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Date: 26/01/2022

### DH-DD(2022)120

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Meeting: 1428<sup>th</sup> meeting (March 2022) (DH)

Communication from an NGO (İfade Özgürlüğü Derneği (İFÖD – Freedom of Expression Association)) (19/01/2022) in the case of ARTUN AND GUVENER v. Turkey (Application No. 75510/01) and reply from the authorities (25/01/2022).

Information made available under Rules 9.2 and 9.6 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

\* \* \* \* \*

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Réunion : 1428<sup>e</sup> réunion (mars 2022) (DH)

Communication d'une ONG (İfade Özgürlüğü Derneği (İFÖD – Freedom of Expression Association)) (19/01/2022) relative à l'affaire ARTUN ET GUVENER c. Turquie (requête n° 75510/01) et réponse des autorités (25/01/2022) **[anglais uniquement]**.

Informations mises à disposition en vertu des Règles 9.2 et 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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DGI

19 JAN. 2022

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DES ARRETS DE LA CEDH

## **RULE 9.2 COMMUNICATION**

**in the Artun and Güvener Group of Cases (no. 75510/01) v. Turkey**

**by**

**İFADE ÖZGÜRLÜĞÜ DERNEĞİ (İFÖD)**

**19 January 2022**

An independent non-governmental organization specialized in defending and promoting freedom of expression



DGI Directorate General of Human Rights and Rule of Law

Department for the Execution of Judgments of the ECtHR

F-67075 Strasbourg Cedex

FRANCE

19.01.2022

**Rule 9.2 Communication from İfade Özgürlüğü Derneği (“İFÖD”) in the Artun and Güvener Group of Cases (no. 75510/01) v. Turkey**

1. The submission is prepared by **İfade Özgürlüğü Derneği** (“İFÖD” – Freedom of Expression Association), a non-profit and non-governmental organization which aims to protect and foster the right to freedom of opinion and expression in Turkey. İFÖD has been informing the Committee of Ministers on the recent developments concerning the persistent failure of Turkish authorities in full and effective implementation of general measures in the *Öner and Türk* Group of Cases (no. 51962/12); *Akçam* Group of Cases (no. 27520/07); *Şener* Group of Cases (no. 38270/11) and *Artun and Güvener* Group of Cases (no. 75510/01) v. Turkey.
2. The aim of this submission is to update the Committee of Ministers with regards to the general measures in the *Artun and Güvener* Group of Cases. In this respect, İFÖD will discuss the problems arising from and in relation to the failure of the Turkish Authorities to amend article 299 of the Turkish Criminal Code (“TCC”) and the judicial practice following the publication of the recent *Vedat Şorli v. Turkey* (no. 42048/19, 19.10.2021) judgement of the European Court.

**Background**

3. *Artun and Güvener* Group particularly concern unjustified interferences with the applicants’ right to freedom of expression on account of applicants’ criminal convictions for insulting the President of Turkey (article 299 of the TCC) or the public officials (article 125/3 of the TCC).
4. In the 1406<sup>th</sup> meeting,<sup>1</sup> the Committee of Ministers drew attention to “*the lack of indication of the measures envisaged to remedy the violations*” resulting from the application of article 299 of TCC. The Committee further invited the authorities to consider a legislative amendment to fully align the criminal offence stipulating defamation of a Head of State towards the Court’s case-law and emerging European consensus.
5. On 07.01.2022, the Government submitted an Action Plan for the Committee’s 1428<sup>th</sup> meeting.<sup>2</sup> In the Action Plan, the Government reiterated its previous arguments concerning the legislative amendments, reform strategies, and training activities that are already discussed in the Committee’s 1406<sup>th</sup> meeting. With regards to the *Artun and Güvener* group of cases, in support of its previous arguments, the Government presented sample decisions delivered by

<sup>1</sup> CM/ResDH(2021)110, 09.06.2021.

