov’s swift release.

Independent experts and journalists have noted that although the pre-trial investigation took two years, no real evidence was presented by prosecutors to back the accusations leveled against the journalist. All of the information used by Safronov for publication—information the special forces treated as state secrets—can be found as open-source information available in the public domain.

Representatives of rights groups and the journalism community also expressed the opinion that the reason for the prosecution of Safronov was not “high treason” but his journalistic work, which was carried out without kowtowing to the Russian authorities or the Ministry of Defense.

The case against Safronov was designed from the beginning as a way to intimidate other journalists, according to Vyacheslav Bakhmin, the co-chair of the Moscow Helsinki group and the founder of the Sakharov Center, who said:

“The task of the authorities at the current stage is extremely simple: by jailing a relatively smaller number of people, they want to intimidate others. Therefore, a journalist, who in the mind of the ruling elite, snoops into where they shouldn’t be, can easily get 22 years [in prison]. An absurd trial and a monstrous sentence. This is done so that others would be reluctant to meddle in matters that supposedly concern only the government. They are, in a sense, warning journalists: write about anything you want, but not about this; otherwise things will end up pretty badly for you.”

The case against Svetlana Prokopyeva: Turning a journalist into a ‘terrorist’

On 31 October 2018, teenage anarchist Mikhali Zhlobitsky blew himself up in the administrative building of Russia’s Federal Security Services (FSB) in the city of Arkhangelsk, killing himself and injuring three FSB employees. Authorities deemed it a terrorist attack.

After this incident, a criminal investigation was launched under RFCC Article 205.2, which criminalizes “public justification of terrorism,” against Pskov-based journalist Svetlana Prokopyeva in what became an emblematic case.

The grounds for the accusation against Prokopyeva was her radio program aired on the Pskov affiliate of Ekho Moskva in November 2018. In this broadcast, the journalist offered an analysis of the reasons that might be behind the attack, in particular expressing her opinion that the government itself created the conditions that prepared the grounds for this act of terrorism. She tied Zhlobitsky’s action to the sociopolitical situation in the country, comparing it with the acts carried out by members of the 19th-century “narodovoltsy” movement that fought against the Russian Empire. Prokopyeva emphasized that the absence of political and civil freedoms in Russia had brought it to the position of an oppressive state. A text including her comments was also published on the website of the local information agency Pskov Newslines.

On 11 December 2018, the government media regulator Roskomnadzor sent a notification to the publishers of Pskov Newslines and the Ekho Moskva affiliate warning that Prokopyeva’s comments included signs of justification of terrorism. The recording and text of her radio program were taken offline, and both editorial offices had to pay fines of between 150,000 to 200,000 rubles. The radio station cut ties with Prokopyeva and took her program off the air.

On 6 February 2019, police conducted a six-hour-long raid in Prokopyeva’s apartment, seizing equipment, her passport and other documents. On 20 September 2019, the journalist was charged with justifying terrorism; an international travel ban was issued and she was banned from publicly disclosing information about the case.

The Moscow-based 2nd Western District Military Court heard the trial. The prosecution asked for six years in prison and introduced a four-year ban that would keep her from conducting journalistic activities. Prokopyeva pleaded not guilty, with her lawyers insisting that there was no element of crime present in the case. In July 2020, she was found guilty but sentenced to pay a 500,000 ruble fine in place of jail time. Her lawyers with the Mass Media Defense Center still took the case to the European Court of Human Rights (ECtHR) in late 2021, arguing that the decision violated Article 10 of the European Convention on Human Rights, which protects freedom of speech. The application remains pending before the ECtHR as of the publication date of this report.

The case of Vladimir Kara-Murza: Being critical is now considered treason

In October 2022, accusations of high treason became a new tool for suppressing the press when such an accusation was leveled against Russian politician and journalist Vladimir Kara-Murza over his public criticism of the government. At the time, Kara-Murza was already in detention following the launch of criminal cases against him under the war censorship legislation criminalizing “fake news about the army” and for running an “undesirable organization.” According to Kara-Murza’s lawyer, the charges of high treason are related to three public statements he made in Lisbon, Washington and Helsinki that criticized the Russian authorities.

4.2. The Cumhuriyet saga in Turkey: When courts decide editorial policy

by Gökçer Tahincioğlu - Journalist, T24, Turkey

Speaking about the state of press freedoms in Turkey during a visit to the United States in 2021, Turkish President Recep Tayyip Erdoğan told the CBS news station: “We do not have problems in this matter. With regards to freedoms, Turkey is much more free, incomparable to what you have in all these places.” (By “these places,” he was referring to the US and European Union member states.) The same year Erdoğan made this bold statement, he was included in the “press freedom predators” list compiled by the journalism organization Reporters Without Borders (RSF). On another RSF list published the same year, Turkey was ranked 153rd among 180 countries regarding press freedom.

Cases in which journalists are accused of terror-related crimes, espionage or attempting to overthrow the state on the basis of their reporting are common in Turkey. The evidence put forth by prosecutors in these cases consists mostly of news reports or social media posts that objectively fall under freedom of expression as guaranteed by both Article 26 of the Turkish Constitution and Article 10 of the European Convention on Human Rights. In 582 trials against journalists, activists and academics that were monitored by the Media and Law Studies Association between June 2018 and September 2022, the basis of 86 percent of the accusations was formed by journalistic activities, such as publishing news stories, sharing photos and visuals, doing interviews and tweeting.

Given these facts, the case launched in October 2016 against one of Turkey's oldest newspapers, Cumhuriyet, is not surprising, but it is very telling of the practices used against journalists to link them with terrorist groups without a shred of evidence. The many absurdities in the case are further highlighted by the troubled history of the newspaper and a convoluted dispute over the leadership of the foundation that manages it.

