My Evil Twin

A brief history of judiciary’s war on journalism in Russia and Turkey

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About this publication and acknowledgements

Defenses of independent journalists against authoritarian or malign regimes remain weak across the world. Russia and Turkey - united in not just the increasingly authoritarian way they are ruled but also in their “in-between-ness” - have been no exception in this regard.

Since the start of its occupation of Ukrainian territories in February 2022, an even bleaker outlook prevails in Russia. At the same time, officials in Turkey, which is on the verge of a historic election, have been showing hostility towards neighbors, even threatening war against Greece on several occasions.

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It is a joint product of two civil society organizations - Journalists and Lawyers for Freedom of Expression (JAM), MLSA’s sister organization in Berlin founded to offer legal and professional support to exiled journalists from Turkey, Russia and other regions, and Mass Media Defence Centre (MMDC), a civil society organization working in the field of media rights protection and the promotion of freedom of expression standards in Russia.

The trials examined here show the tactics used by the authorities to label and accuse journalists of terrorism or crimes against the state. This publication is written in the hopes of presenting a better picture of how the legislative processes are used against independent media to encourage readers to draw lessons in developing better legislation, as well as international mechanisms that protect journalists from abusive justice systems.

The translator from the Russian and Turkish originals as well as the first copy editor have been myself and I would like to thank all of the writers, who have contributed to the publication.

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Barış Altıntaş
Editor In Chief
Istanbul, January 2024
I. Introduction:

Russia and Turkey: A pair of dice cast, a story still being written

Putin and Erdoğan’s disdain for democracy is rooted in a shared worldview that has enabled close growing collaboration despite extreme foreign policy disagreements over the last decade. Through this disdain, both leaders are driving their countries toward ruin—though one can hope in Turkey’s case there remains an off-ramp. Yet there remains a robust press in the country, as independent journalists create new media outlets or reinvent old ones, and civil society organizations continue to operate even in the face of harsh punishments.

Many journalists face harsh constraints on their work and have been imprisoned or forced into exile. Yet there remains a robust press in the country, as independent journalists create new media outlets or reinvent old ones, and civil society organizations continue to operate even in the face of harsh punishments.

Russia’s invasion of Ukraine in February 2022, on the other hand, has shrunk Russia’s media and civic space even further—a development that came after many years in which they were already only allowed to reach a narrow slice of the country.7

Further reading (for more information on Russia’s media landscape):
- https://www.indexoncensorship.org/2013/12/brief-history-russian-media/
- https://www.carnegiemoscow.org/2009/02/03/media-manipulation-and-political-control-in-russia/
- https://www.twitter.com/jamesinturkey/status/1576286457819443272
- https://carnegiemoscow.org/2009/02/03/media-manipulation-and-political-control-in-russia/
- https://www.indexoncensorship.org/2013/12/brief-history-russian-media/
- https://www.carnegiemoscow.org/2009/02/03/media-manipulation-and-political-control-in-russia/
- https://www.indexoncensorship.org/2013/12/brief-history-russian-media/
- https://www.carnegiemoscow.org/2009/02/03/media-manipulation-and-political-control-in-russia/
- https://www.indexoncensorship.org/2013/12/brief-history-russian-media/
- https://www.carnegiemoscow.org/2009/02/03/media-manipulation-and-political-control-in-russia/
- https://www.indexoncensorship.org/2013/12/brief-history-russian-media/
- https://www.carnegiemoscow.org/2009/02/03/media-manipulation-and-political-control-in-russia/
The fourth plank is that the leaders themselves are the only solutions. Both Putin and Erdoğan are deeply convinced that they are indispensable to their countries, and that the state’s survival itself depends on them remaining at the center of power.

The truth or falsity of these four planks—whether those who believe them accurately understand the world—is not important. What matters is what they mean for how Russia and Turkey are ruled. Drawing from this shared worldview, both Putin and Erdoğan are convinced that liberal democracy itself is a hypocritical and discredited system inextricable from the closing historical moment of Western hegemony. As that hegemony dissolves, they believe it is their unique role in history to preserve the interests of their respective states—that the state must stand superior to the demands of a particular process, that they as leaders are uniquely inseparable from the state, and that only by embodying the state can they rescue it from internal and external crisis.

The basic premises of liberal democracy, then, are understood as at best nuisances and at worst conspiracies against the state itself, as embodied by its leader. A free press is not a check on untrammeled power, it is a plot to undermine the state. Civil society organizations that promote minority rights are trying to divide the country; they work with international funders not because of shared values, but because they are joined in a global conspiracy. The law is not a set of principles to be equally applied, it is a tool for the state to accomplish its goals. This is an ideological commitment to crude authoritarianism, in which a single leader or small group must rule by right, and any challenges to its power are illegitimate.

Authoritarianism is a terrible way to run a country. When one leader becomes indistinguishable from the state he leads, that leader’s preferences and fixations become substitutes for the state’s interests. Without any mandated mechanism for consultation, the leader’s motivations, obsessions and neuroses are elevated to the level of dogma. The quality of information available to the leader widens as he dismisses unfavorable news and promotes advisers who tell him what he wants to hear. Professionalism and merit fall aside as criteria for advancement, and corruption infects every layer of the system.

Putin’s war in Ukraine is the example par excellence of these problems. Responding to no demand from his inner circle, much less from the public, the president has hurled his entire country into a war that has displaced millions of Ukrainians and killed thousands, while also destroying Russia’s future, for no strategic advantage at all. At the time of writing, Putin’s invariability is in tatters as Ukraine drives back the Russian occupation in Kharkiv, Kherson and the Donbas. Russia’s military mobilization in September 2022 has spurred hundreds of thousands of men to flee the country. Unsurprisingly, the loud voices in Russia are those hunting for someone else to blame as those closest to power seek to turn attention away from this debacle. After more than 20 years supposedly dedicated to restoring Russia’s power and status in the world, Putin has tossed it all away on a delusion based on fa

**Authoritarianism in a World of Capital, by Walter Cruttwell**

Erdoğan’s policies are undermining Turkish economy; https://foreignpolicy.com/2016/03/erdogans-policies-are-undermining-turkish-economy/?int=5f525/erdogan-is-a-modern-economist-and-turkey-is-his-laboratory/
II. Setting a course into authoritarianism

Russian media after 2000: The road to full capture

ROMAN ZHOLUD
ANNA ROMASHCHENKO

At the start of the 21st century, journalism in Russia looked poised for rapid development, with an array of private TV channels, media holdings not owned by the government, and a press representing a vast spectrum of different ideas. Instead, the most recent history of Russian media became the story of the cleansing of the country’s information space.

Television

Television is the most predominant form of media in Russia, and where the cleansing of media outlets started after Vladimir Putin became president in 2000.

At that time, the country’s biggest private television station, NTV, was part of Mediamost, a holding company owned by businessman Vladimir Gusinsky. When he clashed horns with the new president, NTV turned into the country’s main oppositional TV station. Its management was able to bring together a very strong team of journalists led by Eugene Kiselev, creating brilliant original projects. Even then, criticizing the actions of those in power—and particularly of the president—could not remain without consequences in Russia. What would later be called the “capture of NTV” took place in 2001, when the government-owned energy corporation Gazprom, previously a minority shareholder in NTV, staged a takeover to become the majority owner.

Bringing private television to heel was not only strategy Russian authorities implemented in the 2000s. At the same time, they were also actively developing state-owned television. The most recent history of Russian media became the story of the cleansing of the country’s information space.

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In 2002, most of Kiselev’s journalistic team transferred to the TV-6 station, which belonged to yet another legendary oligarch, Boris Berezovsky. By that time, Berezovsky’s relations with Vladimir Putin had also become strained, and TV-6 too was shortly thereafter shut down. The reason for the closure was—on paper—the station’s debt.

In 2003, Kiselev and his colleagues attempted once again to revive their broadcast under the new brand of the TVS network, but this project came to an end before even one year had passed. Its frequency was replaced by the government-owned Sport station.

At the time it occurred, the state capture of NTV was a major social and political scandal, while the capitulation of the other television networks to the Kremlin occurred in a less conspicuous manner. An example of this process can be seen with the network REN-TV, which stood alongside the old NTV in terms of its oppositional stance in the early 2000s, but slowly lost its independence. The deciding moment was likewise the purchase of the network, in this case by the National Media Group (NMG) in 2008. NMG Holding was founded that same year, using funding from businesses controlled by the government. Later, the government-owned corporation Rosteletecom came into possession of 71 percent of NMG’s shares. Content on REN-TV, which previously included documentaries on such topics as the murder of journalist Anna Politkovskaya, the terrorist attack in Beslan or the issue of hazing in the military, changed under the new management. The network first began airing a higher number of entertainment programs, while international and national news also took on a more pro-government tone. Later, its broadcasts came to be filled with pseudo-documentary programs promoting anti-science, anti-history and conspiracy theories.