<sup>2</sup> See DH-DD(2022)34.



the Regional Courts of Appeal, Court of Cassation, and the Constitutional Court. Based on the sample decisions, the Government claimed that the legal amendments provide a Convention compliant safeguard mechanism and that they illustrate “*the well-established case-law of the Turkish judiciary.*” However, with regards to article 299 cases, the Government only **presents a single decision in its recent Action Plan**, that of the not guilty decision of the 2<sup>nd</sup> Criminal Chamber of the İzmir Regional Court of Appeal<sup>3</sup> without stating whether this decision was “final” or whether there was a further appeal to the Court of Cassation. In any case, a single positive outcome **does not reflect upon the problems** associated with the widespread use of the article 299 provision in Turkey to silence dissent and political criticism aimed towards the President of Turkey. In fact, as will be seen in **Annex II** to this submission, the widespread and high number of prosecutions continued during 2020 according to the latest official statistics.

6. Moreover, the Government, in its Action Plan, note that the “permission mechanism provides a convention compliant legal safeguard with respect to the similar violations” and that the permission for prosecution is “granted only for the remarks containing clear defamation”.<sup>4</sup> However, the Government does not provide any statistics from the Ministry of Justice in relation to the “permission mechanism” to show in numbers how the mechanism works and whether and how much of the requests from the public prosecutors are granted for prosecution. In fact, despite a recommendation decision of the Ombudsman Institution of the Republic of Turkey as well as the annulment decision of the 12<sup>th</sup> Administrative Chamber of the Ankara Regional Court of Appeal,<sup>5</sup> the **Ministry of Justice did not comply with a freedom of information request** to obtain statistics involving the “permission mechanism”. As the regional court decision was final, an individual application has been lodged with the Constitutional Court to obtain the statistics by one of the founders of İFÖD in January 2022.<sup>6</sup>
7. In the **absence of such statistics**, İFÖD as well as the Committee of Ministers are **not in a position to assess the Government’s claim** that the permission mechanism is “truly functional,” “granted only for the remarks containing clear defamation,” that it provides a balancing approach and acts as a shield to protect political speech, its originally intended purpose.
8. Finally, the Government did not provide any information on whether it is considering any legislative amendment to article 299 of TCC.

#### **The European Court’s *Vedat Şorli* (no. 42048/19, 19.10.2021) Judgement**

9. In the *Vedat Şorli* judgement, the European Court not only found a violation of Article 10 of the Convention but also decided to apply Article 46 of the Convention as the insult to the President cases constitute **a systemic problem** in Turkey. The Court held that violation of the applicant’s right guaranteed by Article 10 of the Convention arose from the drafting and

<sup>3</sup> See § 381, p. 63 of the Government’s Action Plan.

<sup>4</sup> See § 382, p. 63 of the Government’s Action Plan.

<sup>5</sup> İFÖD can provide these decisions if the Committee of Ministers deem necessary.

<sup>6</sup> Yaman Akdeniz Application, App. No: 2022/4380, 13.01.2022.



application of the provision in question. In this regard, the Court held that pursuant to Article 46 of the Convention, bringing the relevant domestic law in line with Article 10 of the Convention would constitute an appropriate form of redress making it possible to put an end to the violation stemming from the application of article 299 of TCC (*Vedat Şorli v. Turkey*, no. 42048/19, 19.10.2021, § 54).

## İFÖD's Observations

10. In the European Court's recent *Vedat Şorli* judgment, the conflict between article 299 of the TCC and Article 10 of the Convention has been clearly expressed. Article 90 of the Turkish Constitution stipulates that "...in the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail". In this regard, considering the clear findings of the European Court stating that article 299 of TCC is in violation of the Convention, the relevant provision should no longer be applied by the criminal courts. For this reason alone, any interference with the right to liberty and freedom of expression based on the criminal offence in article 299, would not be prescribed by a foreseeable rule in Turkish law.
11. Nevertheless, in the recent decisions, the domestic courts continue to convict defendants relying on article 299 of TCC. Following the European Court's *Vedat Şorli* judgement, based on the news covered by media, İFÖD collected news coverage indicating that even after the *Vedat Şorli* judgement, judicial organs disregarded the case-law of the European Court and continued to initiate investigations and the trial courts continue to convict individuals who criticized the President subject to article 299.<sup>7</sup> According to the media, journalists,<sup>8</sup> lawyers,<sup>9</sup>