A symbolic century-old newspaper

Established in 1924 during the early years of the Republic of Turkey, Cumhuriyet was christened by the country's founding leader, Mustafa Kemal Atatürk. The newspaper's editorial policy was mostly in keeping with the official views of the fledgling republic in its earlier years. In the early 1950s, as Turkey was transitioning to a multi-party political system, Cumhuriyet supported the Democrat Party (DP), which had been established in opposition to Atatürk's Republican People's Party (CHP). But as the DP later slid into antidemocratic practices, Cumhuriyet once again realigned its editorial line with the views of the CHP.

Following the 1960 coup d'état—the first of many to come for the new republic, which resulted in the hanging of the prime minister and two of his ministers—Cumhuriyet tried to position itself along a progressive center-left line. Many of its reporters and writers were tried and imprisoned in the aftermath of the 1971 military memorandum and the 1980 coup, both interventions that strongly targeted the left.

In 1993, the then-family-owned newspaper changed its ownership structure and reorganized as a foundation. During this time, Cumhuriyet continued publishing along a secular line, adhering to national values (defined as upholding a distinctly Turkish identity vis-à-vis the pan-Islamist nature of the Ottoman Empire) and advocating progress in line with the principle of populism (defined in the founding ideology of the republic as a principle that sought to create a society for the people without a dominant economic class.)

Based on this history, Cumhuriyet has become emblematic of the Republic of Turkey and its founding principles. The newspaper also defined its mission as being the bearer of those values. This mission, however, has not stood in the way of attacks against the paper and its journalists.

A newspaper that has paid a high price

In the 1990s, two prominent Cumhuriyet writers, journalists Uğur Mumcu and Ahmet Taner Kışlalı, were assassinated in bomb attacks, reportedly perpetrated by Islamist terror organizations.

The newspaper was subsequently the target of numerous raids and judicial investigations that were carried out as part of an alleged coup plot investigation dubbed Ergenekon. These events occurred between 2007 and 2013, the years of intense cooperation between the Justice and Development Party (AKP) government and its ally-turned-nemesis the Islamist Gülen movement.

In 2015, Cumhuriyet was the recipient of multiple threats following its decision to republish cartoons from the French satirical magazine Charlie Hebdo, images whose original publication had prompted a bloody attack on the Paris office of that magazine.

Charged with 'crimes against the constitutional order'

In addition to these outside threats, conflict between the traditionalist and reformist wings of the Cumhuriyet Foundation's management heightened following the death in 2010 of editor in chief İlhan Selçuk, a highly symbolic name for the newspaper's long-held editorial line. This internal rift became visible in the newspaper's editorial policy, and a new board was elected to run the foundation in 2013.

In 2015, the newspaper appointed journalist Can Dündar as editor in chief with the support of the reformist members of the new foundation management, leading to a more liberal editorial policy. But this period also saw Cumhuriyet dragged into the heart of nationwide controversy as a result of a news report it published carrying the bylines of Dündar and the paper's Ankara bureau chief, Erdem Gül.

Following the publication of this story, which alleged that Turkey was supplying ammunition to armed groups in Syria via trucks owned by the National Intelligence Organization (MIT), Dündar and Gül were arrested. The government accused the two journalists of espionage and launched a criminal case against them on charges of "crimes against the constitutional order."

In February 2016, Turkey's Constitutional Court found that the detention of the journalists amounted to a violation of their rights, and they were released after 92 days in prison. Dündar was the target of an armed attack in May 2016 outside the courthouse, but escaped unscathed. He left Turkey while the trial was still underway.

Lawsuit against foundation's management

Controversy over the management make-up of the Cumhuriyet Foundation had started prior to the launch of the MIT case, with the changing of the guard on the board in 2013. At the time, it was alleged that members of the illiberal wing of the management had covertly complained to President Erdoğan's office about the editorial line of the newspaper, stating their belief that although Cumhuriyet was in opposition to the current government of Turkey, it had to maintain a "national" position. This schism within the board only deepened after the investigation into Dündar and Gül began.

The 2013 board election was found to have been conducted in line with legal regulations according to an audit carried out by inspectors on 15 May 2015. But members of the previous board still took the foundation to court, accusing the new management of having rigged the vote. An opinion sent to the court from the Directorate General of Foundations, the government body overseeing foundations in Turkey, initially said the case should be resolved in favor of the newspaper. In spite

of this, the head of the Directorate General later told a pro-government news station that the former board members' application was proper, and called for a redo of the elections. Former members of the board used an online tweet campaign to accuse the new management of betraying the traditional editorial line of the newspaper.

The case against Cumhuriyet

As the fight over the soul of the newspaper continued in this administrative case, the Istanbul Prosecutor's Office on 31 October 2016 launched an operation against some of the journalists and board members of the newspaper. They were charged with "committing crimes in the name of the FETÖ and PKK terror organizations," a reference to the outlawed Kurdistan Workers Party (PKK) and the Fethullahist Terrorist Organization (FETÖ), the name used by the Turkish government and judiciary to refer to its former allies in the religious movement led by cleric Fethullah Gülen.

Murat Sabuncu, the editor in chief who had just replaced Dündar; editorial consultant Kadri Gürsel; cartoonist Musa Kart; Cumhuriyet Foundation board members Önder Çelik, Bülent Utku and Mustafa Kemal Güngör; readers representative Güray Öz; columnist Hakan Kara; and literary supplement editor Turhan Günay were all arrested as part of this operation.

Akın Atalay, head of the Executive Board of the foundation, had been abroad when these arrests took place and was arrested upon his return to Turkey.

Cumhuriyet reporter Ahmet Şık was also detained later in the process and subsequently placed under arrest pending trial. Şık had previously been arrested in 2011 during the Ergenekon trials, which were conducted by prosecutors loyal to the Gülen movement; this time, he was facing charges of spreading propaganda for the Gülen movement.

The final arrest made in the trial was that of Emre İper, the finance and accounting manager of the newspaper.

News reports and tweets as evidence of crime

An indictment against the accused was finally prepared on 13 April 2017. A total of 19 executives, writers and employees of Cumhuriyet were facing outrageous charges, looking at prison sentences ranging between 7.5 and 29 years. The evidence for the accusations included 106 news reports published in the newspaper and 149 tweets posted by the newspaper's account. An additional 17 journalists and newspaper executives testified as witnesses for the prosecution.