Another network that changed dramatically after becoming part of the NMG group was Channel 5. A majority of its staff were fired after the ownership change in 2008 and a majority of its programs taken off the air, as the network’s policy became unabashedly servile to government authorities.

Today known solely as the home of “Comedy Club” and its many comedic spinoffs, the Russian television channel TNT up until 2002 employed many former NTV journalists and broadcast several news shows and even analytical programs. But all programs which touched upon social and political issues were taken off the air within a year after the station’s acquisition by Gazprom.

In the early 2000s, even a station which had 51 percent of its shares owned by the government—Channel 1, then called ORT—National Russian Broadcasting Television—criticized the actions of Russian authorities during the Second Chechen War (1999–2000). However, precisely because of that criticism, the network’s remaining shares—at the time controlled by Boris Berezovsky—were bought by Roman Abramovic, an oligarch loyal to the Kremlin. After the sale, criticism of government authorities disappeared swiftly from ORT’s programming. The government subsequently decreased its direct shares in the channel to 34 percent, but the remaining shares still belong to government-owned corporations or to those known for their close ties to the authorities (such as VTB Bank, Sogaz, NMG and others).

But bringing private television to heel was not the only strategy Russian authorities implemented in the 2000s. At the same time, they were also actively developing state-owned television. The last years of Russia’s Ministry of Defense.

Another station that played a role in this process was Russia Today (later renamed RT), set up in 2005. Its main audience was outside of Russia’s borders, but RT’s management also started creating and spreading content in Russian for the domestic population. Outside of their work at RT, the station’s employees also participated in creating content for REN-TV and Channel 5.

As a result, the Kremlin had practically all television networks that broadcast on social and political issues in Russia under its control by the year 2010. Government propaganda acquired the maximum possible space, and any information that contradicted it found no place on television.

The only successful opposition channel to emerge was TV Dozhd, founded in 2006. In comparison with the leading Russian networks, it had a smaller number of viewers, as it wasn’t part of the free-of-charge federal stations that broadcast across the country. Dozhd broadcasts were carried out via paid satellite and cable television platforms. In 2012 and 2013 the network joined tenders to earn federal network status, but was unsuccessful.

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In 2014, Dozhd conducted a public survey asking participants whether it would have been worth giving up Leningrad to save hundreds of thousands of lives during the siege of the city in World War II. This caused a public outcry. Facing pressure from the authorities, almost all cable and satellite providers excluded Dozhd from their platforms following this incident. The network was left with only one way to spread its content, which was paid subscriptions to its website. In early March 2014, Dozhd was blocked by Roskomnadozor (the Russian government agency responsible for monitoring and controlling the mass media) as part of its censorship-related war broadcasts. Members of Dozhd’s editorial team left Russia and are currently continuing their work outside the country.

Print and online media

A parallel process of dissolving other forms of private media unfolded in a similar fashion after the year 2000. It is worth noting that most government publications (for example Rossiyiskaya Gazeta) had a relatively low popularity among the public, which made it important for the authorities to establish control over private media outlets. The authorities made it clear to the country’s media holdings that it was not in the least desirable for them to have independent—let alone oppositional—journalism projects of a large scale.

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In 2014 and 2015, other online publications, RBK, started to break records among local websites in terms of online visitors. Its editorial team, under the management of Elisabeth Ostesinskaya, published investigations into members of Vladimir Putin’s family, government spending on the Syrian war, and participation of the Russian army in the Donbass conflict. It later shed light on a scandal related to the Panorama Papers. All of this occurred at the dismay of the Kremlin. In 2016, police searches took place in the offices of RBK owner Mikhail Prokhorov. As a result, Ostesinskaya and about 20 other journalists left RBK, and Prokhorov sold his shares in the outlet. After this incident, no further investigations regarding the activities of Russia’s publications were published by RBK.

In 2019, 12 journalists employed in the political section of the newspaper Kommersant walked out in an act of protest after the firing of Gebi Chektrasov, the deputy editor in chief of the publication. His dismissal had occurred after the newspaper printed a comment about the possible departure of Valentina Matvienko, who was the head of the Federation Council, the upper chamber of the Russian parliament. In the spring of 2020, the newspaper Vedomosti was sold to new owners connected with the ruling elite—let alone oppositional—journalism projects of a large scale.

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New smaller publications picked up the falling banners of old media giants. In addition to Meduza, others worth mentioning include The Insider, Proekt and Vzglyady i Sotrudniki. For the most part, only two independent publications from the 1990s were able to withstand pressure from the ruling elite: Novaya Gazeta and radio station Echo Moskvy. However, in 2022 those two also fell victim to censorship and were shut down by the government.

Media in Turkey after 2000: The road to full capture

Under the state of emergency regime put in place after the failed coup, 16 television channels, 23 radio stations, 45 daily newspapers, 15 magazines and 29 publishing houses were shut down through an emergency decree issued by President Erdoğan.
The AKP had found hardest to take over, was finally sold to an Erdoğan crony, Yıldırım Demirören, in 2017, on the same day the government first detained businessman and civil society philanthropist Osman Kavala.

The result of all this was that by late 2016, Turkey’s most-viewed television stations and widely read newspapers were essentially under the control of the government. At the time, the government also had another powerful arm of its propaganda machine: the Feza Media Group, owned by the AKP’s then-ally Gülen Group, which had under its control the Zaman newspaper in addition to several magazines and religious publications. As the AKP–Gülen alliance began to shatter, these publications were also confiscated by the government prior to the 15 July 2016 coup attempt, which members of the Gülen religious organization were accused of orchestrating.

Other Islamist-minded newspapers, such as Yeni Şafak and Akit, would also thrive during this era. State funding flew into these smaller media outlets as well as the newly acquired ones.

The new media elite was also allowed to make use of loans provided by state banks at insignificant interest rates through public tenders whose transparency was questionable. To this day, many questions remain as to how much of this debt was paid back, if any. The result was that one media group could circulate between different businessmen who all needed to remain in the good graces of Erdoğan, thus ensuring favorable coverage of the government.

Despite all this, Erdoğan found it hard to fully trust his business allies, and appointed media commissioners to represent the government’s interests. Sometimes his intervention was even more direct. In one case that became public, Erdoğan called Fatih Saraç, the deputy chairman of Ciner Media (owner of Habertürk TV), to personally chastise him for running a news ticker with a quote from Nationalist Movement Party (MHP) leader Devlet Bahçeli, then a political rival. During this phone conversation, Erdoğan ordered Habertürk to cut the feed. (The MHP and Bahçeli have since become vital coalition partners to Erdoğan and the AKP.)

Following the 2016 coup attempt, a massive purge began in Turkey of public-sector employees, universities—and the media. Under the state of emergency regime put in place after the failed coup, 16 television channels, 23 radio stations, 45 daily newspapers, 15 magazines and 29 publishing houses were shut down through an emergency decree issued by President Erdoğan. Hundreds of journalists were imprisoned on charges of terrorism, crimes against the state, or aiding and abetting the coup plotters and tried in the absence of any solid evidence beyond their place of employment, their news reports or their tweets. Many spent years in prison.

The Doğan group, which the AKP had found hardest to take over, was finally sold to an Erdoğan crony, Yıldırım Demirören, in 2017, on the same day the government first detained businessman and civil society philanthropist Osman Kavala. (The sale was not publicly announced until 2018.)

Full capture of the media may have helped Turkey’s government drown out critical news about its deeds among the general public, but it hasn’t stopped the country’s journalists from reporting inconvenient stories. Further measures continue to be taken to try and stamp this out.

In the six years following the coup attempt, tougher legislation has been passed to crack down on the remaining alternative and Kurdish media. In 2018, Turkey transitioned to a presidential system that gave Erdoğan sweeping powers. Internet legislation adopted after this change forces social media platforms to appoint representatives to Turkey, while new directives have given the media watchdog RTÜK the right to demand “broadcasting licenses” from international online media. A new law on “disinformation” now threatens journalists—and other individual citizens—with up to three years in prison for disseminating news reports outside the government narrative. Approximately 400 journalists were tried between 2016 and 2020, with many convicted; new trials, particularly targeting the Kurdish media, are launched every day. Critical newspapers are denied public advertising, and their journalists refused press cards; if they turn to foreign funds to survive, they are demonized by pro-government media.
War and censorship in Russia:

Not a single word against the ‘special operation’

According to figures from the NGO Roskomsvoboda, between 24 February and 5 May 2022, more than 3,000 sites were subject to censorship related to reporting on the war.

ROMAN ZHOLUD / ANNA ROMASHCHENKO

From the moment on 24 February 2022 that Russia launched a war into Ukrainian territory—or, as the Kremlin put it, began a so-called “special military operation”—a complete media censorship went into force.