<sup>7</sup> See generally **Annex I**. Note further that **journalist Perihan Kaya** was convicted to 11 months and 20 days for insulting the President even though her lawyers submitted to the Court in her defence the European Court's *Vedat Şorli* decision (see <https://www.mlsaturkey.com/tr/aihm-kararina-ragmen-gazeteci-perihan-kayaya-11-ay-20-gun-hapis-cezasi/>). Similarly, **journalist Gökhan Biçici** is facing a charge of insulting the President and his lawyer also relied on the European Court's *Vedat Şorli* decision during the last court hearing (see <https://www.mlsaturkey.com/tr/gazeteci-gokhan-bicinin-cumhurbaskanina-hakaretten-yargilandigi-dava-ertelendi/>). The trial is currently on-going. Well known **theatre actor Genco Erkal** (83 years old) is also on trial for insulting the President and during the last court hearing his lawyer also relied on the European Court's *Vedat Şorli* decision (see <https://bianet.org/bianet/print/253899-genco-erkal-cumhurbaskanina-hakaretten-hakim-karsisinda>). Well known Twitter personality and former journalist **Atilla Taş** is also facing charges of insulting the President and his lawyer also relied on European Court's *Vedat Şorli* decision during the latest court hearing (see <https://tr.sputniknews.com/20211026/fetonun-medya-yapilanmasi-davasinda-atilla-tas-haric-8-sanigin-adli-kontrol-tedbirleri-kaldirildi-1050200998.html>). Finally, **Sedat Ata**, a **lawyer**, was found guilty of insulting the President and received 11 months and 20 days imprisonment despite references to the European Court's *Vedat Şorli* decision during the final hearing (see <https://www.duvarenglish.com/in-violation-of-ecthr-ruling-turkey-convicts-lawyer-sedat-ata-for-insulting-president-erdogan-news-59319>).

<sup>8</sup> See Expression Interrupted, "*Hasan Cemal is subject to a criminal case for 'insulting the president'*", 20.12.2021, at <https://expressioninterrupted.com/tr/hasan-cemal-e-cumhurbaskanina-hakaret-davasi-acildi/>; Birgün, "*Hearing of the Criminal Case Against Birgün for Insulting Bahçeli and Erdoğan postponed to March 17*", 07.12.2021, at <https://www.birgun.net/haber/birgun-e-bahceli-ve-erdogan-a-hakaret-davasi-17-mart-a-ertelendi-368405>.

<sup>9</sup> See Sözcü, "*Lawyer is sentenced to imprisonment for 'insulting the president'*", 30.11.2021, at <https://www.sozcu.com.tr/2021/gunun-icinden/avukata-cumhurbaskanina-hakaretten-hapis-cezasi-6799730/>.



former deputies,<sup>10</sup> and even ordinary citizens<sup>11</sup> are constantly subjected to prosecutions due to their statements criticizing the President of Turkey and his policies and political statements. Thus, recent media reports clearly and continuously illustrate the widespread use of the article 299 of the TCC to punish and silence criticism and dissent in Turkey.

12. İFÖD is of the opinion that contrary to the Government's arguments, the case law is far clear from providing any effective legal safeguards in the application of article 299 of TCC. Similarly, in the light of the above-mentioned rulings of the domestic courts, it is not possible to claim Turkey's judicial practice is well-established or provides an effective safeguard for critical or unpopular opinions. Thus, a few selective positive decisions cannot be considered as improvement of the case-law. In any case, the Turkish authorities are obliged to take action with regards to the Article 46 ruling in the *Vedat Şorli* judgment.
13. Moreover, in the 1406<sup>th</sup> meeting, the Committee urged the Government to submit "*detailed statistical information covering the last five years showing the total number of prosecutions and convictions*" and "*information on the number of journalists prosecuted, convicted and held in pre-trial and post-conviction detention, with details of the allegations involves*".
14. The Government submitted some statistical information in its latest Action Plan of January 2022. However, the submitted statistics contain only quantitative information and only **in relation to 2020**<sup>12</sup> based on the annual Justice Statistics ("Adalet İstatistikleri").<sup>13</sup> The submitted statistics are also only in relation to the decisions rendered for suspects at the investigation stage at the Chief Public Prosecutors' Offices. As the Government did not provide detailed statistics involving the application of article 299, İFÖD compiled the statistical data from the official annual Justice Statistics for the President Erdoğan era (2014-2020). **Annex II of this Submission** therefore includes the total number of investigations, prosecutions, guilty and not guilty verdicts, imprisonments and the deferment of the announcement of the verdict decisions. Based on the official statistics, during the President Erdoğan era, **160.169** persons were subjected to an article 299 **criminal investigation** until the end of 2020. Moreover, **38.498** persons were **prosecuted**, **12.881** received **guilty verdicts** and **11.913** further cases resulted with the **deferment** of the announcement of the verdict decisions. **3.625** persons were imprisoned. **5.660** were found **not guilty**. Among the guilty verdicts, **106** are under the age of 18 and **24** are between the ages of 12-14 according to the Justice Statistics as of end of 2020.

