

solidarity with  
**OTHERS**

[www.solidaritywithothers.com](http://www.solidaritywithothers.com)

20  
22

# FIGHTING TERRORISM OR INTERVENING IN FREEDOMS



Nurullah Albayrak

# INTERVENTION IN FREEDOMS UNDER THE NAME OF COMBATING TERRORIST

20  
22

— ■  
Nurullah Albayrak

# Solidarity with Others

[www.solidaritywithothers.com](http://www.solidaritywithothers.com)

01   INTRODUCTION	6
02   INVESTIGATION OF TERRORISM OFFENCES IN TURKEY	8
03   CRITERIA FOR A TERRORIST ORGANIZATION	10
04   PROSECUTION'S CRITERIA FOR TERROSIM INVESTIGATIONS	22
05   CRITERIA IN TERROR TRIALS IN ASSIZE COURTS	24
06   DENUNCIATION AS A NEW PROCESS	28
07   TWO EXAMPLES OF DENUNCIATION-BASED TERRORISM INVESTIGATIONS	32
07-1   "DENUNCIATION SUBJECT: FETÖ"	32
07-2   "BOOKS FOUND" INVESTIGATION	44
08   CONCLUSION, EVALUATION AND RECOMMENDATIONS	48

## About Us

### Solidarity with Others



Solidarity with OTHERS is a non-governmental organization established in Brussels with the aim of defending and promoting human rights in Turkey and elsewhere.

Our name reflects our solid commitment to act in solidarity with anyone who has been subjected to injustice and violations in Turkey; regardless of race, religious beliefs, social affiliation or political views.

---

We firmly believe that we are only as human as we are able to stand up for the rights and liberties of OTHERS, and not just ourselves.





## Scope

The “Report on the Intervention with Freedoms in the Name of Fighting Terrorism” examines the nonconformity of the investigations carried out within the scope of terrorism offences in Turkey with legal norms, through two sample investigation files, where the investigation process was started by denunciation.

The report reveals how investigations carried out in the name of fight against terrorism are a serious and effective intervention with freedoms through assessment of how terrorism investigations are being initiated, the methods for collecting information and documents on which the investigations are based on, the legality of the information and documents which are collected and used in criminal proceedings as well as the main principles which are being violated during trials.

In this context, all ‘terror criteria’ created in law enforcement units and used in terrorism investigations are separately specified and how they are used in investigations and trials, the content of the evaluations made under the name of research and report, and the legality of the criteria that prosecutors and courts show as a basis for terrorism charges are evaluated through the documents in the investigation file.

In the report, 20 different criteria are included, which are accepted as “terror criteria” by law enforcement, prosecutor’s office and courts, and which are the basis of detention, arrest and conviction decisions, and which constitute the basis of the accusation of being a member of a terrorist organization.

# 01 | Introduction



Between 2015-2020, 1 million 977 thousand 699 people were giving a decision during the investigation phase. Within the grounds of Articles 314 (armed organization) and 220 (aiding an organization) of the Turkish Criminal Code and the Anti-Terror Law.

In a democracy, freedoms are the norm, whereas security measures are the exception. While it may be a necessity to take security measures while defending democracy, failure to maintain the freedom-security balance may also harm democracy. Ensuring of this balance is therefore of great importance for the protection of human rights, especially in the fight against terrorism.

In Turkey, the fight against terrorism has always been the primary agenda of politics, and the method, target and scope of the fight against terrorism have changed in accordance with any change in the political circumstances. The ambiguous terrorism laws have been shaped according to the preferences of politics and the methods have been determined according to the political conjuncture. In Turkey, especially after the coup attempt of 15 July 2016, rights and freedoms have been suspended in the

name of fight against terrorism. By ignoring the most fundamental human rights, the principle of “everyone is innocent until proven guilty by a final verdict” was replaced by the understanding that “everyone is guilty until and unless the government or administrative organs and judicial organs which act upon the government’s instructions say otherwise”,

In the last few years, with the recent amendments made in the Turkish laws, of concepts such as “connection”, “cooperation”, “terrorist propaganda”, “sympathiser of a terrorist organisation”, “conviction as to continued ties with a terrorist organization “ which are extremely vague and leave a broad discretion to judiciary, it can be said that a persecution has been carried out. With trials which are far from international law standards numerous human rights violations are