According to figures from the NGO Roskomsvoboda, between 24 February and 5 May 2022, more than 3,000 sites were subject to censorship related to reporting on the war. (It is important to note that these figures do not include access bans that were issued on the basis of other reasons.) In particular, all of the major independent media websites—Meduza, Ekho Moskvy, 7x7, Cobesedenik, Dsuh and others—were blocked at this time. Currently, access to these websites in Russia is only possibly with the help of VPN services. Some media outlets have stopped their activities altogether. In addition, the activities of Meta, the parent company of Facebook and Instagram, were declared extremist and banned in Russia.

Together with these developments, the ruling authorities also seriously and strategically tightened legislation already in place. On 4 March new articles went into force in Russia’s Code of Administrative Offenses (CAO) and Criminal Code (CCRF) that criminalized “discrediting the use of the Armed Forces of the Russian Federation” (CAO Article 20.3 and CCRF Article 280) and knowingly spreading false information on the actions of the armed forces (CCRF Article 207.3).

According to the position of the Ministry of Justice of the Russian Federation, a “fake” claim about the army is any false statement about facts, and “discrediting” the army is expressing any “negative opinion” about its actions. It says “discredit” should be understood as “deliberate actions aimed at undermining confidence in state authorities, belittling their authority.”

Adoption of the new legislation meant that it is now prohibited to spread factual information about the war that Russian authorities have not admitted is true; expressing views about military operations and events counter to the official line is also banned.

One of the first journalists to face a criminal case under Article 207.3 (“spreading false news about the actions of the armed forces of the Russian Federation on external territory”) was Andrey Soldatov, the founder of Agent.Ru. The case was initiated by the Main Investigation Department of the Investigative Committee of the Russian Federation on 17 March 2022 based on statements the journalist made on the program “Popular Politics.”

During that program, Soldatov had said the following: “The role of the political element, and thus the special forces, is of utmost importance. This is the only explanation for the fact that units that are completely not trained for such fights are currently participating in ongoing battles. All those pic-
tories showing burned columns of military vehicles of the National Guard. We all know perfectly well from our own experience that the goal of the National Guard is to beat up protesters and not participate in fighting that involves tanks. Still, they are throwing them into the battlefield, and the reason for this is clear: because for the people who plan the operation, owing to political motives, this is not a military operation but it is something like a police operation. Once we take care of the gangs, all will be calm and quiet and everyone will welcome the Russian forces.”

It was the use of the phrase “burned columns” that, according to the investigators, constituted fake news about the use of Russia’s armed forces. According to prosecutors, Soldatov, knowingly and “motivated by political hatred” toward the ruling authorities and the military, spread disinformation to a large number of people about the activities of the armed forces. Soldatov himself had already left Russia in 2020, but during the investigation phase of the case, his bank accounts were frozen and his automobile seized. Similarly, the editor in chief of the publication Fortanga.org, Isabella Evloeva from the Ingushetia region, was also subject to an investigation on charges of disseminating allegedly false information about the actions of the military. She became the defendant in three criminal cases launched under CCpF 207.3. The first case against Evloeva was launched in March 2022 based on her statement about the symbol “Z” which she called “the synonym of aggression, death, pain and manipulation without conscience.” The second case against the journalist was launched in April 2022 for her comments regarding the killings of civilians in the Ukrainian city of Bucha. The third case against her was a report filed by the administration of the Federal Security Services (FSB) in Ingushetia claiming that false information was detected on Fortanga’s Telegram channel. On the day the FSB report was made, news reports about losses among the Russian army and about an explosion at the Kremenchuk shopping mall in Ukraine had been posted on the channel.

As a result of these prosecutions, Evloeva had to leave Russia. Her relations who stayed in Ingushetia had their homes searched by police, were summoned to the police department to be interrogated and were subject to different forms of pressure to try and prevent Evloeva from writing. Another journalist persecuted for spreading information about the war was the editor in chief of the New Focus magazine, Mikhail Afanesyev from Abakan in the Khakassia Republic. The case against him was launched 13 April 2022 based on “fake news” found in a New Focus news report about 11 employees of OMON (a special police force that is part of the National Guard) who refused to go fight in Ukraine. According to prosecutors, the article contained unreliable information about the number of National Guard members who were killed, injured or went missing, as well as about their inadequate material compensation and the poor management of their transportation from Khakassia to Ukrainian territory.

Following the launch of the case against Afanesyev, police searched the apartments of the journalist and of his mother, seizing documents, technical equipment (including a computer) and digital media files. On 15 April, Afanesyev was taken into police custody and later arrested. As of the publication date of this report, he remains in detention, facing up to 10 years in prison under Article 207.3.

The dismal state of press freedom in Turkey is well known. As of 2022, the country was still the sixth-largest jailer of journalists in the world. In almost all of these cases, those who are asked to account for their news reports before the courts are not considered journalists by the country’s powerful president Recep Tayyip Erdogan and his Justice and Development Party (AKP) government; rather, they are deemed “terrorists.”

Terror-related accusations comprised 38 percent of all accusations leveled against the defendants in a total of 210 free speech trials against journalists, activists and lawyers from 13 September 2021 to 20 July 2022, according to MLSA’s legal monitoring data. In almost all of these cases, the only evidence put forth against the defendants was related to their work and consisted of tweets, news reports or statements. Turkey’s judiciary, which is clearly subject to strong government influence through the Council of Judges and Prosecutors (HSK) system, has shown particular “sensitivity” to reporting and statements about the operations of the country’s military.

Reporting on attacks inside Turkey
An instructive example of how press freedom is treated in Turkey is provided by the government’s response after a recent terror attack in Istanbul. On 13 November 2022, six people were killed in a bombing carried out in one of the busiest parts of the city, on Istiklal Avenue. As journalists scrambled to access information in the wake of the attack, mechanisms of censorship introduced as part of the Law on Disinformation adopted 13 October 2022 were immediately put to work. A few hours after the attack, the Supreme Board of Radio and Television (RTÜK)—which oversees broadcast on television and radio as well as streaming news websites and online platforms—issued orders on the bomb attack. Instantly, live broadcasts from the site of the attack were cut off, cre-
Newroz fairgrounds and was shot dead by the police. Photographs, which showed the events frame-by-frame as a half-naked Kurkut ran through the

The circumstances of his death became publicly known through Abdurrahman Gök's photographs, which showed the events frame-by-frame as a half-naked Kurkut ran through the

Not a war but an ‘Olive Branch’

According to data from Turkey’s Defense Ministry, a large number of operations have been carried out in the north of Syria, particularly in regions under Kurdish control. Their frequency and intensity has increased over the past few years as part of Operation Euphrates Shield launched in 2016. One such military operation took place 20 January 2018, when the Turkish army launched an insurgency into the Afrin enclave of northern Syria as part of an operation it called “Olive Branch,” citing “counter-terrorism” and “border-area security” as its reasons.

Many civilians were killed during operation “Olive Branch” and thousands were displaced. There were civilian deaths inside Turkey as well, following rocket strikes across the border. Despite these casualties, Turkish officials asked newspapers and TV channels to avoid using the word “war” when covering the developments, and instead to refer to the operation and its aftermath by its military name of “Olive Branch.” Most outlets complied.

Those journalists and civilians who did share news or posts that were critical of the operation paid a price. Within 10 days following the start of the operation, 311 people were detained. Fifteen of them were arrested and remained behind bars for several months, until the day of their first hearing.

During this period, at least 10 journalists were accused of “terror propaganda” in relation to their reports on Turkish military operations in Syria. One of these journalists was Bursa Muhafiz newspaper editor Ozan Kaplanoğlu, who was sentenced to one year, 10 months and 15 days following the start of the operation. 311 people were detained. Fifteen of them were arrested and remained behind bars for several months, until the day of their first hearing.

No to ‘no to war’

Though no new legislation was adopted, saying no to war, or reporting on the dead and wounded were also banned—and not in a de facto manner. Starting with the Istanbul Governor’s office, for example, many Governorships released decrees against using the slogan “no to war” within the boundaries of their provinces. The decrees were grounded on the argument that the use of this phrase “might cause public outrage in such a sensitive period, might agitate conscientious and humane values and threaten social domestic peace.”

Lawsuits against journalists reporting on those who call for peace

During this period, at least 10 journalists were accused of “terror propaganda” in relation to their reports on Turkish military operations in Syria. One of these journalists was Bursa Muhafiz newspaper editor Ozan Kaplanoğlu, who was sentenced to one year, 10 months and 15 days in prison for using the headline “We’re on the side of peace, not war” in covering a press release critical of the operation.