The essence of the accusations in the indictment boiled down to Cumhuriyet allegedly aligning its editorial policy closely with a pro-Kurdish and pro-Gülenist line. The proof for this was none other than the news report by Dündar and Gül suggesting that Turkey's MİT was arming jihadists in Syria.

The indictment maintained that: "The newspaper in this period has quite literally become the defender and protector of the

terrorist organizations FETÖ/PDY, PKK/KCK and DHKP/C," with the latter acronym referring to the Revolutionary People's Liberation Party/Front.

Other "evidence" that found its way into the indictment as proof of the newspaper's "goal to legitimize the actions of terrorist organizations" includes an interview conducted with Cemil Bayık, a PKK leader; the news reports about MİT trucks conveying weapons; and news reports about a Twitter account with the handle "Fuat Avni" that was leaking information from the government and was believed to be affiliated with the Gülen movement.

The prosecutors also claimed that Cumhuriyet journalists' phone conversations with individuals who had downloaded an app called ByLock on their phones was evidence of a crime, even though none of the journalists had ever used this application and had no way of knowing if one of their contacts did. Moreover, two phone conversations of Gürsel's, one to order lunch from a food-delivery service and one with his car mechanic, were included in the indictment as evidence of a crime because assistants at both shops had allegedly downloaded ByLock on their smartphones.

Hearings and release of imprisoned journalists

The first hearing in the trial was held 24 July 2017. Six the defendants—Öz, Kart, Utku, Güngör, Kara and Günay—were released pending continuation of the trial, while the court ruled for the other journalists to remain in detention. They too were eventually released pending trial in April 2018. The case of former editor-in-chief Dündar—already a defendant in the ongoing trial regarding his reporting on the MİT-Syria connection—was separated on the grounds that he was abroad.

Meanwhile, in the lawsuit over the contested composition of the Cumhuriyet Foundation board, the Supreme Court of Appeals upheld an earlier court ruling that had called for a redo of the 2013 board election. In that new vote, carried out in September 2018, the traditionalist wing was returned to power, a result widely regarded as judicial intervention at the behest of President Erdoğan.

A strange distinction on allowing appeals to higher courts

On 25 April 2018, the Istanbul 27th High Criminal Court convicted all 14 of the Cumhuriyet journalists on charges of membership in several terrorist organizations or propaganda praising these varied groups. They received individual sentences ranging from two years and six months to seven years, 13 months and 15 days.

The ruling also revealed an odd distinction in Turkish legislation when it comes to sentencing. The high court refused to hear the appeal filed by the Cumhuriyet defendants who were sentenced to fewer than five years, on the grounds that the law does not allow them that right. So these journalists (Önder Çelik, Mustafa Kemal Güngör, Kadri Gürsel, Emre İper, Hakan Kara, Musa Kart, Güray Öz and Bülent Utku) were taken to prison, while those who were given sentences longer than

five years (Akin Atalay, Hikmet Çetinkaya, Aydın Engin, Orhan Erinç, Murat Sabuncu and Ahmet Şık) were not, as their case was still pending a review by the Supreme Court of Appeals. Under Turkish law, a person is not considered to have been convicted until all of the appeals processes are exhausted and the highest court has upheld the sentence.

In 2019, the court's ruling was sent before the Supreme Court of Appeals, which found the practice of imprisoning journalists with sentences below five years to be an improper application of the law and ruled for their release. In its overall ruling on the Cumhuriyet case, the 16th Chamber of the Supreme Court of Appeals overturned the lower court's decision after reviewing its substance and ruled for the acquittal of all but one of the journalists. For Ahmet Şık, the high court demanded a punishment over his tweets and news stories regarding prosecutor Selim Kiraz, who had been killed by the gunmen who took him hostage at the Çağlayan Courthouse in Istanbul in 2015.

However, the lower court did not comply with the ruling, and after the retrial, insisted on its previous sentences for all of the journalists.

In October 2022 the General Assembly of Criminal Chambers of the Supreme Court of Appeals overruled the initial decision a second time, this time due not to its substance but to procedural errors.

Can Dündar, who has been in exile since his release, was given a total of 27 years and six months on charges of espionage and aiding and abetting an armed organization in the MIT trucks case. He remains a suspect in indictments that were prepared as part of the Gezi and Cumhuriyet trials.

In November 2020, the European Court of Human Rights (ECtHR) made its ruling regarding the application that had been filed by the executives, columnists and employees of Cumhuriyet over their 2016 arrest. It found that Turkey had violated their rights and ruled that eight of the defendants be paid 16,000 euro in compensation.

During the more than six-year-long saga, all of the journalists who were on trial have had to leave the newspaper. Some have been left entirely unable to continue their work as journalists, while others have taken the path of the freelancer or gone to other independent outlets.

The editorial line of the Cumhuriyet newspaper has meanwhile changed dramatically, with the traditionalist group regaining control over its policy. The trial outcome is highly unusual even for Turkey in that, for the first time, the government managed to shift the editorial stance of a newspaper through the court system.

Many independent observers claim that after the changeover on its board, Cumhuriyet is now playing the role of a "controlled opposition," allowing the government to increase pressure on the few remaining independent media outlets in Turkey by using this precedent as a tool of intimidation. As a result, it appears the impact of this trial will continue to be influential for years to come.

5. Insulting the gods

5.1. 'Big shots' versus journalists in Russia

*by Roman Zholud & Anna Romashchenko, Journalists,
Mass Media Defence Centre- Russia*

In its rulings, the European Court of Human Rights has repeatedly emphasized that politicians, public officials, deputies and other public figures must be more tolerant than an average citizen of criticism by the media. Since the statements and actions of public figures have an influence on society, society should have the opportunity to critically assess these figures. This principle, however, does not work in places where freedom of expression is not upheld as a value. To the contrary, in societies where free speech isn't valued, the "big shots" have even more of a chance to pressure media outlets and journalists, including through the court system, as seen in the following examples.