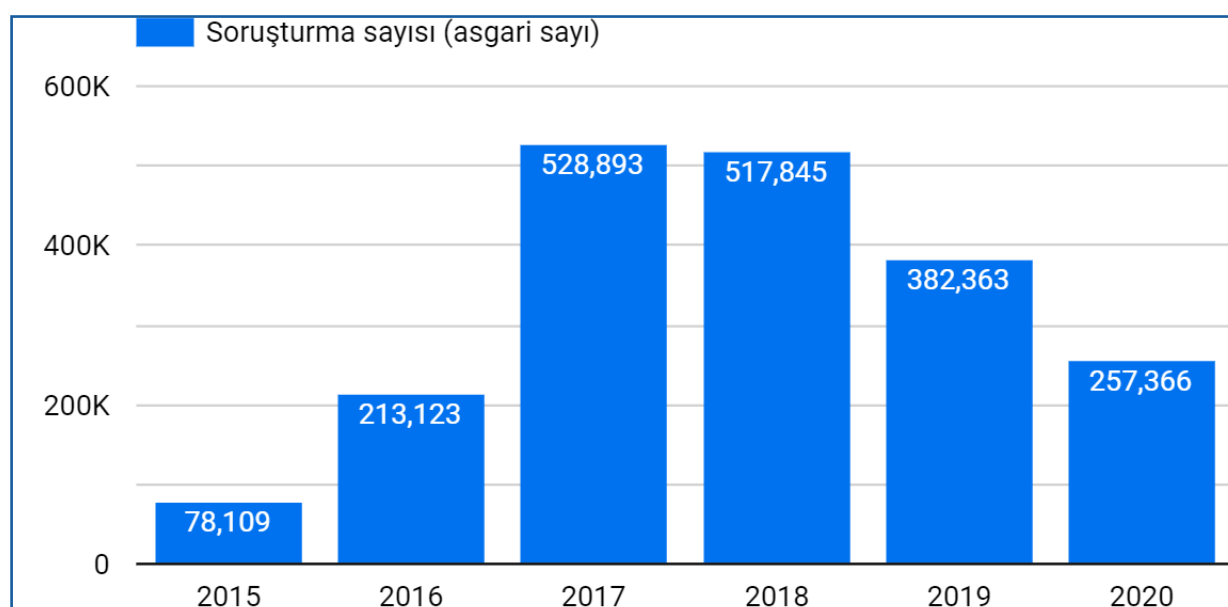
caused, all control mechanisms are ignored and the judiciary is almost made into a tool to punish opponents.

Investigations carried out within the scope of the Anti-Terror Law No. 3713 are the most significant of them all. The judiciary’s stance as to the ongoing unlawfulness in Turkey has been to put all opposition groups into one “terror bag”. At the point now reached; regardless of age, gender or profession, the discretion of which act, thought or expression will be considered “terrorist” act/activity/propaganda has come under the control of the politicians and the same has been left to the judiciary to deal with acting with the politicians’ instructions and directions.

According to the statistics published annually by the Ministry of Justice, General Directorate

of Criminal Records and Statistics, within the scope of TMK No. 3713 and Article 314 of the TCK (Armed Organization); At least a decision has been made during the investigation phase against a total of 1 million 977 thousand 699 people, with 78,109 of them being made in 2015, 213,123 in 2016, 528,893 in 2017, 517,845 in 2018, 382,363 in 2019, and 257,366 in 2020. Those numbers show the number of people about whom a decision was made during the investigation phase, but do not show the number of all people who have been investigated. The

number of investigations launched in 2021 is not yet known. When 2021 has eventually been added, it is understood that at least two million people will have been investigated within the scope of terrorism offences. When the numbers are evaluated together with the legal actions that are considered as offenses within the scope of terrorism charges, they show that terrorism investigations are not conducted out of security concerns but with the aim of interfering with freedoms.



As stated in the Directive of the Council of Europe adopted on March 15, 2017, and published in the EU Official Journal, there are serious problems in terms of the legality and foreseeability of terrorism laws in Turkey. Especially, historical lawful conduct of persons accused of "terrorism" are subsequently treated as criminal and consequently punished. Those who become members of a legal association, deposit money in a legal bank, send their children to legal schools and install an application which can be downloaded onto mobile phones from the internet are punished as members of a terrorist organization. In a state ruled by law, no one however may be imputed to be a member of a terrorist organization due to such acts, which are constitutional rights. This circumstances

generally arises from the violation of the principles of legality, foreseeability, equitability and non-retroactivity of offenses and penalties.