<sup>10</sup> See Cumhuriyet, "Zeynep Altıok Akatlı sentenced to 11 months in prison for insulting the president", 20.12.2021, at <https://www.cumhuriyet.com.tr/siyaset/zeynep-altiok-akatliya-cumhurbaskanina-hakaretten-11-ay-hapis-cezasi-verildi-1889803>; Artı Gerçek, "Criminal Case to Ayhan Bilgen for insult to the President", 11.12.2021, at <https://artigercek.com/haberler/ayhan-bilgen-e-cumhurbaskani-na-hakaret-davasi>.

<sup>11</sup> See Deutsche Welle Turkey, "Calling 'Jew' to Erdoğan Considered as an Insult", 05.11.2021, at <https://www.dw.com/tr/erdo%C4%9Fana-yahudi-demek-hakaret-say%C4%B1ld%C4%B1/a-59732662>.

<sup>12</sup> See p. 66 of the Government's Action Plan.

<sup>13</sup> See p. 60 of the Judicial Statistics 2020 at [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1692021162011adalet\\_ist-2020.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1692021162011adalet_ist-2020.pdf).



15. In addition, the Government did not provide information on the details of the allegations involved or the number of journalists prosecuted, convicted, and held in detention with regards to article 299. Thus, the statistics do not address the Committee's request. Nevertheless, according to the statistics provided by the Government, only in 2020, 31.297 persons were subjected to a criminal investigation subject to article 299. This alone shows the magnitude, widespread use and the continuing nature of the application of article 299 which is primarily used to silence critical opponents of President Erdoğan. İFÖD is of the opinion that the wide application of article 299 of the TCC creates a chilling effect on all sections of the society that are critical about the President and his Government.

### Conclusions and Recommendations

16. There has been **no progress achieved** with regard to the provision of an adequate legislative framework that enables the protection of Article 10 and full and effective implementation of *Artun and Güvener* group of cases.
17. Since the last meeting, the Turkish Authorities did not **properly address the structural problems** observed by the Court and the Committee of Ministers arising from the application of article 299 of TCC.
18. The Committee should **request** the Turkish Authorities **to amend article 299** of TCC in the light of the Court's *Vedat Şorli* judgment and ask the Authorities **to comply with the Court's Article 46 decision**.
19. The Committee of Ministers should also **ask the government to provide detailed statistical data** covering the President Erdoğan era with information on the details of the nature and content of prosecutions.
20. The *Artun and Güvener* group of cases **should remain under the enhanced procedure** and the Committee of Ministers should review *Artun and Güvener* group of cases in frequent and regular intervals concerning the legislative general measures in the light of the Court's recent judgment in *Vedat Şorli*.

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İfade Özgürlüğü Derneği (İFÖD) has been set up formally in August 2017 to protect and foster the right to freedom of opinion and expression. The Association envisions a society in which everyone enjoys freedom of opinion and expression and the right to access and disseminate information and knowledge.



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19 JAN. 2022

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## Despite European court ruling, Turkey convicts lawyer for 'insulting' Erdoğan

Despite a ruling by the European Court of Human Rights that states arresting individuals for "insulting the president" was a rights violation, Turkey has sentenced lawyer Sedat Ata to 11 months and 20 days in prison for "insulting" Erdoğan.