Yevgeny Prigozhin: Putin's chef in the kitchen of war

The chairman and owner of the Russian company Concorde, Yevgeny Prigozhin is a trusted confidante of President Vladimir Putin. He was placed on the US sanctions list in 2016 and under EU and UK sanctions in 2020. In Russia, though, Prigozhin actively files lawsuits against journalists and publications whose statements, in his opinion, offend his "honor and dignity." To date, he has filed libel cases against such outlets as Ekho Moskvy, Meduza, The Insider, Sobesednik and others.

On 18 July 2020, during an online program broadcast on radio Ekho Moskvy, the station's editor in chief Aleksey Venediktov stated that Prigozhin is the head of CHVK Vagner, a paramilitary group in Russia whose legal status is vague. The businessman was outraged and filed a defamation lawsuit against Venediktov and Vitaly Ruvinski, the radio channel's website editor, to protect his "honor, integrity and business reputation." He demanded that the court force the defendants to publish a correction and take the claim off their website, and asked the court to impose an 200,000 ruble fine and an additional fine of 30,000 rubles per every day the defendants refused to comply.

Prigozhin had previously pressed charges against Ekho Moskvy in 2021 over remarks referring to the business tycoon as a "murderer" and a "criminal," made by journalist Viktor Shenderovich during the program Special Opinion. The court ordered the station to delete the controversial information and also ordered compensation for emotional damages to be paid to Prigozhin, in the amount of 100,000 rubles from Shenderovich and 1 million rubles from Ekho Moskvy.

Prigozhin also took journalist Maxim Shevchenko to court several times, in one case over an article he wrote that was published on the website of Sobesednik and included the phrase "reputation of a person [referring to Prigozhin] with two convictions: first for theft, and second for soliciting minors into prostitution." The court ruled in favor of Prigozhin, ordering the

defendants to publish a correction and pay the businessman a total of 300,000 rubles as compensation for emotional damages. (Of this sum, 150,000 rubles would be paid by Shevchenko and the other half by the publisher, Sobesednik Media.)

In 2022, Prigozhin announced that his lawyers were pursuing charges against Novaya Gazeta and filing a lawsuit to protect his "honor, dignity and business reputation" after the newspaper printed content about the businessman that his company's lawyers found to be inaccurate. In addition, Prigozhin asked his lawyers to "work on shutting down" the newspaper and "investigate activities of the publication's editor in chief Dmitry Muratov." Later, Prigozhin claimed that the Nobel Peace Prize had been given to Muratov in 2021 because the journalist was an "agent of the war against Russia."

In February 2022, Prigozhin filed a lawsuit against Bellingcat over the reporting its team of investigative journalists had done about the businessman's links to the paramilitary group CHVK Vagner. The case was taken not only to a Moscow court, but also to a British court. The court in Britain refused to pursue the case, and lawyers in the UK rejected working for Prigozhin for fear that it might harm their reputation. However, the Moscow court accepted the case and ordered the defendants to remove the article and publish a correction refuting their claim.

It is worth noting that most of the cases launched by Prigozhin against journalists are related to reports on his alleged links to CHVK Vagner. Courts have found this claim to be false and discrediting. However, in 2022, a video was posted online showing Prigozhin actively recruiting prison inmates to join the war against Ukraine. In September 2022, he admitted to being the founder of a group in 2014 that later came to be called CHVK Vagner. This was published on his company Concorde's page on the VKontakte social network.

Dmitry Rogozin: Suing over 'cosmic failures'

The former head of Russia's space agency, Roscosmos, Dmitry Rogozin also actively exercises his right to protect his "honor, dignity and business reputation" by filing lawsuits against various independent media outlets. One of the most high-profile cases in this regard was a case he launched against several outlets that criticized his work as head of Roscosmos.

On 1 October 2018, Novye Izvestiya published an article titled "Gravity: Why Russia lost its leadership in space" that offered expert views on the problems faced by Russia's space program. Later, other publications based on this article appeared on the websites Newstracker, The Moscow Post and Argumenty Nedeli with unflattering story titles.

Following the appearance of these reports, Rogozin filed a lawsuit against the owners of three media outlets that published materials based on Novye Izvestiya's original story to ensure the protection of his "honor, dignity and business repu-

tation.” He demanded the court declare as discrediting some of the phrases used in these articles—such as “the undertaker of Russian space exploration” and “the politician that causes damage”—and order the defendants to remove the articles, publish corrections and pay Rogozin 100,000 rubles each in compensation for emotional damages. The regional court of Moscow granted these claims partially. The defendants were ordered to take off the offending material from their websites, publish corrections and pay 70,000 rubles each in compensation, a bit below the amount demanded by Rogozin.

Dmitry Sablin: A parliamentary deputy blocks access to a website

Another politician who has been frequently litigious against journalists is Dmitry Sablin, a member of the State Duma. In one case he succeeded in having the defendant’s website temporarily blocked.

In 2020, the Vidnovsky City Court of the Moscow Region heard Sablin’s claims against a publication named Readovka that he said had damaged his “honor, dignity and business reputation” in an article covering the situation of the Sovkhoz Imeni Lenina company, which manages farms that produce dairy products and fruits. The article asserted that half of the company’s stocks were given to Sablin via the spouse of the former presidential candidate Pavel Grudinin. Sablin asked that the court find these statements in the article to be false and an act of defamation. Additionally, he demanded their removal from the publication.

On 17 March 2020, the court ordered to block access to the website of the publication as an interim measure. The publication refused to remove the article on Sablin from its website and was fined 50,000 rubles by the court. The fine was paid by the editorial team, and later, as ordered by the court, the article was taken off and a correction published.

