



Third Party Opinion Submitted to the Application of the Applicant H.I.

1. H.I. was born on 01.01.1980 and is a construction worker. The applicant shared several posts about President Recep Tayyip Erdoğan on his Facebook account. The applicant's social media posts were detected by online patrols conducted by law enforcement authorities. The relevant provision had been annulled by a decision of the Constitutional Court, before the applicant was convicted in the present case. An indictment was issued following the criminal investigation regarding H.I.'s posts with the charge of "*Insulting the President of Turkey*" pursuant to Article 299 of the Turkish Criminal Code. At the end of the trial, the applicant was sentenced to 1 year, 2 months and 17 days imprisonment by the Adana 33rd Criminal Court of First Instance. The announcement of the verdict was deferred.
2. An objection was lodged against the decision on 20.11.2021, and the objection was rejected by the Adana 3rd Assize Court on the grounds that the decision of the first instance court was lawful. H.I. filed an individual application to the Constitutional Court on 10.01.2022 against this final decision.
3. On 15.11.2022, İFÖD submitted a Third-Party Opinion in the application of H.I. pending before the Constitutional Court. In the 19-page submission, İFÖD evaluated the proceedings in light of the recent *Vedat Şorli v. Turkey* (no. 42048/19, 19.10.2021) judgment of the ECtHR. The submission evaluates Article 299 of the Turkish Criminal Code according to quality of law requirement of the ECtHR jurisprudence. The Submission also examines whether the interference with the applicant's freedom of expression was necessary in a democratic society, especially within the framework of the Constitutional Court's decision dated 19.02.2020 and numbered E. 2018/91 and K. 2020/10 which revoked the authority of law enforcement's online patrols.