From ‘conducting propaganda’ to ‘denigrating the Turkish nation’

Another lawsuit was filed against Arts TV’s Ankara representative Sibel Hürtaş and freelance journalist Hayri Demir, who had both tweeted in criticism of
Operation Olive Branch. These tweets became the grounds for accusations of "inciting the public to hatred and hostility" and "conducting propaganda for a terrorist organization via mass media," charges punishable by up to 10.5 years in prison for the two offenses.

The trial of Hürtüt and Demir lasted for 12 hearings. In the final hearing, the Ankara 15th High Criminal Court ruled to suspend the investigation into the incitement and propaganda accusations, but found that the journalists' criticism might constitute a crime under Article 301 of the Turkish Criminal Code (TCK), which outlaws "denigrating the Turkish nation, the Republic of Turkey and the State's agencies and organs." As a result, the court asked for permission from the Justice Ministry to launch an Article 301 investigation into the two journalists.

Sued over a quote

Another lawsuit regarding the Olive Branch operation was launched against journalist Ahmet Kanбал, who had shared an interview he conducted with Şener Levent, the editor-in-chief of the Afrika newspaper, which is based in northern Cyprus.

Kanbal was accused of "repeated acts of terrorist propaganda" for sharing his interview in a 31-tweet Twitter thread with the prosecutor demanding up to nine years in prison for the journalist. The headline of the interview was "Şener Levent: Conquest to them, occupation for me."

Surprisingly, the prosecutor said in his opinion that the social media posts did not constitute evidence of a crime, and instead fell under the scope of freedom of expression, demanding Kanbal's acquittal.

In the end, Kanbal was acquitted in the case heard by the İzmir 2nd High Criminal Court.

Targeted for reporting on torture and violations of the right to life

Many journalists were also targeted with legal actions—and, often, outright arrests and imprisonment—for reporting on inhumane treatment of civilians at the hands of Turkish security forces and grave violations of the right to life.

In October 2020, four journalists from the Kurdish-focused Mesopotamia News Agency (MA) and JinNews Agency were arrested for reporting on the torture of two Kurdish civilians from a village in Van. The two men, Servet Turgut and Osman Şiban, had been detained, severely beaten and then pushed out of an airborne gendarmerie helicopter. Turgut died in a hospital, while Şiban survived after spending some time in a coma. Parliamentary deputy Ahmet Şik, a former journalist himself, had also issued a detailed report on the torture of the Van villagers. The four journalists from MA and JinNews were kept in prison for six months until their first hearing on 12 April 2021 on charges of "member of a terrorist organization," an accusation of which they were all later acquitted. Around the same time, journalist Dinar Karataş was arrested 26 November 2020 on charges of "membership in a terrorist organization" for a news report which detailed alleged human-rights violations and mistreatment of civilians during military operations being conducted by security forces in Şögûkçpınar village, located in the Tutak district of the eastern province of Ağrı. Karataş's report had included claims of murders of civilians as well as torture.

The journalist, who was facing five to 10 years in prison, was eventually acquitted during the trial heard by the Erzurum 3rd High Criminal Court. In one of the most striking arguments in his defense, Karataş said: "My news report was based on hospital records that had clearly established torture and should have been grounds for an investigation into the security forces. Instead, I am here on trial."

Tried for photographing a murder in broad daylight

One of the most well-known and shocking cases against a journalist who brought to light brutal crimes committed by law-enforcement officers is that of Abdurrahman Gök. He photographed the last moments of Kemal Kurkut, a 21-year-old university student who was participating in Nezvroz celebrations in Diyarbakır when he was killed in broad daylight by bullets from a police gun.

The circumstances of his death became publicly known through Gök's photographs, which showed the events frame-by-frame as a half-naked Kurkut ran through the Nezvroz fairgrounds and was shot dead by the police.

In its first announcement about the killing, the Diyarbakır Police Department claimed that a "suicide bomber" had been eliminated during the Newroz festival. Although a few other journalists had photographed Kurkut's killing, all of them had been detained and forced to hand over their digital materials.

Only Gök was able to save the photos he took by rapidly transferring them from his camera to a separate memory card.

Gök was put on trial for filming the horrendous police shooting. His home was raided dozens of times and he faced three investigations, two of which turned into court cases. The journalist faced 25 years in prison on charges of membership in and making propaganda for a terrorist organization. He was eventually acquitted of the "membership" charges, but was given a sentence of one year, six months and 22 days in prison for making "propaganda for a terrorist organization" due to sharing photos on his social media that he had taken as a war correspondent in Syria in 2014.

Meanwhile, the police officer who allegedly shot and killed Kurkut was acquitted in the trial where he faced charges of "killing with possible intent," the latest addition in a long list of police murders awarded with impunity.

It is clear that reporting on war, violence and crimes carried out by security forces or law enforcement has grave consequences for Turkey's journalists. But many continue to do so despite the high potential price.

IV. Crimes against the state; the state against journalists

How journalists in Russia were made into traitors and terrorists

ROMAN ZHOLUD / ANNA-ROMASHCHENKO

A ccusations that involve crimes against the state are among the harshest that can be made. In contemporary Russia, they have become an instrument for punishing uncooperative journalists. The lengthy detention times, secrecy and gag orders on both the investigation and the court proceedings often involved in such accusations have proven very useful in repressing journalism.

The case against Ivan Safronov: The war ‘secret’ that wasn’t

A former journalist at the publications Kommersant and Vedomosti, Ivan Safronov had been working since May 2020 as the information policy adviser to Dmitry Rogozin, the general director of the state corporation Roscosmos. Later than same year, a case of “high treason against the state” was launched against him under RFCC Article 275. The prosecutors maintain that Safronov was re- cruited by representatives of the Czech special forces and passed them secret information in 2017 regarding the military-technical cooperation between Russia and African countries as well the actions of Russia’s armed forces in Western Asia and the Middle East.

The investigation in this criminal case went on for two years, during which Safronov was kept behind bars at the Lefortovo detention center. During the preliminary investigation phase, a great deal of pressure was exerted on his lawyers, including the arrest of one of them—Ivan Pavlov, head of the rights collective Team 29—in April 2021. Pavlov was accused of disclosing data from the preliminary investigation into Safronov under RFCC Article 310. The investigators alleged that Pavlov had given journalists a copy of the decision to bring Safronov to testify and told them about a secret witness in the case. In September 2021, Pavlov announced that he could no longer work as a lawyer, and moved out of Russia to Georgia. In March 2022, the Saint Petersburg Chamber of Lawyers suspended Pavlov’s lawyer’s license.

In addition, the website of Team 29 was blocked in 2021 at the demand of the General Prosecutor’s Office, which claimed Team 29 was actually the Czech-registered NGO Splecnost Svobodn Informace, which Russia had included on its list of “undesirable organizations.” The official reason given for the blocking was that the site was disseminating materials of an undesirable organization. Following this ban, Team 29 decided to shut down its website and deleted all of its media projects and publications archive.

In March 2022, the General Prosecutor’s Office sent the criminal case against Safronov to a court. In the information statement published on its official website, the prosecutor’s office maintained that the investigation had “established and documented facts about a lengthy period—from 2015 to 2019—during which secret and top-secret information was obtained and collected by Sa-
Safronov, including information regarding military-technical cooperation between Russia and states that are members of the Collective Security Treaty Organization, as well as the countries of the Middle East, Africa and the Balkan Peninsula.” According to the General Prosecutor’s Office, Safronov had “systematically passed on the collected information to representatives of foreign intelligence agencies, with awareness that this information could be used by governments—members of the NATO bloc—against the Russian Federation.”

With the exception of the final hearing where the verdict was announced, all court hearings against Safronov were held behind closed doors, on the grounds that there were classified documents involved in the case. The prosecution asked for 24 years in prison for the journalist, who pleaded not guilty. Prior to the court pleadings, Safronov was offered a reduced sentence of 12 years in a penal colony, saying if he confessed his crime. The journal concluded in September 2022 with Safronov sentenced to 22 years in a maximum security prison and a monetary fine of 500,000 rubles (around $8000).

The case against Safronov was described from the beginning as a way to intimidate other journalists, according to Vyacheslav Bakhmin, the co-chair of the Moscow Helsinki group and the founder of the Sakharov Center, who said: “The task of the authorities at the current stage is extremely simple: by jailing a relatively smaller number of people, they want to intimidate others. Therefore, a journalist, who in the mind of the ruling elite, snoops into where they shouldn’t be, can easily get 22 years [in prison]. An absurd trial and a monstrous sentence. This is done so that others would be reluctant to meddle in matters that supposedly concern only the government. They are, in a sense, warning journalists: write about anything you want, but not about this; otherwise things will end up pretty badly for you.”

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The civil society community has harshly criticized the criminal case against Ivan Safronov. The activist center Memorial (which has since been shut down by Russian authorities) argued that the case was based on fabricated evidence and targeted Safronov solely for his journalistic activities. The international press freedom group the Committee to Protect Journalists (CPJ) demanded Safronov’s swift release.