In 2021, Sablin again launched a defamation case against Readovka. This time, he said an article about a yacht which supposedly belonged to him was false and defaming of his reputation. In July 2021, that paper’s editorial staff received a court order to block access to its website based on Sablin’s claim. On 30 August of that year, it became known that Roskomnadzor had added the source material into the database of blocked websites on the basis of an order issued by the Directorate of the Federal Bailiff Service of Russia for the Moscow region. It turned out later that the court had not canceled the interim measure after it heard the case. The access ban on Readovka’s website was lifted only in September 2021, after seven articles about Sablin were taken off the site, even though no court ruling had been made about any of those instances.

5.2. ‘Big shots’ versus journalists in Turkey- *by Gökçer Tahincioğlu - Journalist, T24, Turkey*

People in positions of power have always used the law to silence journalists, often making accusations of libel, defamation or insult to suppress allegations of corruption, bribery or

inappropriate relations. In Turkey, though, defamation cases initiated by all other politicians, as well as businessmen, deputies or bureaucrats, have become significantly overshadowed by the thousands of claims filed by President Recep Tayyip Erdoğan’s lawyers.

Article 125 of the Turkish Criminal Code (TCK) criminalizes defamation, describing it as “acting with the intention to harm the honor, reputation or dignity of another person,” and making it punishable by three months to two years in prison, or a fine. If the crime is committed against a public official, the sentence is increased. However, in practice, offenders of this type are generally never put behind bars.

Insulting the president

However, a special place is reserved in the judiciary for those who dare to “insult the president,” something covered under a separate article in Article 299 of the TCK. Insulting the president stipulates a prison term of one to four years. Generally, it is extremely rare to detain suspects in cases where the crime is punishable by such a short sentence. But when it comes to presidential insults, the offenders receive special treatment—including police raids, detention and arrest.

In a TV interview that Erdoğan gave to CBS journalist Margaret Brennan in 2021 during a visit to the US as part of a UN summit, the Turkish president seemed to be shocked when asked about the insult cases being conducted in his name. In response to Brennan’s question about claims that 100,000 Turkish citizens were being investigated for insulting him, he replied as if in complete disbelief, “Do you believe these?” Saying he didn’t trust the international organizations that reported these figures, Erdoğan told Brennan that she was being “deceived.” “Are you looking at the source of these allegations? Are you researching these claims?” he asked, adding that in order for him to believe that a claim is credible, it should come from Turkey’s own organizations.

Statistics released by Erdoğan’s Justice Ministry, however, suggest that the claims have merit. According to the Ministry’s 2020 Statistics of Justice report, 31,297 investigations into presidential insults were launched under Article 299 in 2020 alone. Of this total, 9,166 cases were dropped, while 7,790 resulted in a public lawsuit against the suspects.

At the time of the CBS interview, the number of presidential-insult inquiries launched since Erdoğan’s election in 2014 had exceeded 160,000. More than 35,000 of these investigations had turned into court cases, in which 38,000 people were put on trial. At the end of these trials, 12,881 of the suspects were found guilty.

Prior to Erdoğan’s election to the presidency, Article 299 was not on the public agenda. Previously, a total of 848 presidential-insult cases were filed during the term of President Abdullah Gül; 163 during Ahmet Necdet Sezer’s term and 158 during Süleyman Demirel’s term. Each of these presidents served in the office for seven years.

A social media ‘insult’ case goes to European court

A rising number of these presidential-insult rulings are being taken to the European Court of Human Rights (ECtHR), among them the case of Vedat Şorli, a citizen who was arrested due to a cartoon and a photo he posted on his Facebook. Şorli was detained and kept in prison for two months and two days during his trial, in which he stood accused of insulting President Erdoğan. In the end, he was convicted and sentenced to 11 months and 20 days in prison, a sentence which was deferred—meaning that it was postponed for five years, after which it would be lifted completely unless Şorli committed another crime during that period. Because of this deferral, the Constitutional Court rejected Şorli’s appeal, finding it inadmissible.

Şorli next took his case to the ECtHR, which found no justification for his detention and pre-trial arrest, or for the imposition of a criminal sanction. The court also found the criminal proceedings against Şorli to be “incompatible with freedom of expression” as it had had a chilling effect. It further said that Turkey’s law on insulting the president affords the head of state a privileged status regarding the information and opinions conveyed about them; it called for the law to be changed to ensure people have the freedom to hold opinions and impart ideas without interference by the authorities in order to put an end to violations such as the one it found in Şorli’s case.

The court also ruled for the applicant to be paid €7,500 in compensation by the Turkish state.

Though Şorli did receive this compensation, Turkey did not take any steps to amend the presidential-insult legislation in line with the ECtHR ruling. This indicates that the ECtHR will continue to find the state guilty whenever future cases concerning presidential insult in Turkey are brought before it. It also means that the issue will likely come to the agenda of the Council of Europe’s Committee of Ministers in the future in order to potentially pressure Turkey into making legislative changes.

Currently, TCK Article 299 on insulting the president has a tremendous effect on journalists. Some very influential journalists (such as Mustafa Hoş, Ahmet Sever, Engin Korkmaz, Mustafa Sönmez, Oktay Candemir, Cem Şimşek, Erk Acarer, Necla Demir, Ali Ergin Demirhan, Hasan Cemal, Sedef Kabaş, Hüsnü Mahalli, Kazım Kızıl and Ozan Kaplanoğlu) have been tried on charges of insulting the president. Of these, Kabaş, Mahalli, Kızıl and Kaplanoğlu were kept in detention in the pre-trial phase of the investigation. Many of the trials against journalists ended in convictions handed down by Turkish courts.

Between August 2014, when Erdoğan was elected president, and January 2022, at least 70 journalists were sentenced to prison, or to deferred prison sentences and monetary fines on charges of insulting the president.

Opposition deputies and civil society representatives claim that police officers specialized in information technologies and special service groups bankrolled by the government

spend countless hours and hundreds of thousands of lira in tax money to scan social media platforms for evidence of an insult against the president.

Insulting other ‘big shots’

In addition, many journalists in Turkey have been tried on charges of “insulting a civil servant” under Article 125. Opposition politicians have also been targeted in the courts with this law.