In the Demirtaş decision of the European Court of Human Rights on 22 December 2020, it was stated that in Turkey the definition of membership in a terrorist organization is interpreted too broadly and is unforeseeable. In its assessment, the court held that the acts for which Demirtaş was detained had been interpreted too broadly and that the wording of Article 314 of the Turkish Penal Code, combined with the interpretations of the domestic courts, did not provide adequate protection against arbitrary interference, and decided that terrorism offences were not "foreseeable".

## 02 | Investigation of Terrorism offences in Turkey

Investigation is the name given to the stage in which the allegation of offense is investigated as part of judicial activity. According to the Criminal Procedure Law(CMK), when it is found out that an offense has been committed, an investigation is started against the suspect. If the concrete facts are clear enough to create an impression that an offense has been committed in an ordinary, lay person, then the general rule set in Article 160 of the CMK is followed. There is no difference between terrorism offences and other offences when it comes to starting an investigation.

The provision in Article 160 of the CMK reads, "As soon as the Public Prosecutor is informed of circumstances that give the impression that an offense has been committed, by denunciation or otherwise, he shall immediately start investigating the truth of the matter in order to decide whether there are grounds for filing a public lawsuit";

- 1) The Public Prosecutor will initiate the investigation,
- 2) In order to initiate the investigation, it is sufficient to have circumstances that give the impression that an offense has been committed,
- 3) It states that as a result of this research, a decision must be made whether to file a public lawsuit.



If the suspicion that the accused committed the crime disappears with the evidence presented at the hearing and the court reaches a conscientious opinion that he has committed the alleged crime, a verdict of conviction is given, and if the suspicion does not disappear, a decision of acquittal is given.

The circumstances that give the impression that an offense has been committed within the scope of the article is left to the discretion of the public prosecutor.

According to the CMK, the public prosecutor is the sole and most important decision maker of the investigation phase. According to Article 164 of the Law, the prosecutor will receive assistance

from the judicial police while carrying out the investigation procedures, but this assistance will be in line with the prosecutor's orders and instructions. The CMK has stipulated that when the prosecutor is informed of the circumstances that create the impression that an offense has been committed, he will immediately start investigating the truth in order to decide whether it is necessary to file a public lawsuit. (m.160/1).

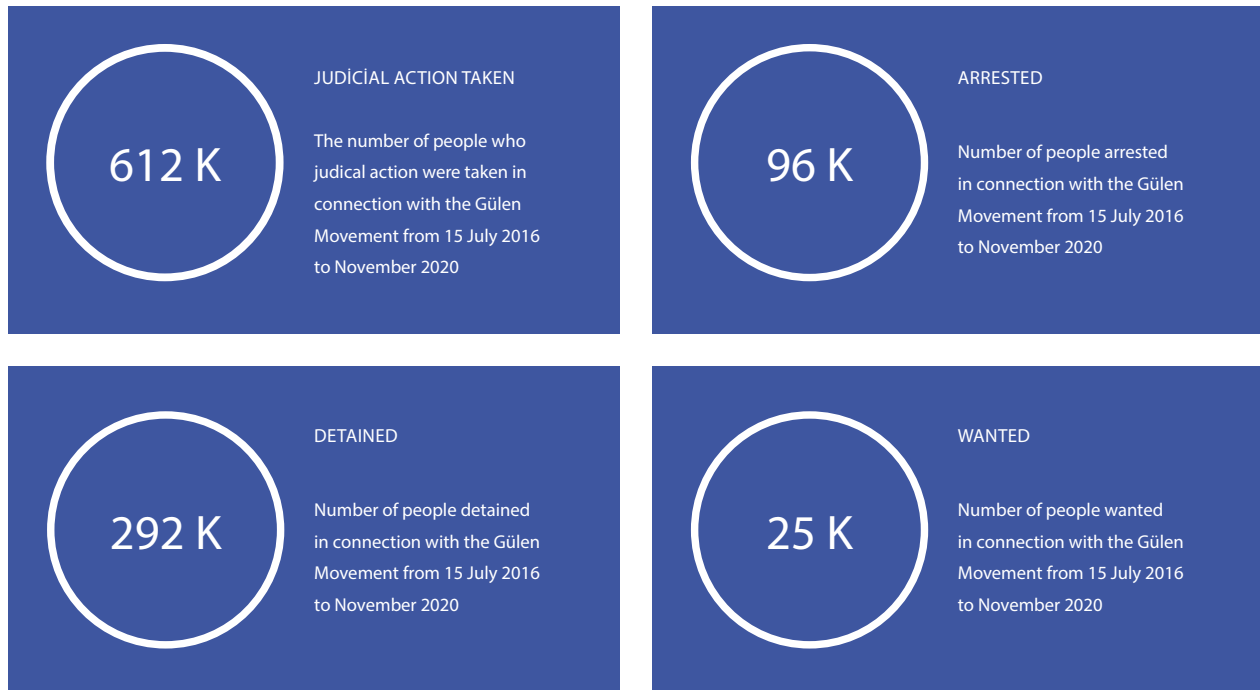
Expert officers who investigate the traces of an offense following the commission of an offense in line with the instructions of the prosecutor are called judicial law enforcement. Forensic law enforcement is the law enforcement unit that comes into action after the offense has been committed, that is, after the public order has been disturbed, to detect the offense committed, to find the perpetrators of the offense and the evidence of the offense and to pass it onto the judicial authorities.