Independent experts and journalists have noted that although the pre-trial investigation took two years, no real evidence was presented by prosecutors to back the accusations leveled against the journalist. All of the information used by Safronov for publication—information the special forces treated as state secrets—can be found as open-source information available in the public domain.

Representatives of rights groups and the journalism community also expressed the opinion that the reason for the prosecution of Safronov was not “high treason” but his journalistic work, which was carried out without kowtowing to the Russian authorities or the Ministry of Defense.

The case against Safronov was designed from the beginning as a way to intimidate other journalists, according to Vyacheslav Bakhmin, the co-chair of the Moscow Helsinki group and the founder of the Sakharov Center, who said: “The task of the authorities at the current stage is extremely simple: by jailing a relatively smaller number of people, they want to intimidate others. Therefore, a journalist, who in the mind of the ruling elite, snoops into where they shouldn’t be, can easily get 22 years [in prison]. An absurd trial and a monstrous sentence. This is done so that others would be reluctant to meddle in matters that supposedly concern only the government. They are, in a sense, warning journalists: write about anything you want, but not about this; otherwise things will end up pretty badly for you.”

The case against Svetlana Prokopyeva: Turning a journalist into a ‘terrorist’

On 31 October 2018, teenage anarchist Mikhail Zhlobitsky blew himself up in the administrative building of Russia’s Federal Security Services (FSB) in the city of Arkhangelsk, killing himself and injuring three FSB employees. Authorities deemed it a terrorist attack.

After this incident, a criminal investigation was launched under RFCC Article 205.2, which criminalizes “public justification of terrorism,” against Pskov-based journalist Svetlana Prokopyeva in what became an emblematic case. The grounds for the accusation against Prokopyeva was her radio program aired on the Pskov affiliate of Ekho Moskva in November 2018. In this broadcast, the journalist offered an analysis of the reasons that might be behind the attack. In particular, expressing her opinion that the government itself created the conditions that prepared the grounds for this act of terrorism. She tied Zhlobitsky’s action to the sociopolitical situation in the country, comparing it with the acts carried out by members of the 19th-century “narodovoltsy” movement that fought against the Russian Empire. Prokopyeva emphasized that the absence of political and civil freedoms in Russia had brought it to the position of an oppressive state. A text including her comments was also published on the website of the local information agency Pskov Newsline.

On 11 December 2018, the government media regulator Roskomnadzor sent a notification to the publishers of Pskov Newsline and the Ekho Moskva affiliate warning that Prokopyeva’s comments included signs of justification of terrorism. The recording and text of her radio program were taken offline, and both editorial offices had to pay fines of between 150,000 to 200,000 rubles. The radio station cut ties with Prokopyeva and took her program off the air.

On 6 February 2019, police conducted a six-hour-long raid in Prokopyeva’s apartment, seizing equipment, her passport and other documents. On 20 September 2019, the journalist was charged with justifying terrorism; an international travel ban was issued and she was banned from publicly disclosing information about the case.

The Moscow-based 2nd Western District Military Court heard
Vladimir Kara-Murza

Speaking about the state of press freedoms in Turkey during a visit to the United States in 2021, Turkish President Recep Tayyip Erdoğan told the CBS news station: “We do not have problems in this matter. With regards to freedoms, Turkey is much more free, incomparable to what you have in all these places.” (By “these places,” he was referring to the US and European Union member states.) The same year Erdoğan made this bold statement, he was included in the “press freedom predators” list compiled by the journalism organization Reporters Without Borders (RSF). On another RSF list published the same year, Turkey was ranked 153rd among 180 countries regarding press freedom.

Cases in which journalists are accused of terror-related crimes, espionage or attempting to overthrow the state on the basis of their reporting are common in Turkey. The evidence put forth by prosecutors in these cases consists mostly of news reports or social media posts that objectively fall under freedom of expression as guaranteed by both Article 26 of the Turkish Constitution and Article 10 of the European Convention on Human Rights. In 582 trials against journalists, activists and academics that were monitored by the Media and Law Studies Association between June 2018 and September 2022, the basis of 86 percent of the accusations was formed by journalistic activities, such as publishing news stories, sharing photos and visuals, doing interviews and tweeting.

Given these facts, the case launched in October 2016 against one of Turkey’s oldest newspapers, Cumhuriyet, is not surprising, but it is very telling of the practices used against journalists to link them with terrorist groups without a shred of evidence. The many absurdities in the case are further highlighted by the troubled history of the newspaper and a convoluted dispute over the leadership of the foundation that manages it.

A symbolic century-old newspaper

Established in 1924 during the early years of the Republic of Turkey, Cumhuriyet was christened by the country’s founding leader, Mustafa Kemal Ataturk. The newspaper’s editorial policy was mostly in keeping with the official views of the fledgling republic in its earlier years. In the early 1950s, as Turkey was transitioning to a multi-party political system, Cumhuriyet supported the Democrat Party (DP), which had been established in opposition to Ataturk’s Republican People’s Party (CHP). But as the DP later slid into antidemocratic practices, Cumhuriyet once again realigned its editorial line with the views of the CHP.

Following the 1960 coup d’état—the first of many to come for the new republic, which resulted in the hanging of the prime minister and two of his ministers—
Cumhuriyet tried to position itself along a progressive center-left line. Many of its reporters and writers were tried and imprisoned in the aftermath of the 1971 military memorandum and the 1980 coup, both interventions that strongly targeted the left.

In 1993, the then-family-owned newspaper changed its ownership structure and reorganized as a foundation. During this time, Cumhuriyet continued publishing along a secular line, adhering to national values (defined as upholding a distinctly Turkish identity vis-à-vis the pan-Islamist nature of the Ottoman Empire) and advocating progress in line with the principle of populism (defined in the founding ideology of the republic as a principle that sought to create a society for the people without a dominant economic class.)

Based on this history, Cumhuriyet has become emblematic of the Republic of Turkey and its founding principles. The newspaper also defined its mission as being the bearer of those values. This mission, however, has not stood in the way of attacks against the paper and its journalists.

A newspaper that has paid a high price

In the 1990s, two prominent Cumhuriyet writers, journalists Ubir Murcuc and Ahmet Tamer Külalı, were assassinated in bomb attacks, reportedly perpetrated by Islamist terror organizations. The newspaper was subsequently the target of numerous raids and judicial investigations that were carried out as part of an alleged coup plot investigation dubbed Ergenekon. These events occurred between 2007 and 2013, the years of intense cooperation between the Justice and Development Party (AKP) government and its ally-turned-nemesis the Islamist Gülen movement.

In 2015, Cumhuriyet was the recipient of multiple threats following its decision to republish cartoons from the French satirical magazine Charlie Hebdo, images whose original publication had prompted a bloody attack on the Paris office of that magazine.

Charged with 'crimes against the constitutional order'

In addition to these outside threats, conflict between the traditionalist and reformist wings of the Cumhuriyet Foundation’s management heightened following the death in 2010 of editor in chief İlhan Selçuk, a highly symbolic name for the newspaper’s long-held editorial line. This internal rift became visible in the newspaper’s editorial policy and a new board was elected to run the foundation in 2013.

In 2015, the newspaper appointed journalist Can Dündar as editor in chief with the support of the reformist members of the new foundation management, leading to a more liberal editorial policy. But this period also saw lawsuits against foundation’s management

Controversy over the management make-up of the Cumhuriyet Foundation had started prior to the launch of the MIT case, with the changing of the guard on the board in 2013. At the time, it was alleged that members of the illiberal wing of the management had covertly complained to President Erdoğan’s office about the editorial line of the newspaper, stating their belief that although Cumhuriyet was in opposition to the current government of Turkey, it had to maintain a “national” position. This schism within the board only deepened after the investigation into Dündar and Gül began.

The 2013 board election was found to have been conducted in line with legal regulations according to an audit carried out by inspectors on 5 May 2015. But members of the previous board still took the foundation to court, accusing the new management of having rigged the vote. An opinion sent to the court from the Directorate General of Foundations, the government body overseeing foundations in Turkey, initially said the case should be resolved in favor of the newspaper. In spite of this, the head of the Directorate General later told a pro-government news station that the former board members’ application was proper, and called for a redo of the elections. Former members of the board used an online tweet campaign to accuse the new management of betraying the traditional editorial line of the newspaper.

The case against Cumhuriyet

As the fight over the soul of the newspaper continued, in this administrative case, the Istanbul Prosecutor’s Office on 31 October 2016 launched an operation against some of the journalists and board members of the newspaper. They were charged with “committing crimes in the name of the FETO and PKK terror organizations,” a reference to the outlawed Kurdistan Workers’ Party (PKK) and the Fethullahist Terrorist Organization (FETO), the name used by the Turkish government and judiciary to refer to its former allies in the religious movement led by cleric Fethullah Gülen.