Istanbul Mayor Ekrem İmamoğlu, often mentioned as a possible presidential challenger to Erdoğan, was sentenced 14 December 2022 to two years, seven months and 15 days in prison for having insulted public officials. The charge stems from his criticism of the Higher Election Board after it annulled a local election result in 2019 that had placed İmamoğlu in the mayoral post. If the ruling is upheld when İmamoğlu appeals, he may be stripped of his post and barred from running for political office for the duration of his sentence.

Unlike in the presidential-insult cases, pre-trial detention is not practiced in cases of “insulting a public official.”

Calls for repeal of Article 299

Journalists and free-speech advocates in Turkey have long called for the repeal of Article 299. Even before the ECtHR ruling in the Şorli case, the Venice Commission, the legal advisory body of the Council of Europe, noted in an 2016 resolution “the excessive and growing use of this article” in Turkey and recommended that “the only solution to avoid further violations of the freedom of expression is to completely repeal this Article and to ensure that application of the general provision on insult is consistent with these criteria.”

Turkish authorities claim that many similar pieces of legislation exist in “Europe,” although an examination of insult legislation in EU countries refutes this claim. In the cases of countries in the region which have similar laws in place, the relevant article is never actively used in practice.

With presidential and parliamentary elections scheduled for as-yet-uncertain date in 2023, all factions in Turkey have prioritized the run-up to the vote, pushing discussions on Article 299 to the background. Still, the democratic demand to repeal this article is very clear and whoever comes to power in the future should make it a thing of the past.

6. Judicial harassment of journalists reporting on corruption

6.1. Fabrication of evidence against journalists writing about corruption in Russia

by Roman Zholud & Anna Romashchenko, Journalists, Mass Media Defence Centre, Russia

Early in the morning of 1 November 2017, police came to the door of the apartment of Igor Rudnikov, editor in chief of the Kaliningrad-based newspaper *Novye Kolesa*, and took him away for questioning without even giving him time to get dressed. The police accused the journalist of extorting a \$50,000 bribe from Investigative Committee General Viktor Ledenev.

According to Rudnikov, the prosecutor-general himself had contacted him and offered him help in obtaining a file with documents about an attack on the journalist that took place in 2016.

But the prosecutors who worked under Ledenev had a different story. According to them, Rudnikov had extorted \$50,000 from the prosecutor-general by promising not to publish compromising material about him.

Articles about Ledenev had previously appeared in *Novye Kolesa*, including reports on an expensive mansion owned by the prosecutor-general. Rudnikov and his colleagues claim that these articles were the cause of the fabricated charges against the editor.

Though the prosecution presented no direct evidence of extortion, this did not stop them from having the journalist arrested and placed him in pre-trial detention, where he would spend one year and 7.5 months. The prosecutors for the state asked for 10 years' imprisonment for the journalist.

Rudnikov's trial came to the attention not only of rights groups in Russia, but also those abroad. Organizations such as Reporters Without Borders (RSF) and Memorial issued statements in his defense, declaring him a political prisoner. It is possible that this outside pressure had an influence on the court. It is also very likely that the trial being heard not in Kaliningrad, but in Saint Petersburg, where the prosecutor-general didn't have any influence, also played a role.

In any event, the court ruled 17 July 2019 that the journalist's actions did not show any indication of extortion. The accusations were changed to the much lesser crime of "arbitrariness" (criminalized in Article 330 of the Criminal Code, this has a broad definition of being any "action contrary to the order presented by a law or any other normative legal act). The time Rudnikov had already spent in detention was counted as the sentence for his conviction and he was released directly from the courtroom. Ledenev attempted to appeal the ruling, but the appeals court rejected his petition.

The Rudnikov case is a rarity for Russian justice. The courts almost always rule with the prosecution and the state's indictment. Nevertheless, this is not a story about the triumph of the law. It is one about how a journalist from an independent media outlet, working on anti-corruption investigations, could be persecuted under a false accusation and kept in detention for more than 1.5 years.

Another case about fabricated accusations leveled against journalists, and arguably the most telling one, is the case against Ivan Golunov, the Moscow correspondent of *Meduza*.

On 6 June 2019, criminal investigation officers stopped Golunov as he was leaving his house, searched him and said they found illegal drugs on his person. Similarly, illegal narcotics were also "located" during a search of the journalist's apartment by police. The next day, the police launched a criminal case against the journalist on charges of selling illegal drugs. Golunov was arrested.

Prosecutors accused Golunov of drug-dealing in Moscow night clubs. The journalist said that bags with illegal drugs were planted during the searches. His colleagues also maintained that Golunov had never been involved with drugs, and that the criminal case was based on fabricated evidence.

The persecution of Golunov attracted wide public attention. Not only the country's independent media, public figures and human-rights activists spoke in his defense, but also some representatives of pro-government Russian publications, including the editor in chief of RT, Margarita Simonyan. The motto "I/we are Golunov" went viral on social media.

The scandal also drew attention from the authorities. Despite the critical position of *Meduza*, the publication where Golunov worked, the case didn't have much in the way of political overtones. Police had previously been accused of planting drugs during their operations, but the victims of such framing were usually ordinary citizens, often people from marginalized segments of society. This time, a journalist from a well-known publication was the victim, and top-ranking officials at the Ministry of Interior, under pressure from the public backlash, decided to sort out the situation.

The case was dropped less than a week later, on 11 June, and the journalist released from custody. On 21 June, the Ministry of Interior announced that the police officers who detained Golunov and searched his apartment were found to have committed a number of violations. Officers involved in the case were brought before a court and convicted of falsification of evidence and drug trafficking.

Golunov himself believes that the case against him was ordered by Moscow officials associated with the funeral industry,

where the journalist was investigating corruption schemes.