At the beginning of the investigation, the suspicion of offense is weak. If it gets strong

enough to indicate a 51 percent probability of conviction, it becomes sufficient suspicion and an indictment can be prepared. (CMK 170/2). In cases where there is concrete evidence showing the existence of strong suspicion that an offence has been committed, an arrest warrant may be issued. (CMK 100/1). If the suspicion that the accused committed the offense ceases to exist with the evidence presented at the hearing and the court reaches a conscientious opinion that he has committed the alleged offense, the verdict of conviction is given, and if the suspicion does cease to exist, a decision of acquittal is given. (CMK 217/1 and 223)

# Terrorist investigations against members of the Gülen Movement

The government's attitude towards the organization known as the "Gülen Movement" changed after the corruption operations against some ministers and businessmen close to the government on 17 and 25 December 2013. The government described the investigations as a coup and dismissed the law enforcement officers and members of the judiciary involved in the investigation. After the July 15 coup attempt, he started referring to the Gülen Movement as "FETÖ/PDY" and declared it a "terrorist organization". (This report does not consider proscription but rather deals with the type of grounds on which investigations are started against those who are being accused of membership to a terrorist organisation).



Source: Statement by the Ministry of Interior as of November 2020

As stated above, when public prosecutors are informed that an offense has been committed, they start an investigation and decide whether or not to file a public lawsuit. In this context, the prosecutor's office, which receives information that an offense involving the members of the Gülen Movement has been committed, too, initiates an investigation for being a membership or leader of a terrorist organization.

The starting of a terrorism offence investigation for being a member of the Gülen Movement, is mostly based on denunciations made by individuals and information received from institutions. The information that an offense has been committed arrives to the prosecution

offices from different sources. These are;

- Denunciations made to institutions such as the Police, Prosecutor's Office, MIT, MASAK, CIMER,
- Research conducted directly by MIT,
- Blacklisting type information gathered by public institutions within the institution,
- The people mentioned in statements of those whose statements have been taken at police stations as suspects, witnesses, or persons of interest,

A terrorist organization investigation is initiated upon the receipt of information.

## 03 | Criteria for a Terrorist Organization

In general, investigations are carried out on the person whose name is mentioned in the report under different headings. According to the information in the investigation files, the research titles as a whole are as follows:



1- Table showing “those” included in the investigations which are being carried out. (This table includes the people mentioned in the investigations carried out by the police concerning FETÖ/PDY. According to media, as of 2020, 612 thousand 870 people have been prosecuted.<sup>4)</sup>



2- Table showing the list of ‘persons with increase in their Bank Asya accounts or who opened new accounts in Bank Asya between 31.12.2013 and 24.12.2014 as well as directors or partners of such companies’ (A table containing the customer information of the bank named Bank Asya. In this list, there are names of those who opened accounts, deposited into and withdrawn money from the bank. According to the information in the media, there are more than 700 thousand such people.<sup>5)</sup>



3- The table showing the companies whose names are mentioned in the list, such as companies to the management of which official trustees were appointed, companies to which certain restrictions were applied, the companies owned by institutions who were closed down with emergency decree laws.. As of the start of 2017, trustees have been appointed to 922 different companies<sup>6)</sup> and 2,366 different institutions have been closed down by emergency decree laws<sup>7)</sup>



4- The table showing those who were ‘registered members’ of associations, unions, etc. which were closed by emergency decree laws. (A total of 1,576 foundations, associations, unions and confederations were closed with the decree laws.<sup>8)</sup> The names of those in the management, audit, advisory departments and the general assembly are included in this list, between the date the said institutions were first founded to the date they were closed down.)



