

Third Party Opinion Submitted to the Application of the Applicant N.M.

1. N.M. was born in 1996 and is a worker. In 25.11.2015, N.M. participated in a peaceful gathering organized at a university campus for the “November 25th - **International Day for the Elimination of Violence against Women**” designated by the United Nations General Assembly.
2. In the indictment issued as a result of the criminal investigation carried out about this event, it was indicated that the applicant was seen “*with the group singing the anthem 'When the red roses bloom', praising the PKK/KCK terrorist organization, chanting 'BİJİ BERXWEDANA YPJ' (Long Live YPJ) praising the YPJ, the Syrian structure of the PKK/KCK terrorist organization*”. It was also indicated in the indictment that she had chanted slogans such as "resistance" in a way that everyone could hear. The applicant was charged with "making propaganda for a terrorist organization", pursuant to Article 7/2 of the Anti-Terrorism Law No. 3713, along with all other suspects.
3. As a result of the proceedings, the Mersin 2nd Assize Court decided to sentence N.M. to 1 year and 8 months in prison. The court did not apply the grounds of discretionary reduction against N.M., nor did it decide to defer the verdict's announcement or suspend the sentence. N.M. appealed against the decision. The appeal was rejected by the 2nd Criminal Chamber of Antalya Regional Court of Appeals and the judgment was finalized according to the legislation at the material time, and the applicant was sent to prison for the execution of his sentence on the same date.
4. While N.M. was in prison, Law No. 7188 came into force on 24.10.2019, which granted the right to appeal to the Court of Cassation against the convictions based on Article 7/2 of the Anti-Terrorism Law No. 3713. Thereupon, N.M. 's counsel both demanded the stay of execution and appealed against the Regional Court of Appeals decision. The applicant argued in her appeal that her activities did not constitute the crime envisaged in the article. The applicant also argued in her appeal that her acts should be seen within the scope of freedom of expression and the right to peaceful demonstration, referring to the relevant case-law of the ECtHR and the Constitutional Court.
5. With the additional decision dated 28.10.2019, the first instance court issued an order to ensure the stay of execution. The file was sent to the Court of Cassation for appellate review. The 3rd Criminal Chamber of the Court of Cassation, upheld the judgment against 6 defendants and the applicant. N.M. lodged an application with the Constitutional Court on 03.06.2022 against the final decision.
6. İFÖD has submitted a third-party opinion in this pending application on 23.11.2022. İFÖD presented its evaluation regarding the compliance of the Article 7/2 of the Anti-Terrorism Law with the European standards. As a result, within this framework, İFÖD presented its opinions and assessments to the Constitutional Court regarding whether the interference with the applicant’s right to organize meetings and demonstrations in connection with the freedom of expression was necessary and proportionate in a democratic society.