Unfortunately, his case did not indicate the beginning of a new trend toward the protection of journalists in Russia. It remained an exception, and its fair outcome seems to have been possible due to a perhaps unique combination of reasons. First of all, the case had no political overtones, but also attracted a great deal of public attention. Secondly, the “clients” behind the case—whoever they might have been—were clearly not very influential in the system of the Russian ruling elite. These factors allowed the state to showcase a positive story of a just investigation, where the authorities listened to the voice of the public, freed the innocent and punished the guilty.

By contrast, neither the public outcry nor the friendly support of the media helped the former Kommersant journalist Ivan Safronov: he was sentenced to 22 years on clearly trumped-up espionage charges.

What happens most often is that defendants in corruption trials themselves petition courts seeking to launch counter-lawsuits against the media outlets and journalists that reported on their alleged wrongdoings. One of the most prominent actors among those targeting the independent media in this way is the state-controlled oil firm Rosneft, headed by devoted Putin supporter Igor Sechin. The company regularly takes to court not only Russian, but also international media, as the following few examples show:

In 2017, Rinat Sagdiev, a journalist working for the Vedomosti newspaper, said he had received anonymous threats linked to an investigative report he was working on about Rosneft’s alleged misuse of multiple billions of dollars in its expenditures. The company officially denied any involvement in the threats.

In 2019, Rosneft applied to law enforcement agencies in order to suppress the “illegal” activities of the international news agency Reuters in Russia in response to an investigative report that had revealed a scheme developed by Rosneft to circumvent US sanctions through Venezuela. The company sought to ban Reuters in Russia, but failed to have this wish instituted.

In 2020, the oil company filed a lawsuit against RBK over the news website’s coverage of its assets in Venezuela. Later, Rosneft withdrew its accusations.

In the summer of 2021, Rosneft filed a 500-million-ruble lawsuit against the media outlet Sobesednik and journalist Oleg Roldugin over an investigative piece titled “They closed ‘Lunnaya Polyana’ for Putin.” The article talked about the development of a personal resort worth 50 billion rubles for the Russian president. The court found the reporting challenged by Rosneft to be false, but rejected the company’s demands for compensation for damages.

Also during 2021, Rosneft took the outlets Bloomberg, PFK, Dozhd and Ekho Moskv to court over their reports about its activities.

In June 2022, the company filed a lawsuit against Forbes Media over a report about the possible transfer of money by Rosneft from the rainy-day welfare fund of Russia for an investment in the project Vostok Oil. At the time of writing, the court case is ongoing. However, there is little doubt that the Russian court will rule in favor of the state-owned oil company.

6.2. Threat of financial ruin for journalists writing about corruption in Turkey

by Asuman Aranca - Journalist, T24, Turkey

Lawsuits over corruption investigations or financial news have increasingly become among the instruments used to crack down on journalists in Turkey. In dozens of such cases, journalists critical of the government face having to pay large amounts of compensation to lawsuit filers over insult, libel or slander allegations for their reports on monetary dealings of the family or close relatives of President Recep Tayyip Erdoğan or members of business circles close to the president.

As more journalists face financial ruin for this kind of coverage, they become increasingly reluctant to continue reporting on corruption and holding those in power accountable.

The world’s one and only ‘Paradise Papers’ conviction

One case where a large amount of monetary compensation was sought against a journalist was the case of Pelin Ünker, one of the 382 journalists who are part of the International Research Council (ICIJ), which collaborated to analyze 13.4 million pages of company and offshore account information, a body of material collectively known as the “Paradise Papers.” Reports about the Paradise Papers were published by 96 outlets that worked collaboratively on the documents, including Ünker’s articles that Cumhuriyet ran for six consecutive days starting 5 November 2017.

Among the businesspeople whose offshore assets were found in the Paradise Papers were Erkam and Bülent Yıldırım, sons of former Prime Minister Binali Yıldırım, who was Parliament Speaker at the time the account information was published. The Yıldırım brothers initiated libel and insult cases against Ünker and Cumhuriyet, and secured a decision through the courts to block access to the news report. The brothers also filed a 500,000 TL libel case against Orhan Erinc, who was the president of the Cumhuriyet Foundation at the time. At the end of the trial, Ünker was sentenced to one year, one month and 15 days in prison and was ordered to pay 8,660 TL. She and Erinc were also ordered to pay a compensation of 30,000 TL to the plaintiffs on charges of “defamation of character,” a decision a higher court later overturned.

Other relatives of Erdoğan who were mentioned in the Paradise Papers also took Ünker to court. Serhat Albayrak, the brother of Erdoğan’s son-in-law and former finance minister Berat Albayrak, had opened off-shore companies when the Albayrak brothers were both in executive posts at Çalık Holding. After a similar process of banning access to the reports,

the Albayraks took Ünker and Cumhuriyet to court demanding 100,000 TL in compensation for “defamation through the press.” The court dropped the case on the grounds that the statute of limitations had passed.

Of all the journalists around the world involved in reporting on the Paradise Papers documents, Ünker remains the only one to have faced a court case for it.

Price of reporting on government corruption

Çiğdem Toker is a financial journalist whose work focuses on public tenders and government-financed projects. The cases against her stand out from others mostly in terms of the enormity of the compensation amount sought.

Since 2014, Toker has been targeted by a number of trials where the plaintiffs sought millions of lira in compensation from her based on her journalism. In an article published 29 September 2014, she criticized the sale of a land plot designated as an earthquake evacuation area to a company owned by the son-in-law of Kadir Topbaş, who was at the time the mayor of Istanbul. In this article, Toker also noted that zoning laws had been changed after the sale to allow construction in the area. Topbaş’s son-in-law demanded 1,000,000 TL in compensation from Toker, which amounted to \$317,000 at the time. She was acquitted in the criminal case and the compensation demand was dropped.

On 28 January 2019, Sözcü published Toker’s news story on the staggering amounts of public funds paid from the Istanbul Municipality budget to five AKP-supported foundations: the Ensar Foundation, the Turkey Youth and Service to Education Foundation (TÜRGEV), the Turkey Youth Foundation (TÜGVA), the Turkey Technology Team Foundation (T3) and the Archery Foundation. The latter has Erdoğan’s son Bilal Erdoğan, an archery enthusiast, on its board of trustees, while the founders and executives of some of the other foundations also include Erdoğan family members. In total, the five foundations were given about 200 million TL from the municipal budget, according to Toker’s report. She was eventually ordered to pay 30,000 TL in compensation to the T3 Foundation.