5- A table containing the names of those who were subscribed to newspapers which were closed down by emergency decree laws. (A total of 53 newspapers were closed down with emergency decree laws.<sup>9)</sup> The names of those who had a subscription with Zaman newspaper, which had a subscription system, are included in this list. According to the media, Zaman newspaper had 650 thousand subscribers.<sup>10)</sup>





6- The 'list of students' studying in the educational institutions closed down with emergency decree laws. (A total of 2,170 private schools, dormitories, and private educational institutions were closed down with emergency decree laws.<sup>11</sup> In addition to that, schools and tuition centres were closed down by the governorates. The number of institutions closed down by the governorships is not known. The names of the students who studied in the closed institutions as well as those of their parents are included in that list.)



7- The 'list of donors' of Kimse Yok Mu, a charity which which was closed down with emergency decree laws. (According to open-source information it had more than 210 thousand donors from 100 different countries.<sup>12</sup>)



8- The table showing the 'names' included in documents sent by different institutions. (Public Institutions send information documents to law enforcement bodies for various reasons, and the names included in such documents are listed in a separate table.)



9- Table showing those who were included in the list of persons who were investigated following the 15th of July, (There is a list of persons who were investigated by the Anti-Terrorism Department following the 15th of July. The number of people included in that list is not known.)



10- The table showing those who were included in the list of owners of devices on which Bylock was used. (Although there are changes in the number of people who used the messaging application called Bylock, it is thought that the names of 215 thousand people were on this list in 2017.<sup>13</sup>)



11- Table showing those who were dismissed from their public jobs by emergency decree laws. (Decisions of dismissal were made directly by the Council of Ministers through emergency decree laws or by an authorised person at the relevant institution. On the other hand, dismissal decisions were given by the The Board of Judges and Prosecutors (HSK) for judges and prosecutors. The number of dismissal decisions made by the Council of Ministers and the HSK is 133,763.<sup>14</sup> The exact number of people who have so far been dismissed by various institutions themselves is not known. It is estimated that the names of approximately 200 thousand people are included in that list.)



12- The table showing the social security (SGK) records of the persons who worked in the companies mentioned in investigation files or other documents. (According to the 2018 data of the SDIF, have been 1127 different companies have had official trustees appointed to their management.<sup>15</sup> Considering only 3 of such companies had at the time over 40 thousand employees,<sup>16</sup> it is estimated that more than 100 thousand names are included in that table.)



13- Table showing intelligence sent from various units, (The table containing the names included in the intelligence sent from the National Intelligence Organization, the Ministry of Foreign Affairs and other institutions. Although the exact number people included in that list is not known, considering that there are 4,386 people in the below list which is only one of such lists sent by the Ministry of Foreign Affairs, it is thought that there are a great number of names included in that table.)



14- The table showing the list of those whose passports have been annotated by different institutions to show that they had links to or affiliation with a terrorist organisation. (According to the statement made by the Ministry of Interior, passports of 234 thousand 419 people have so far been cancelled.<sup>17</sup> It is thought that the names of the people whose passports have been cancelled are included in that list.)



15- Table showing the data obtained from the companies mentioned in investigation files. (The data gathered through searches and confiscations carried out in the companies are included in this table.)



16- Hotel accommodation records (The list of people staying in hotels is transferred to the police system called PolNet and terrorism related inquiries are made by use of that data.)



17- Port Entry and Exit Records (All records of entry and exists at ports are transferred to the police PolNet system, and terrorism related inquiries are made by use of that data.)



18- Persons who had contact with those whose HTS records are being examined (In investigation files, the information as to phone numbers with which the persons whose HTS records are being examined have had communication.

The tables which are being used in investigations carried out by the police have been created through examinations conducted in various separate investigation files. Investigations concerning the persons named in investigations initiated by prosecutors' offices for membership to a terrorist organisation are carried out and reports are subsequently prepared using the headings which are mentioned in this report. Data obtained as a result of queries made under the heading Record of Enquiry, Report or Record are shared with prosecutors' offices or courts. Below are two different examples prepared in that context.