Murat Sabuncu, the editor in chief who had just replaced Dündar; editorial consultant Kadri Gürsel; cartoonist Musa Kart; Cumhuriyet Foundation board members Önder Çelik, Bülent Utku and Mustafa Kemal Gungör; readers representative Güney Öz; columnists Hakan Kasa; and literary supplement editor Turhan Gündüz were all arrested as part of this operation.

Akın Alpay, head of the Executive Board of the foundation, had been abroad when these arrests took place and was arrested upon his return to Turkey.

Cumhuriyet reporter Ahmet Şık was also detained later in the process and subsequently placed under arrest pending trial. Şık had previously been arrested in 2014 during the Ergenekon trials, which were conducted by prosecutors loyal to the Gülen movement; this time, he was facing charges of spreading propaganda for the Gülen movement.

The final arrest made in the trial was that of Emre İper, the finance and accounting manager of the newspaper.

News reports and tweets as evidence of crime

An indictment against the accused was finally prepared on 13 April 2017. A total of 19 executives, writers and employees of Cumhuriyet were facing outrageous charges, looking at prison sentences ranging between 7.5 and 29 years. The evidence for the accusations included 106 news reports published in the newspaper and 149 tweets posted by the newspaper’s account. An additional 17 journalists and newspaper executives testified as witnesses for the prosecution.

The essence of the accusations in the indictment boiled down to Cumhuriyet allegedly aligning its editorial policy closely with a pro-Kurdish and pro-Gülenist line. The proof for this was none other than the news report by Dündar and Gül suggesting that Turkey’s MIT was arming jihadists in Syria.

The indictment maintained that: “The
newspaper in this period has quite literally become the de- fender and protector of the terrorist organizations FETÖ/PDY, PKK/KCK and DHKP/C,” with the latter acronym refer- ring to the Revolutionary People’s Liberation Party/Front. Other “evidence” that found its way into the indictment as proof of the newspaper’s “goal to legitimize the actions of terrorist organizations” includes an interview conducted with Cemil Bayık, a PKK leader; the news reports about MIT trucks conveying weapons; and news reports about a Twit- ter account with the handle “Fuat Avni” that was leaking information from the government and was believed to be affiliated with the Gülen movement.

The prosecutors also claimed that Cumhuriyet journalists phone conversations with individuals who had downloaded an app called ByLock on their phones was evidence of a crime, even though none of the journalists had ever used this application and had no way of knowing if one of their contacts did. Moreover, two phone conversations of Gür- sel’s, one to order lunch from a food-delivery service and one with his car mechanic, were includ- ed in the indictment as evidence of a crime because assistants at both shops had allegedly downloaded ByLock on their smartphones.

Hearings and release of imprisoned journalists

The first hearing in the trial was held 24 July 2017. Six of the defendants—Öz, kart, Uluç, Güngör, Kara and Gürsoy—were released pending continuation of the trial, while the court ruled for the other journalists to remain in detention. They too were eventually released pending trial in April 2018. The case of former editor-in-chief Dündar—already a de- fendant in the ongoing trial regarding his reporting on the MIT-Syria connec- tion—was separated on the grounds that he was abroad.

Meanwhile, in the lawsuit over the con- tested composition of the Cumhuriyet Foundation board, the Supreme Court of Appeals upheld an earlier court ruling that had called for a redo of the 2013 board election. In that new vote, carried out in September 2018, the traditionalist wing was returned to power, a result widely regarded as judicial intervention at the behest of President Erdoğan.

A strange distinction on allowing appeals to higher courts

On 25 April 2018, the Istanbul 27th High Criminal Court convicted all 14 of the Cumhuriyet journalists on charges of membership in several terrorist organizations or propagan- da praising these varied groups. They received individual sentences longer than five years (Akın Atalay, Hikmet Çetinkaya, Aydın Engin, Orhan Erinci, Murat Sabuncu and Ahmet Şık) were not, as their case was still pending a review by the Su- preme Court of Appeals. Under Turkish law, a person is not considered to have been convicted until all of the appeals processes are exhausted and the highest court has upheld the sentence.

In 2019, the court’s ruling was sent before the Supreme Court of Appeals, which found the practice of imprisoning journalists with sentences below five years to be an im- proper application of the law and ruled for their release. In its overall ruling on the Cumhuriyet case, the 16th Cham- ber of the Supreme Court of Appeals overturned the lower court’s decision after reviewing its substance and ruled for the acquittal of all but one of the journalists. For Ahmet Şık, the high court demanded a punishment over his tweets and news stories regarding President Recep Tayyip Erdoğan, who had been killed by the gunman who took him hostage at the Çayalar Courthouse in Istanbul in 2015.

However, the lower court did not com- ply with the ruling, and after the retrial, insisted on its previous sentences for all of the journalists.

In October 2022 the General Assembly of Criminal Chambers of the Supreme Court of Appeals overruled the initial decision a second time, this time due not to its substance but to procedural errors.

Can Dündar, who has been in exile since his release, was given a total of 27 years and six months on charges of espio- nage and aiding and abetting an armed organization in the MIT trucks case. He remains subject in indictments that were prepared as part of the Gezi and Cumhuriyet trials.

In November 2020, the European Court of Human Rights (ECHR) made its rul- ing regarding the application that had been filed by the executives, column- nists and employees of Cumhuriyet over their 2014 conviction. It found that Turkey had violated their rights and ruled that eight of the defendants be paid 16,000 euro in compensa- tion.

During the more than six-year-long saga, all of the journal- ists who were on trial had to leave the newspaper. Some have been left entirely unable to continue their work as journalists, while others have taken the path of the free- lancer or gone to other independent outlets.

The editorial line of the Cumhuriyet newspaper has mean- while changed dramatically, with the traditionalist group regaining control over its policy. The trial outcome is highly unusual even for Turkey in that, for the first time, the gov- ernment managed to shift the editorial stance of a newspa- per through the court system.

Many independent observers claim that after the change- over on its board, Cumhuriyet is now playing the role of a “controlled opposition,” allowing the government to increase pressure on those remaining independent outlets in Turkey by using this precedent as a tool of intimidation. As a result, it appears the impact of this trial will continue to be influential for years to come.

V. Insulting the gods

In its rulings, the European Court of Human Rights has repeatedly emphasized that politicians, public officials, deputies and other public figures must be more tolerant than an average citizen of criticism by the media. Since the statements and actions of public figures have an influence on society, society should have the opportunity to critically assess these figures. This principle, however, does not work in places where freedom of expression is not upheld as a value. To the contrary, in societies where free speech isn’t valued, the “big shots” have even more of a chance to press- sure media outlets and journals, in- cluding through the court system, as seen in the following examples.

Yevgeny Prigozhin: Putin’s chef in the kitchen of war

The chairman and owner of the Rus- sian national newspaper Novaya Gazeta, Prigozhin is a trusted confidante of President Vladimir Putin. He was placed on the US sanctions list in 2016 and under EU and UK sanctions in 2020. In Russia, though, Prigozhin ac- tively files lawsuits against journalists and publications whose statements, in his opinion, offended his “honor and dignity.” To date, he has filed libel cases against such outlets as Echo Moskvy, Meduza, The Insider, Sobes- den and others.

On 18 July 2020, during an online program broadcast on radio Echo Moskvy, the station’s editor-in-chief Aleksey Venediktov stated that Prigozhin is the head of CHVK Vagner, a paramilitary group in Russia whose legal status is vague. The businessman was outraged and filed a defamation lawsuit against Venediktov and Vitaly Rivinsky, the radio channel’s website- editor, to protect his “honor, integ- rity and business reputation.” He de- manded that the court force the de- fendants to publish a correction and take the claim off their website, and asked the court to impose an 300,000 ruble fine and an additional fine of 30,000 rubles per day every defendant refused to comply.

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Dmitry Sablin: A parliamentary deputy blocks access to a website

Another politician who has been frequently litigious against journalists is Dmitry Sablin, a member of the State Duma. In one case he succeeded in having the defendant's website temporarily blocked.

In 2020, the Vidnovsky City Court of the Moscow Region heard Sablin's claims against a publication named Readovka that he said had damaged his "honor, dignity and business reputation" in an article covering the situation of the Sovkhoz Imeri Lenina company, which manages farms that produce dairy products and fruits.

The article asserted that half of the company's stocks were given to Sablin via the spouse of the former presidential candidate Pavel Grudinin. Sablin asked that the court find these statements to be false and an act of defamation. Additionally, he demanded that they publish a correction and pay 70,000 rubles each in compensation, a bit below the amount demanded by Rogozin.