Other lawsuits filed against Toker to date include a criminal case filed by Agrobay Greenhouse for 1.5 million TL, a lawsuit by Senbay Mining Inc. for 1.5 million TL, a lawsuit by PTT for 50,000 TL and a lawsuit by T3 Foundation for 80,000 TL.

Sued by businessmen and foundations

Another case seeking to pressure journalists by forcing them into financial ruin is the trial against Sözcü columnist Yılmaz Özdil over his 14 April 2022 article titled “Announcing my candidate whose win is guaranteed.” The article concerned Cengiz Holding, one of five corporations that perpetually win multi-million-lira state tenders opened under the AKP government. For this reporting, Özdil faces an ongoing defamation case in which Cengiz Holding founder and CEO Mehmet Cengiz has demanded 1 million TL from the journalist in compensation for emotional damages.

Cengiz’s rise to power and wealth under the AKP government has been the subject of many articles; the litigious Turkish businessman is perhaps best known for his curse-laden speech regarding suspicious financial dealings in an illegally obtained voice record that was publicly released in 2013. In a trial against journalist Hazal Ocak, formerly of Cumhuriyet newspaper, Cengiz again sought 1 million TL in emotional damages, this time over her news report, “Luxury backhouse with a view of the Bosphorus.” The article reported on ongoing illegal construction of a mansion on a prized plot of land inside the Hüseyin Avni Paşa Grove, located along the Bosphorus, that had been bought by Cengiz. In this case, the 14th Civil Court of First Instance rejected Cengiz’s compensation demand.

In addition to businessmen, foundations and associations founded by cronies of the AKP government regularly take journalists to court. Cumhuriyet correspondent Mehmet Kızmaz faced a defamation case for a 23 October 2021 news report on the monetary dealings of pro-government and religious-minded foundations Ensar, Turkish Youth and Education Service Foundation (TÜRGEV) and Turkish Youth Foundation (TÜGVA), which all have been recipients of hundreds of government and municipal tenders and donations. Kızmaz’s news report included statements in which Salih Altun, the former deputy governor of Bitlis province, shared warnings about some of the foundations close to the government.

As a result, access to the online version of Kızmaz’s news report, entitled “Ensar, TÜRGEV and TÜGVA are just like a parallel terrorist organization,” was swiftly blocked.

TÜGVA, one of the associations mentioned in the news report, filed a complaint against Kızmaz and Cumhuriyet, seeking 50,000 TL in non-material damages. At the end of the trial, the court ruled for the journalist and the newspaper to pay 15,000 TL in compensation to TÜGVA.

Ruling against BirGün among highest compensation rulings

One of the highest compensation payments to be ordered by a court came in a case launched against İsmail Arı, a correspondent of BirGün newspaper. Arı reported that the Scientific and Technological Research Council of Turkey (TÜBİTAK) had spent 7.6 million TL on a tech festival organized by the T3 Foundation, which is managed by President Erdoğan’s son-in-law Selçuk Bayraktar and his brother Haluk Bayraktar. The Bayraktar brothers sued Arı and Cumhuriyet after the news report was published, seeking 250,000 TL in compensation. The court ruled that they should pay 200,000 TL, one of the highest compensation demands in the history of Turkey’s press trials.

These lawsuits are only a few among many demanding astronomical amounts in compensation from journalists reporting on financial dealings involving public funds and cronies of the government. As inflation has skyrocketed in Turkey in recent years, it is impossible for a journalist to shoulder such a compensation ruling on wages that are generally barely above mi-

nimum wage. Such cases cause financial trouble not only for journalists but also the outlets that employ them.

In almost all of these cases, the plaintiffs also seek compensation from the executives of the outlet that broadcast or published the story that is the subject of the trial. Overwhelmed by such financial threats from the judiciary, media outlets often have to face tough decisions including downsizing, cutting down the number of pages published or even completely going out of business. Although they may not be as dangerous as imprisonment or criminal cases against journalists in terms of their gravity, these lawsuits still constitute a very serious threat against press freedom.

List of Abbreviations

NMG	<i>National Media Group</i>	PYD	<i>Democratic Union Party</i>
ORT	<i>National Russian Broadcasting Television</i>	TSK	<i>Turkish Armed Forces</i>
RT	<i>Russia Today</i>	TCK	<i>Turkish Criminal Code</i>
AKP	<i>Justice and Development Party</i>	MA	<i>Mesopotamia News Agency</i>
TMSF	<i>Saving Deposits Insurance Fund</i>	CPJ	<i>Committee to Protect Journalists</i>
MHP	<i>Nationalist Movement Party</i>	ECtHR	<i>European Court of Human Rights</i>
RTÜK	<i>Supreme Board of Radio and Television - Turkey</i>	RSF	<i>Reporters Without Borders</i>
CAO	<i>Code of Administrative Offenses – Russia</i>	DP	<i>Democrat Party</i>
CCRF	<i>Criminal Code - Russia</i>	CHP	<i>Republican People's Party</i>
MLSA	<i>Media and Law Studies Association</i>	MIT	<i>National Intelligence Organization – Turkey</i>
HSK	<i>Council of Judges and Prosecutors – Turkey</i>	FETÖ	<i>Fethullahist Terrorist Organization</i>
FSB	<i>Federal Security Services</i>	ICIJ	<i>International Research Council</i>
BTK	<i>Information Technology and Communications Council</i>	TÜRGEV	<i>Turkish Youth and Education Service Foundation</i>
PKK	<i>Kurdistan Workers Party</i>	TÜGVA	<i>Turkish Youth Foundation</i>
		TÜBITAK	<i>Scientific and Technological Research Council of Turkey</i>