The first sample document was prepared and different titles is written as Yes/No. Details on titled 'Minutes'. The information obtained as the subject of the research are not shared in a result of the research carried out under 10 this document.

## TUTANAK

İzmir Cumhuriyet Başsavcılığı tarafından 30/09/2018 tarih ve 2017/322 sayılı yazı ile tarafımıza bilgileri gönderilen şahısların TCKN'leri kullanılarak FETÖ/PDY örgütü kapsamında çeşitli birimler tarafından Dairemize gönderilen ve Analiz Şube Müdürlüğünde toplanan veriler içerisinde yapılan sorgulama sonucu;

Raporda sorgulama yapılan TC Kimlik No ve İsim listesini gösterir tablo;

TCKN Listesi

Adı Soyadı

<u>BYLOCK</u>	<u>VAR</u>
<u>TEPE YÖNETİMİ İRTİBAT</u>	<u>YOK</u>
<u>SORUŞTIRMALAR</u>	<u>VAR</u>
<u>BANKASYA HESAP ARTIRIMI VEYA YENİ HESAP ACMA</u>	<u>VAR</u>
<u>DERNEK/ VAKIF ÜYELİĞİ / BELGE EVRAK</u>	<u>YOK</u>
<u>KHK İHRAC/MEN VERİSİ</u>	<u>YOK</u>
<u>ŞÜPHELİ SGK KAYDI</u>	<u>YOK</u>
<u>ŞÜPHELİ OTEL – KONAKLAMA KAYDI</u>	<u>VAR</u>
<u>ŞÜPHELİ YURT DIŞI GİRİŞ ÇIKIŞ KAYDI</u>	<u>VAR</u>
<u>SOSYAL MEDYA VERİSİ</u>	<u>YOK</u>

The first sample document was prepared and titled 'Report' and investigation was conducted under 13 different headings. Under each heading what exactly the investigation included

was specified and the outcome was noted as "no record was found under this heading" or where data was found the details of the data obtained.

## RAPOR

İstanbul Valiliği İl Emniyet Müdürlüğü 47909374-16799/63044 sayı ile gelen evrakta

şahıs ile ilgili FETÖ/PDY Silahlı Terör Örgütü ile iltisakı ve irtibatının olup olmadığına tespiti için; Şahsın T.C kimlik numarası ile yapılan sorgulamada FETÖ/PDY örgütü kapsamında çeşitli birimler tarafından Dairemize gönderilen ve Analiz Şube Müdürlüğünde toplanan havuz sorgusunda;

**1-) Terörle Mücadele Dairesi Başkanlığı'nda kurulan kriz merkezinde 15 Temmuz darbe girişimi sonrası adli işlem yapılan şahıslar içerisinde ismi bulunanları gösterir listede yapılan sorgulamada;**

**-Bu başlıkta kayda rastlanılmamıştır.**

**2-) Ekip Projesine örgüt adı FETÖ/PDY olarak girilen soruşturma verileri;**

**-Bu başlıkta kayda rastlanılmamıştır.**

**3-) Ankara Cumhuriyet Başsavcılığının 2014/37666 sayılı FETÖ/PDY ana davası soruşturması kapsamında incelenen 15.01.2014 tarihinde ulusal medyada yayınlanan Fetullah GÜLEN'e ait 25.12.2013 tarihli bir telefon konuşmasında, Fetullah GÜLEN'le konuşan kişinin bankanın likidite durumuna ilişkin bilgi vererek, örgüt içerisindeki kişiler ile bu kişilerin çevrelerinin bankaya yönlendirilmesi noktasında Fetullah GÜLEN'den onay aldığı ve akabinde bahse konu görüşmenin medyaya Gülen'den "Bank Asya'ya para yatırın" talimatı olarak yansıdığı bilgileri üzerine temin edilen Bank Asya hesabında 31.12.2013 ile 24.12.2014 tarihleri arasında 'para artışı olan/yeni hesap açan şahıslar' listesi (varsa para azalışı olanlar veya sıfırlayanlar tutanağa kaydedilmemiştir.)**

**-Bu başlıkta kayda rastlanılmamıştır.**

**4-) FETÖ/PDY Kapsamında değerlendirilerek daire başkanlığımıza gönderilen Dernekler ve çeşitli belge-evrak bilgileri;**