In February 2022, Prigozhin filed a lawsuit against Bellingcat over the reporting of its team of investigative journalists who had done about the businessman's links to the paramilitary group CHVK Vagner. The case was taken not only to a Moscow court, but also to a British court. The court in Britain refused to pursue the case, and lawyers in the UK rejected it.

In Turkey, though, defamation cases initiated by politicians as well as businessmen, deputies, or bureaucrats have become significantly overshadowed by the thousands of claims filed by President Recep Tayyip Erdoğan's lawyers.

Article 125 of the Turkish Criminal Code (TCK) criminalizes defamation, describing it as "acting with the intention to harm the honor, reputation or dignity of another person," and making it punishable by three months to two years in prison, or a fine. If the crime is committed against a public official, the sentence is increased. However, in practice, offenders of this type are generally never put behind bars.

Big shots versus journalists in Turkey

In Turkey, though, defamation cases initiated by politicians as well as businessmen, deputies, or bureaucrats have become significantly overshadowed by the thousands of claims filed by President Recep Tayyip Erdoğan's lawyers.

People in positions of power have always used the law to silence journalists, often making accusations of libel, defamation or insult to suppress allegations of corruption, bribery or inappropriate relationships. In Turkey, though, defamation cases initiated by all other politicians, as well as businessmen, deputies or bureaucrats, have become significantly overshadowed by the thousands of claims filed by President Recep Tayyip Erdoğan's lawyers.

According to the Ministry's 2020 Statistics of Justice report, 31,297 lawsuits were initiated by politicians as well as businessmen, deputies, or bureaucrats. Statistics released by Erdoğan's Justice Ministry, however, suggest that the claims have merit. According to the Ministry's 2020 Statistics of Justice report, 31,297 investigations into presidential insults were launched under Article 299 in 2020 alone. Of this total, 9,116 cases were dropped, while 7,790 resulted in a public lawsuit against the suspects.

At the time of the CBS interview, the number of presidential-insult inquiries launched since Erdoğan's election in 2014 had exceeded 160,000. More than 35,000 of these investigations had turned into court cases, in which 38,000 people were put on trial. At the end of these trials, 12,881 of the suspects were found guilty.
Prior to Erdoğan’s election to the presidency, Article 299 was not on the public agenda. Previously, a total of 848 presidential-insult cases were filed during the term of President Abdullah Gül; 163 during Ahmet Necdet Sezer’s term and 158 during Süleyman Demirel’s term. Each of these presidents served in the office for a maximum of two years.

A social media ‘insult’ case goes to European court

A rising number of these presidential-insult rulings are being taken to the European Court of Human Rights (ECHR), among them the case of Vedat Şorli, a citizen who was arrested due to a cartoon and a photo he posted on his Facebook. Şorli was detained and kept in prison for two months and two days during his trial, in which he stood accused of insulting President Erdoğan. In the end, he was convicted and sentenced to 11 months and 20 days in prison, a sentence which was deferred—meaning that it was postponed for five years, after which it would be lifted completely unless Şorli committed another crime during that period. Because of this deferral, the Constitutional Court rejected Şorli’s appeal, finding it inadmissible.

Şorli next took his case to the ECtHR, which found no justification for his detention and pre-trial arrest, or for the imposition of a criminal sanction. The court also found the criminal proceedings against Şorli to be “incompatible with freedom of expression” as it had a chilling effect. It further said that Turkey’s law on insulting the president affords the head of state a privileged status regarding the information and opinions conveyed about him; it called for the law to be changed to ensure people have the freedom to hold opinions and impart ideas without interference by the authorities in order to put an end to violations such as the one it found in Şorli’s case.

Between August 2014 January 2022, at least 70 journalists were sentenced to prison, or to deferred prison sentences and monetary fines on charges of insulting the president

Of these, Kabay, Mahalli, Kızıl and Kaplanoğlu were kept in detention in the pre-trial phase of the investigation. Many of the trials against journalists ended in convictions handed down by Turkish courts. Between August 2014, when Erdoğan was elected president, and January 2022, at least 70 journalists were sentenced to prison, or to deferred prison sentences and monetary fines on charges of insulting the president.

Opposition deputies and civil society representatives claim that police officers specialized in information technologies and special service groups bankrolled by the government spend countless hours and hundreds of thousands of lira in tax money to scan social media platforms for evidence of an insult against the president. Insulting other ‘big shots’

In addition, many journalists in Turkey have been tried on charges of “insulting a civil servant” under Article 125.

Opposition politicians have also been targeted in the courts with this law. Istanbul Mayor Ekrem İmamoğlu, often mentioned as a possible presidential challenger to Erdoğan, was sentenced 14 December 2022 to two years, seven months and 15 days in prison for having insulted public officials. The charge stems from his criticism of the Higher Election Board after it annulled a local election result in 2019 that had placed İmamoğlu in the mayoral post. If the ruling is upheld when İmamoğlu appeals, he may be stripped of his post and barred from running for political office for the duration of his sentence. Unlike in the presidential-insult cases, pre-trial detention is not practiced in cases of “insulting a public official.”

Calls for repeal of Article 299

Journalists and free-speech advocates in Turkey have long called for the repeal of Article 299. Even before the ECtHR ruling in the Şorli case, the Venice Commission, the legal advisory body of the Council of Europe, noted in an 2016 resolution “the excessive and growing use of this article” in Turkey and recommended that “the only solution to avoid further violations of the freedom of expression is to completely repeal this Article and to ensure that application of the general provision on insult is consistent with these criteria.”

Turkish authorities claim that many similar pieces of legislation exist in “Europe,” although an examination of insult legislation in EU countries refutes this claim. In the cases of countries in the region which have similar laws in place, the relevant article is never actively used in practice.

With presidential and parliamentary elections scheduled for as-yet-un-certain date in 2023, all factions in Turkey have prioritized the run-up to the vote, pushing discussions on Article 299 to the background. Still, the democratic demand to repeal this article is very clear and whoever comes to power in the future should make it a thing of the past.

VI. Judicial harassment of journalists reporting on corruption

Fabrication of evidence against journalists writing about corruption in Russia

Russian government’s include using legal pretext to silence journalists, particularly those probing into corruption and governmental misconduct

ROMAN ZHOLUD / ANNA ROMASHCHENKO

Early in the morning of 1 November 2017, police came to the door of the apartment of Igor Rudnikov, editor in chief of the Kaliningrad-based newspaper Novye Kolesa, and took him away for questioning without even giving him time to get dressed. The police accused the journalist of extorting a $50,000 bribe from Investigative Committee General Viktor Ledenev.

According to Rudnikov, the prosecutor-general himself had contacted him and offered him help in obtaining a file with documents about an attack on the journalist that took place in 2016. But the prosecutors who worked under Ledenev had a different story. According to them, Rudnikov had extorted $50,000 from the prosecutor-general by promising not to publish compromising material about him.

Articles about Ledenev had previously appeared in Novye Kolesa, including reports on an expensive mansion owned by the prosecutor-general. Rudnikov and his colleagues claim that these articles were the cause of the fabricated charges against the editor.

Though the prosecution presented no direct evidence of extortion, this did not stop them from having the journalist arrested and placed him in pre-trial detention, where he would spend one year and 7.5 months. The prosecutors for the state asked for 10 years’ imprisonment for the journalist.

Rudnikov’s trial came to the attention not only of rights groups in Russia, but also those abroad. Organizations such as Reporters Without Borders (RSF) and Memorial issued statements in his defense, declaring him a political prisoner. It is possible that this outside pressure had an influence on the court. It is also very likely that the trial being heard not in Kaliningrad, but in Saint Petersburg, where the prosecutor-general didn’t have any influence, also played a role.

In any event, the court ruled 17 July 2019 that the journalist’s actions did not
show any indication of extortion. The accusations were changed to the much lesser crime of “arbitrariness” (criminalized in Article 330 of the Criminal Code, this has a broad definition of being any “action contrary to the order presented by a law or any other normative legal act”). The time Rudnikov had already spent in detention was counted as the sentence for his conviction and he was released directly from the courtroom. Ledenev attempted to appeal the ruling, but the appeals court rejected his petition.

The Rudnikov case is a rarity for Russian justice. The courts almost always rule with the prosecution and the state’s interests. Nevertheless, this is not a story about the triumph of the law. It is one about how a journalist from an independent media outlet, working on anti-corruption investigations, could be prosecuted under a false accusation and kept in detention for more than 1.5 years.

Another case about fabricated accusations leveled against journalists, and arguably the most telling one, is the case against Ivan Golunov, the Moscow correspondent of Meduza.

On 6 June 2019, criminal investigation officers stopped Golunov as he was leaving his house, searched him and said they found illegal drugs on his person. Similarly, illegal narcotics were also “located” during a search of the journalist’s apartment by police. The next day, the police launched a criminal case against the journalist on charges of selling illegal drugs. Golunov was arrested.