Monday October 25 2021 01:25 pm



Pelin Akdemir / DUVAR

A Turkish lawyer was handed 11 months and 20 days in prison for "insulting" President Recep Tayyip Erdoğan, in stark contradiction with a European Court of Human Rights (ECHR) ruling that stated convicting individuals over the said accusation is a rights violation.

Lawyer Sedat Ata was handed the prison sentence last week, with the court deciding that he insulted Erdoğan in a video he shared on his social media accounts in 2014.

The ECHR ruled this month that Article 299 of the Turkish penal code, which criminalizes "insulting the president," is a violation of freedom of expression.

Ata's arrest is linked to the case of singer Deniz Seki, who was arrested and imprisoned for drug dealing in 2014. When Seki was quoted in the press saying that she "prayed and chanted" a lot in prison, to which another social media user replied that "it doesn't replace cocaine, but it also gets you high." Ata re-shared that comment on his social media channels. The prosecutor's office then opened an investigation into Ata for complaints of "offending religious sentiment." He was then officially charged with insulting the president for the video he shared. He was sentenced to 11 months and 20 days in prison, but the sentence was commuted to a fine of 7,000 Turkish liras due to the "personality of the accused and the characteristics of the crime."

Ata is one of 38,608 people to be charged with "insulting the president" between 2014 and 2020. The charge became critical to Erdoğan's efforts to clamp down on dissent after he became president in 2014, and particularly after the coup attempt of 2016 and the constitutional referendum of 2017.

Last week, the European Court of Human Rights handed down a decision in the case of Vedat Şorli which squarely deemed the "insulting the president" charge inconsistent with human rights law and freedom of expression.

Şorli was sentenced to 11 months and 20 days in prison - the same length as Ata's sentence - for a cartoon and photo he shared on Facebook. The ECHR determined that the ruling was inconsistent with both the European Convention on Human Rights and principles of freedom of expression in establishing special protection for the president. It further stated that article 299 could have a chilling



However, Ata was convicted just two days later. In his defense, Ata and his lawyer Erol Çiçek argued that President Erdoğan was obliged to endure criticism as the leader of a political party. They further reminded the court that just two days earlier, the ECHR had ruled Şorli's case a violation of his human rights.

"According to the European Convention on Human Rights, the common law of the Court of Cassation and the common law of the Constitutional Court, a crime did not occur," Çiçek said, "We demand the acquittal of our client."

Ata said that after the ECHR decision, he and his legal team assumed that he would be acquitted. However, that was not the case. Under Article 90 of the Turkish Constitution, Turkey is legally obliged to uphold rulings by the ECHR, to which it is a party. However, in recent years the court has failed to implement several of these decisions, such as in the cases of Osman Kavala and Selahattin Demirtaş.

Now, Ata says they will appeal to the Bursa Regional Court of Justice and will continue appealing until the charges are lifted.

"We intend to exhaust all legal remedies," he said.

Ata and Çiçek further said that the case is an example of the political pressure placed on the judiciary under the ruling Justice and Development Party (AKP).

"Judges in local courts do not dare to acquit, especially in cases of insulting the president," said Ata. Çiçek further said that the ruling was an example of "political pressure," and that judges are afraid to give a verdict of acquittal.



**Top European rights court calls on Turkey to change law on insulting president**

# 96-year-old woman without criminal liability prosecuted for 'insulting' Erdoğan

Turkish prosecutors have put a 96-year-old woman, exempt from criminal liability with a hospital report, on trial on charges of "insulting the President." After a two-year-long prosecution process, the court ordered the implementation of security measures, citing the woman's "mental health."

Tuesday November 02 2021 06:40 pm



## Duvar English

Turkish prosecutors have put a 96-year-old woman without criminal liability on trial for "insulting the President." Aliye Yabansu is living in the southeastern province of Şanlıurfa's Siverek district at a 20 square meters container, Mezopotamya news agency reported on Nov. 2.

