



Third Party Opinion Submitted to the Application of the Applicant F.E.

1. F.E. is a Kurdish-Turkish politician and former member of the Turkish Parliament. F.E. asked a couple of police officers who were searching a house of his friend to show their search warrant and their police IDs, to remove the masks from their faces. In a quarrel with the officers he addressed the police officers as "*Are you an ISIS member, take off the masks on your face*", "*You are rude, you are like an ISIS member...*".
2. An indictment was prepared regarding F.E.'s encounter with the police officers. At the end of the trial, Silopi 1st Criminal Court of First Instance sentenced the applicant to 1 year, 6 months and 20 days imprisonment for insulting a public official, pursuant to Article 125/1 and 125/3-a of the Turkish Criminal Code, stating that the applicant's statements were insulting and that the applicant prevented a search at a residence that did not belong to him. The decision also concluded that the applicant stating "*I know what I will do to you*" whilst waving his finger was a threat. The applicant was also sentenced to 6 months and 20 days in prison for resisting an officer pursuant to Article 265/1 of the Turkish Criminal Code. The appeal against this decision was rejected by the 6th Criminal Chamber of Diyarbakır Regional Court of Appeals. With this decision, the applicant's conviction in accordance with Article 265/1 of the Turkish Criminal Code became final. Against the finalized decision, the applicant filed an individual application to the Constitutional Court on 27.12.2021.
3. On 11.01.2023, İFÖD submitted a 10-page third party opinion in this pending application. In the third party opinion, an evaluation whether F.E.'s imprisonment for the crime of resisting a police officer due to his statements had been violated his freedom of expression was made. The opinion also examines whether Article 265 of the TCC meets the quality of law standards developed under the ECtHR and Constitutional Court jurisprudence.. Subsequently, an assessment was made regarding the freedom of expression of politicians in accordance with the case-law of the ECtHR and the Constitutional Court, and the criteria for balancing the freedom of expression of the applicant with the protection of public officials against verbal attacks.