**-Bu başlıkta kayda rastlanılmamıştır.**

**5-) Sorgulanan şahısların ortağı veya yöneticisi olduğu şirketler ile EKİP projesine örgüt adı FETÖ/PDY olarak girilen soruşturmalarda geçen şirketlerin çakıştırılması ile elde edilen veriler;**

**-Bu başlıkta kayda rastlanılmamıştır.**

**6-) Ankara Cumhuriyet Başsavcılığının 2014/37666 sayılı FETÖ/PDY ana davası soruşturması kapsamında incelenen 15.01.2014 tarihinde ulusal medyada yayınlanan Fetullah GÜLEN'e ait 25.12.2013 tarihli bir telefon konuşmasında, Fetullah GÜLEN'le konuşan kişinin bankanın likidite durumuna ilişkin bilgi vererek, örgüt içerisindeki kişiler ile bu kişilerin çevrelerinin bankaya yönlendirilmesi noktasında Fetullah GÜLEN'den onay aldığı ve akabinde bahse konu görüşmenin medyaya Gülen'den "Bank Asya'ya para yatırın" talimatı olarak yansıdığı bilgileri üzerine temin edilen Bank Asya hesabında 31.12.2013 ile 24.12.2014 tarihleri arasında 'para artışı olan/yeni hesap açan **ŞİRKETLERİN YÖNETİCİ VEYA ORTAKLARI** listesi, (Dairemizdeki Bank Asya kayıtları yukarıda belirtilen tarihler aralığı ile sınırlı olduğundan dolayı daha fazla ve ayrıntılı hesap bilgilerinin TMSF veya Asya Katılım Bankası A.Ş den talep edilmesi gerekmektedir.)**

**-Bu başlıkta kayda rastlanılmamıştır.**

*A. A. A.*



7-) Sorgulanan şahısların ortağı veya yöneticisi olduğu şirketlerden FETÖ/PDY Kapsamında değerlendirilerek Daire Başkanlığımıza gönderilen **belge-evrak verilerinde** geçen şirketlerin listesi,

**-Bu başlıkta kayda rastlanılmamıştır.**

8-) Sorgulanan şahıslardan **EKİP projesine örgüt adı FETÖ/PDY olarak girilen verilerinde** veya belge-evrak verilerinde geçen şirketlerde çalışmış şahıslara ait **SGK kayıtları**;

**-Bu başlıkta kayda rastlanılmamıştır.**

9-) **29/09/2015 tarihinden 01/08/2017 tarihine kadar** dairemize gönderilerek Analiz Şube Müdürlüğünde FETÖ/PDY örgütü kapsamında **merkez ve taşra KOM birimlerince yürütülen soruşturma verileri**;

**-Bu başlıkta kayda rastlanılmamıştır.**

10-) Sorgulanan şahısların ortağı veya yöneticisi olduğu şirketler **29/09/2015 tarihinden 01/08/2017 tarihine kadar** dairemize gönderilerek Analiz Şube Müdürlüğünde FETÖ/PDY örgütü kapsamında merkez ve taşra KOM birimlerince yürütülen soruşturmalarda geçen **şirketlerin çakıştırılması ile elde edilen veriler**;

**-Bu başlıkta kayda rastlanılmamıştır.**

11-) Sorgulanan şahıslardan, **29/09/2015 tarihinden 01/08/2017 tarihine kadar** dairemize gönderilerek Analiz Şube Müdürlüğünde toplanan FETÖ/PDY örgütü kapsamında merkez ve taşra KOM birimlerince yürütülen soruşturma verilerinde veya belge-evrak verilerinde geçen şirketlerde **çalışmış şahıslara ait SGK kayıtları**;

**-Bu başlıkta kayda rastlanılmamıştır.**

12-) Ankara Cumhuriyet Başsavcılığının **2016/180056** sayılı soruşturması kapsamında KOM Daire Başkanlığına gönderilen **BYLOCK** kullanılan cihazlara ait abonelik bilgilerini içeren listede adı geçenler,

**-Bu başlıkta kayda rastlanılmamıştır.**

13-) Ankara Cumhuriyet Başsavcılığının **2014/37666** sayılı FETÖ/PDY ana çatı soruşturması kapsamında HTS kaydı alınan **72 şahsa ait 336 numaranın irtibatlı olduğu karşı numaraların yer aldığı abonelik bilgilerini içeren listede adı geçenleri gösterir tablo**;

Intelligence obtained by the foreign missions of the Ministry of Foreign Affairs as "Intelligent Data Sent from Various Units" is forwarded by prosecution to Police Departments. In a single document included below, information about 4,386 people living abroad was sent to the prosecution offices by the Ministry of Foreign Affairs and entered into

the database of the Police. Terrorism investigations are started concerning those whose names are sent by the Ministry of Foreign Affairs and separate investigations are started against people who are in contact with them on the basis that they have connections with a terrorist organization.