The complaint against Yabansu was filed by a person known as M.İ. with the Şanlıurfa Chief Public Prosecutor's Office. The charges concern the 96-year-old woman's remark in a video which was recorded and put on social media without her approval on Jan. 9, 2019.

The Siverek Chief Public Prosecutor's Office later prepared an indictment about the woman, claiming that she had "used remarks that can be offending to the President's honor and respectability." The prosecutors demanded the implementation of "security measures on the grounds of the woman's mental health."

During the final hearing of the case held on Dec. 1, 2020 at the Siverek 1st Penal Court of First Instance, Yabansu's lawyer said that her client was a 96-year-old patient confined to bed, her remarks did not constitute as an insult against the President, and the addressee of the video was not clear.

The prosecutors told the court that Yabansu had presented a hospital report exempting her from criminal liability and demanded the implementation of "safety measures applied specifically to mentally ill patients."

The court ruled that Yabansu does not have criminal liability and ordered authorities to place her in "the closest high-security health institution for treatment." Despite the court's "closest health institution" remark, the prosecutors demanded that Yabansu be dispatched to the Kayseri City Hospital, to which the woman's lawyer filed an appeal.

Demanding that the court lift the security measures, the lawyer's appeal noted that the woman's transfer to another city would take eight hours and would physically "torment" her.

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woman's transfer to another city would take eight hours and would physically torture her.  
"Sending this old woman, who is waiting for her death in her bed, to a city she does not know would be no different than burying her alive," lawyer Celil Tanış said.

"When my client was speaking on the street, someone recorded her without her approval and then shared the video on social media. The indictment was prepared on the basis of this, and the court ruled for the 'implementation of security measures.' There was a two-year-long prosecution process, and now the ruling is being executed. There is the city of Diyarbakır 80 kilometers away; why is the health examination demanded to be done in Kayseri, instead of Diyarbakır?" asked the lawyer.

Thousands have been charged and sentenced over the crime of "insulting" President Recep Tayyip Erdoğan in the seven years since he moved from being prime minister to the president.

In 2020, 31,297 investigations were launched in relation to the charge, 7,790 cases were filed and 3,325 resulted in convictions, according to Justice Ministry data. Those numbers were slightly lower than the previous year.

Since 2014, the year Erdoğan became president, 160,169 investigations were launched over insulting the president, 35,507 cases were filed and there were 12,881 convictions.



**Top European rights court calls on Turkey to change law on insulting president**

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Human Rights



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Domestic

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## social media user

A Turkish court has deemed calling President Erdoğan "a Jew" an insult and fined a social media user. "Tagyip is a Jew who disguises himself as a Muslim," said the man on social media, prompting the court to fine him 7,000 liras.

Sunday November 07 2021 12:52 pm



Reuters photo.

### Duvar English

A Turkish court in the northwestern province of Bursa fined a man 7,000 Turkish Liras after he called President Recep Tayyip Erdoğan "a Jew" on social media, Deutsche Welle's Turkish service [reported](#) on Nov. 5.

"Tagyip is a Jew who disguises himself as a Muslim," Yüksel Üstün wrote on Facebook back in 2020, prompting Erdoğan's lawyer to file a complaint on the grounds that he "humiliated" the president.

According to Erdoğan's lawyer Hüseyin Aydan, Üstün used "offensive remarks towards the president's honor, dignity and reputation."

The final hearing of the case was held on Nov. 4, where Üstün's lawyer Baran Güneş defended his client by saying that Jews are "honorable citizens of this country."

"Calling someone a Jew or gypsy is not a crime," Güneş told the court, asking for Üstün's acquittal.

The court, however, sentenced Üstün to 10 months and 20 days in prison, before turning it to an administrative fine worth 7,000 liras.

Thousands of people have been tried for "insulting" Erdoğan since 2014. Most recently, a 96-year-old woman was put on trial over the said charge.

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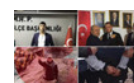
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# Man gets suspended sentence for sharing Erdoğan cartoons on social media

DN/DID/2021/120. Communication from an NGO in ARTUTLI AND GUVENER v. Turkey & reply from the authorities.  
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By **SCF** - December 14, 2021



A man in the central Turkish province of Konya has been given a suspended sentence of 14 months on charges of insulting President Recep Tayyip Erdoğan for sharing two cartoons about him on social media, [Turkish Minute](#) reported, citing the Anka news agency.