Prosecutors accused Golunov of drug-dealing in Moscow night clubs. The journalist said that bags with illegal drugs were planted during the searches. His colleagues also maintained that Golunov had never been involved with drugs, and that the criminal case was based on fabricated evidence.

The persecution of Golunov attracted wide public attention. Not only the country’s independent media, public figures and human-rights activists spoke in his defense, but also some representatives of pro-government Russian publications, including the editor in chief of RT, Margarita Simonyan. The motto “We are Golunov” went viral on social media.

The scandal also drew attention from the authorities. Despite the critical position of Meduza, the publication where Golunov worked, the case didn’t have much in the way of political overtones. Police had previously been accused of planting drugs during their operations, but the victims of such framing were usually ordinary citizens, often people from marginalized segments of society. This time, a journalist from a well-known publication was the victim, and top-ranking officials at the Ministry of Interior, under pressure from the public backlash, decided to sort out the situation.

The case was dropped less than a week later, on 11 June, by devoted Putin supporter Igor Sechin. The company regularly takes to court not only Russian, but also international media, as the following few examples show:

In 2017, Rinat Sagdiev, a journalist working for the Vedomosti newspaper, said he had received anonymous threats linked to an investigative report he was working on about Rosneft’s alleged misuse of multiple billions of dollars in its expenditures. The company officially denied any involvement in the threats.

In 2019, Rosneft applied to a law enforcement agency in order to suppress the “illegal” activities of the international news agency Reuters in Russia in response to an investigative report that had revealed a scheme developed by Rosneft to circumvent US sanctions through Venezuela. The company sought to ban Reuters in Russia, but failed to have this wish instituted. In 2020, the oil company filed a lawsuit against RBK over the news website’s coverage of its assets in Venezuela. Later, Rosneft withdrew its accusations.

In the summer of 2021, Rosneft filed a 500-million-ruble lawsuit against the media outlet Sobesednik and journalist Oleg Roldugin over an investigative piece titled “They closed ‘Lunaya Polyana’ for Putin.” The article talked about the development of a personal resort worth 50 billion rubles for the Russian president. The court found the reporting challenging by Rosneft to be false, but rejected the company’s demands for compensation for damages.

Also during 2021, Rosneft took the outlets Bloomberg, P&K, Duzhd and Ekho Moskvy to court over their reports about its activities.

In June 2022, the company filed a lawsuit against Forbes Media over a report about the possible transfer of money by Rosneft from the rainy-day welfare fund of Russia for an investment in the project Vostok Oil. At the time of writing, the court case is ongoing.

However, there is little doubt that the Russian court will rule in favor of the state-owned oil company.
Threat of financial ruin for journalists writing about corruption in Turkey

In dozens of such cases, journalists critical of the government face having to pay large amounts of compensation to lawsuit filers over insult, libel, or slander allegations for their reports on monetary dealings of the family or close relatives of President Recep Tayyip Erdoğan or members of business circles close to the president.

ASUMAN ARANÇA

La reseñas como periodistas por los periodistas e investigadores de corrupción de los gobiernos, las demandas de exceso de poder se han convertido en un gran problema. En una de estas demandas, una actriz fue demandada por insulting to the reports, the Albayraks took Ünker and Cumhuriyet to court demanding 100,000 TL in compensation for “defamation through the press.” The court dropped the case on the grounds that the statute of limitations had passed.

Of all the journalists involved in reporting on the Paradise Papers documents, Unker remains the only one to have faced a court case for it.

Price of reporting on government corruption

Çiğdem Toker is a financial journalist whose work focuses on public tenders and government-sponsored projects. The cases against her stand out from others mostly in terms of the enormity of the compensation amount sought.

Since 2014, Toker has been targeted by a number of trials where the plaintiffs sought millions of lira in compensation from her based on her journalism. In an article published 29 September 2014, she criticized the sale of a land plot designated as an earthquake evacuation area to a company owned by the son-in-law of Kadir Topbaş, who was at the time the mayor of Istanbul. In this article, Toker also noted that zoning laws had been changed after the sale to allow construction in the area. Topbaş's son-in-law demanded 1,000,000 TL in compensation from Toker, which amounted to $317,000 at the time. She was acquitted in the criminal case and the compensation demand was dropped.

On 28 January 2019, Sözcü published Toker's news story on the staggering amounts of public funds paid from the municipal budget, according to Toker's report. She was eventually ordered to pay 30,000 TL in compensation to the T3 Foundation.

Another case seeking to pressure journalists by forcing them into financial ruin is the trial against Sözcü columnist Yılmaz Özfiliz over his 14 April 2022 article titled “Announcing my candidate whose win is guaranteed.” The article concerned Cengiz Holding, one of five corporations that perpetually win multi-million-lira state tenders opened under the AKP government. For this reporting, Öziliz faces an ongoing defamation case in which Cengiz Holding founder and CEO Mehmet Cengiz has demanded 1 million TL from the journalist in compensation for emotional damages.

Cengiz's rise to power and wealth under the AKP government has been the subject of many articles; the litigious Turkish businessman is perhaps best known for his curse-laden speech regarding suspicious financial dealings in an illegally obtained voice record that was publicly released in 2013. In a trial against journalist Hazal Ocak, formerly of Cumhuriyet newspaper, Cengiz again sought 1 million TL in emotional damages, this time over her news report, “Luxury backhouse with a view of the Bosphorus.” The article reported on ongoing illegal construction of a mansion on a prized plot of land inside the Hüseyin Avni Paşa Grove, located along the Bosphorus, that had been bought by Cengiz. In this case, the 14th Civil Court of First Instance rejected Cengiz's compensation demand.

In addition to businessmen, foundations and associations founded by cronies of the AKP government regularly take journalists to court. Cumhuriyet correspondent Mehmet and the Archery Foundation. The latter has Erdoğan's son Bilal Erdoğan, an archer enthusiast, on its board of trustees, while the founders and executives of some of the other foundations also include Erdoğan family members. In total, the five foundations were given about 200 million TL from the municipal budget, according to Toker's report. She was eventually ordered to pay 30,000 TL in compensation to the T3 Foundation.

Other lawsuits filed against Toker to date include a criminal case filed by Agrobay Greenhouse for 1.5 million TL, a lawsuit by Senbay Mining Inc. for 1.5 million TL, a lawsuit by PTT for 50,000 TL, and a lawsuit by T3 Foundation for 80,000 TL.

Sued by businessmen and foundations

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Kızmaz faced a defamation case for a 23 October 2021 news report on the monetary dealings of pro-government and religious-minded foundations Ensar, TÜRGEV and TÜGVA, which all have been recipients of hundreds of government and municipal tenders and donations. Kızmaz’s news report included statements in which Salih Altun, the former deputy governor of Bitlis province, shared warnings about some of the foundations close to the government.

As a result, access to the online version of Kızmaz’s news report, entitled “Ensar, TÜRGEV and TÜGVA are just like a parallel terrorist organization,” was swiftly blocked.

TÜGVA, one of the associations mentioned in the news report, filed a complaint against Kızmaz and Cumhuriyet, seeking 50,000 TL in non-material damages. At the end of the trial, the court ruled for the journalist and the newspaper to pay 15,000 TL in compensation to TÜGVA.

Ruling against BirGün among highest compensation rulings

One of the highest compensation payments to be ordered by a court came in a case launched against İsmail Arı, a correspondent of BirGün newspaper. Arı reported that the Scientific and Technological Research Council of Turkey (TÜBİTAK) had spent 7.6 million TL on a tech festival organized by the T3 Foundation, which is managed by President Erdoğan’s son-in-law Selçuk Bayraktar and his brother Haluk Bayraktar. The Bayraktar brothers sued Arı and Cumhuriyet after the news report was published, seeking 250,000 TL in compensation. The court ruled that they should pay 200,000 TL, one of the highest compensation demands in the history of Turkey’s press trials.

These lawsuits are only a few among many demanding astronomical amounts in compensation from journalists reporting on financial dealings involving public funds and cronies of the government. As inflation has skyrocketed in Turkey in recent years, it is impossible for a journalist to shoulder such a compensation ruling on wages that are generally barely above minimum wage. Such cases cause financial trouble not only for journalists but also the outlets that employ them.

In almost all of these cases, the plaintiffs also seek compensation from the executives of the outlet that broadcast or published the story that is the subject of the trial. Overwhelmed by such financial threats from the judiciary, media outlets often have to face tough decisions including downsizing, cutting down the number of pages published or even completely going out of business. Although they may not be as dangerous as imprisonment or criminal cases against journalists in terms of their gravity, these lawsuits still constitute a very serious threat against press freedom.

A brief history of judiciary’s war on journalism in Russia and Turkey

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