

A Day in the Court

Starting from the declaration of State of Emergency after the coup attempt in July 2016, the oppression of Turkish government on academics, specifically on those who signed the Peace Petition, is escalating. The most recent act of the government was to launch individual lawsuits for the petitioner academics, in which they were charged with terrorist propaganda for signing the peace petition. The hearings started in December and by February 23, 2018, 143 defendants have had their first hearings, and 21 of these have also had their second [1]. As the members of Social and Political Psychology Platform of Turkey, we followed one of the hearings to share the details about the legal process.

This was the second hearing for the scholar in the courtroom in which she was to make her statement of defense. The hearing started with the identification of the defendant and the judge repeated what she was charged with. As stated before, the academics are charged with "terrorist propaganda" under Article 7/2 of the Turkish Anti-Terror Act (#3713) in the bill of indictment prepared by Prosecutor. The hearing was recorded on the visual and auditory system used in the courts and the defendant made her statement in which she declared that the text she signed was a call for peace, it contains nothing that could be related to the legitimization of violence, and that the lawsuit is simply a violation of a constitutional right, the freedom of expression, which is defined by national and international conventions (You can follow some defense statements made by defendants in the following link: <https://bianet.org/konu/trial-of-academics>).

After the defendant finalized her statement, her lawyer demanded to state the legal and judicial problems about the charges, since the alleged relation that the prosecutor makes between the Peace Petition and PKK is a strained interpretation and the critiques directed at the government in the petition about the armed operations are in fact a civic right in all democratic countries and should be evaluated within the scope of freedom of thought and expression according to international declarations of human rights and the legal decisions in relation to this. Then the prosecutor of the ten hearings in 32nd High Criminal Court declared his legal opinion as to the accusations (see the final bill of indictment here: https://barisicinakademisyenler.net/sites/default/files/davalar/FINAL_SUMMARY_OF_THE_INDICTMENT.docx)

We should first note that the prosecutor repeated the same opinion for all the cases in ten hearings (although the demand of the lawyers for a joinder of the cases in the previous hearings was rejected by the judge because of individuality for each cases. That is why it was interesting to hear that the opinion of the prosecutor is identical for all the cases!). In sum, the prosecutor declared that "the petition was aimed to indicate the sole responsibility of government in the incidents and to shade the actions of a terrorist organization". He further claimed that the petition was prepared upon the demand for "support for self-governance and autonomy of Kurds" by Kurdistan Communities Union (KCK) Executive Council Co-President Bese Hozat. He stated that the words in the petition such as "massacre, torture, exile" are intentionally selected, which, according to him, does constitute the crime of terrorist propaganda. He continued to declare his opinion by emphasizing that signing a petition which "does not include a crime factor" is a democratic right but accusing the government and its security forces of massacring people and making a call for peace only to the government contains the intention of justifying the violent acts of a terrorist organization. He also stated that "signing the petition in this case should be regarded as a practice to spread an opinion to be imposed onto society by various means" for relating this simplest and

conventional practice of political participation with terrorist propaganda. He repeated that the defendant should be penalized according to the Article 7/2 of the Turkish Anti-Terror Act with the crime of “terrorist propaganda” (http://www.opbw.org/nat_imp/leg_reg/turkey/anti-terror.pdf) as well as according to the Article 5732, item 53 of Turkish Penal Law (<http://www.wipo.int/edocs/lexdocs/laws/en/tr/tr171en.pdf>).

The lawyer requested for additional time to prepare her statement and the judge decided for an adjournment to April, 2018. However, for the three cases out of ten in which the lawyers did not ask for additional time in the previous hearings, the judge declared the court decision in accordance with the prosecutor’s opinion, and three academics were sentenced with 15 months imprisonment. The sentences were deferred, which means that the convicted academics will not be going to jail, unless they “commit a similar crime” in a five year period. It should also be noted that if an academic accepted the deferment, the appealing right will be accepted as quitclaim. Therefore, no further law procedure would be left in the favor of the defendant. However, this decision of 15 months sentences has a strategic feature for the ones who plan to work in civil services which allow the sentenced person to reserve the right to be able to work in civil service. This situation would possibly facilitate acceptance of the declaration of the sentence and terminate law struggle individually.

This decision of 15 months sentence is predicted to be the same for all the cases of academics for peace. Moreover, it is known that Article 7/2 allows the state to penalize the defendants up to 5 years; a full sentence is more often given to Kurdish journalists for instance, a clear discriminatory practice. Therefore, deferment is interpreted as silencing the academics, who would likely raise their voices against the further injustices and atrocities of the government. Regarding that there are many cases recently in which people are taken into custody or arrested due to expressions of their opinions publicly or specifically on social media in favor of peace or against the operation in Efrin, this decision is also a menace to the opposition. Since the sentencing was new and a bit unexpected this early on, the lawyers will soon come together to look for legal acts that could be taken against this. For the deferred sentences, there is no chance to go for an appeal. We are now waiting for the lawyers to make a collective decision and take legal actions to challenge this situation.

The critical thing is that, we need international support to voice the unlawfulness in Turkey more than before. So, the pieces you spread on the international media is of utmost importance. Moreover, as we previously stated, for the academics and others who lost their jobs and academic positions that are in an urgent need of financial support, this international solidarity seems to be the only way out, since the national solidarity funds by the union and some research foundations run short of the need.

[1] <https://bianet.org/english/society/194558-three-academics-have-second-hearings>