The man, identified only by the initials B.G., tweeted two cartoons of Erdoğan that criticized the president for violating the law and the Constitution while other people face charges for such acts. In one of the cartoons Erdoğan writes, “It’s legal for me,” in Turkish. In the other he writes, “It’s prohibited for you.”

“This is the clearest picture we have seen over the past week. No need to comment” B.G. wrote below the cartoons in April 2009, which prompted an investigation into him.

B.G. was convicted of insulting Erdoğan and handed down a suspended sentence. He denied the charges and said the cartoons included only criticism of the president.

Insulting the president is subject to criminal charges under the controversial Article 299 of the Turkish Penal Code (TCK), and thousands of people in the country are under investigation, with most of them facing the threat of imprisonment, over alleged insults of Erdoğan. Whoever insults the president can face up to four years in prison, a sentence that can be increased if the crime was committed through the mass media.

The insult cases generally stem from social media posts shared by people who don’t like Erdoğan. The Turkish police and judiciary perceive even the most minor criticism of Erdoğan or his government as an insult.

In the latest such incident, another man identified only by the initials A.Ç. was arrested on Sunday in northern Zonguldak province for throwing a picture of Erdoğan on the ground.

The photograph had been hanging in the entrance to the district governor’s office.

A.Ç. was detained immediately and appeared in court. A.Ç. reportedly had financial problems and was protesting the country’s deteriorating economy.

Freedom of speech is a contested issue in Turkey, where dozens of people are prosecuted every day for expressing their views about the government and its actions as well as issues deemed “taboo” in Turkey.

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# TURKEY: WRITER SENTENCED TO 11 MONTHS AND 20 DAYS OF IMPRISONMENT FOR ‘INSULTING THE PRESIDENT’

18 November 2021



Image: Writer Yılmaz Odabaşı / Yılmaz Odabaşı on Facebook

The Yalova 2nd Penal Court of First Instance sentenced writer Yılmaz Odabaşı on 3 November 2021 to 11 months and 20 days of imprisonment for “insulting the President” in his Twitter posts about elections in Turkey dating back to 2018, reported [MLSA Turkey](#).

Odabaşı was sentenced for “insulting the President” during the [second hearing of the trial](#).

In his Twitter post published on 3 November 2021, the artist said that “Today, in my new trial for ‘insulting the President’, I was sentenced to 11 months and 20 days in prison. They want to silence us, but I will continue to share my ideas and criticisms with my friends and readers.”



The writer’s lawyer stated that they would [appeal against this sentence](#).

[Susma24](#) reports that Odabaşı was tried under the same charges in 2017 for allegedly insulting the President in an article. The artist was sentenced to one year and eight months in prison on 25 January 2017. The sentence was postponed.

In its [State of Artistic Freedom 2021](#) report, Freemuse states that a vague framework of anti-terror law and criminalised insults against the president were behind more than half of the documented violations in Turkey in 2020.

Artist(s):





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## Lawyer Hakan Mazman sentenced to imprisonment

01/12/2021 | 110 views



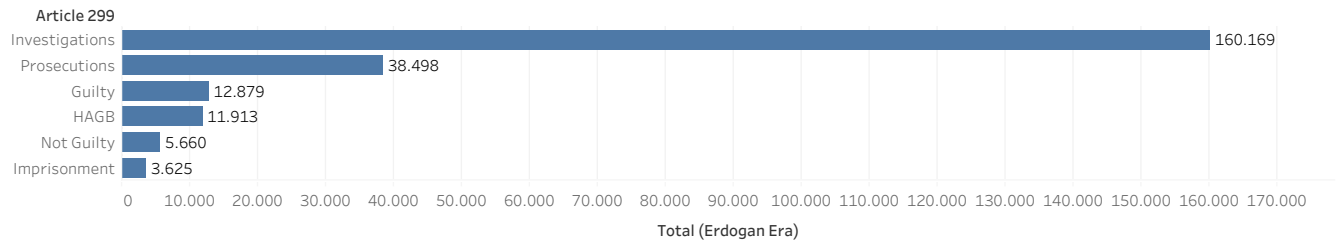
Lawyer Hakan Mazman, who was on trial for “insulting the President” due to his social media posts, was sentenced to 2 months in prison.

01.12.2021

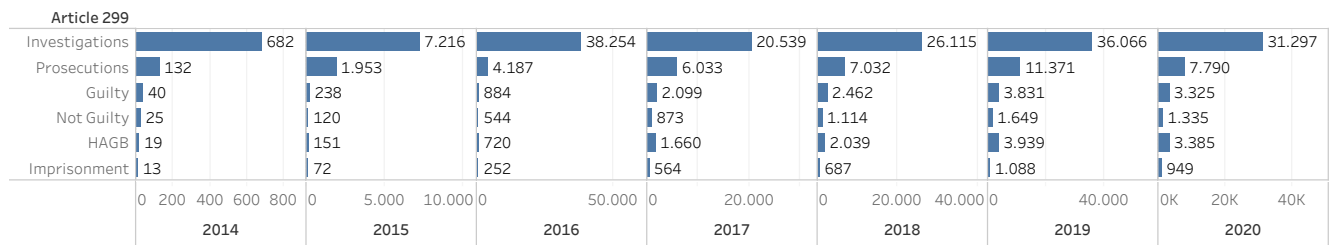
## Annex II

### Statistics\* Article 299 of the Criminal Code

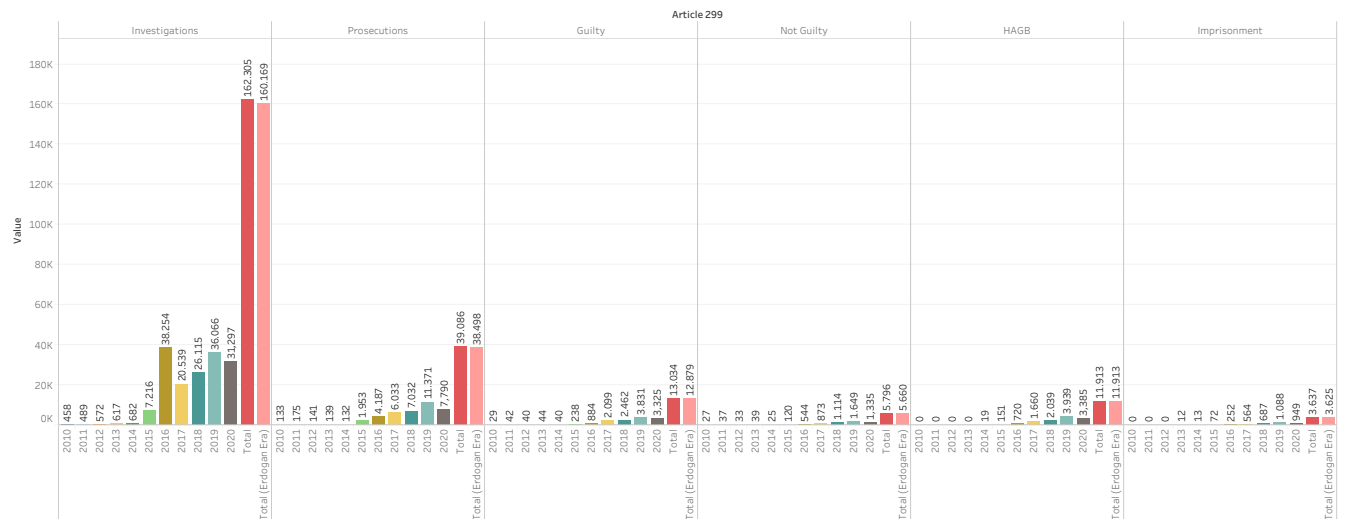
Article 299: Erdoğan's Era (2014-2020)



Article 299: Erdoğan's Era (2014-2020)



Article 299: 2010-2020



\* These statistics were obtained from Judicial Statistics of the Ministry of Justice