Dışişleri Bakanlığının göndermiş olduğu (2) adet CD incelendiğinde EK-1 CD içerisinde (226) satırdan oluşan kişi bilgilerinin yer aldığı, EK-2 CD içerisinde (4160) satırdan oluşan kişi bilgilerinin yer aldığı görülmüştür. CD' ler içeriğindeki bilgilerin tasnif çalışması yapıldığında;

- 1- TC kimlik numaralarının birçoğunun "TCKN" sütunundan farklı bir sütunda yer aldığı,
- 2- Eksik, fazla veya hatalı TC kimlik numaralarının bulunduğu
- 3- 1 şahsa birden fazla TC kimlik numarasının belirtildiği,
- 4- 1 TC kimlik numarasının birden fazla şahsa ait olduğunun belirtildiği,
- 5- (Bay Akarsu, Bay Scheuermann) şeklinde kimlik tespiti imkansız isim bilgilerinin yer aldığı,
- 6- Kurum, Kuruluş bağlantısı veya irtibat-iltisak bilgisi belirtilmeden sadece kimlik bilgisi belirtildiği, görülmüştür.

It is not known exactly how the documents sent from different institutions included under different investigation headings have been created. It is believed that the documents prepared by Dicle University regarding its academic and administrative staff in the form of "blacklisting"

are as such. In the document signed by the rector of Dicle University, information compiled in the form of blacklisting about two professors who worked at the Faculty of Medicine was sent to the prosecutor's office.

T.C.	Ad Soyadı	Unvanı	Birimi	İdari İşlem	Adli İşlem	Bylo ek	Bank Asya	FETO derneği ne yardım	Çocuğ unu FETO okullar ma gönder me	FETO sendika/ dernek üyeliği	FETO kurumların da çalışma	FETO mensu biyetin e dair yazılı bildiri mler	Sosyal çevresi nde FETO ile irtibatlı bilim e	Yetki ve soruml uluklar ın FETO lehine kullan ma	Medya ve sosyal medya da FETO iltisak ına dair kanaat	İrtibatlı old dair kuvvetli kanıt
		Prof.Dr.	Tıp Fak.	Var	Var tutuklu	yok	yok	Yok (?)	Yok ?	Yok	Yok	Var	Var	Var	Var	Var

T.C.	Ad Soyadı	Unvanı	Birimi	İdari İşlem	Adli İşlem	Bylo ek	Bank Asya	FETO derneği ne yardım	Çocuğ unu FETO okullar ma gönder me	FETO sendika/ dernek üyeliği	FETO kurumların da çalışma	FETO mensu biyetin e dair yazılı bildiri mler	Sosyal çevresi nde FETO ile irtibatlı bilim e	Yetki ve soruml uluklar ın FETO lehine kullan ma	Medya ve sosyal medya da FETO iltisak ına dair kanaat	İrtibatlı old dair kuvvetli kanıt
		Prof.Dr.	Tıp Fak.	Var	Var tutuklu	yok	Var ?	Yok (?)	Var	Yok	Var	Var	Var	Var	Var	Var

Prof. Dr. Talip GÜL  
Rektor

It is understood from the document below that a total of 38 people, including their mothers, fathers, spouses, siblings and children, were investigated by the Financial Police and the results of the inquiries were sent to the Anti-Terrorism Department.

According to the same, the investigation which was conducted under the different heading as mentioned above is not only about the person who is being investigated, but also included all of his family.

#### TERÖRLE MÜCADELE ŞUBE MÜDÜRLÜĞÜNE

İlgi : 24/01/2017 tarih ve 58604142.66693.(63044).D3-50465 sayılı yazınız.

İlgi sayılı yazı ekinde gönderilen Ankara Cumhuriyet Başsavcılığının 2018/15377 sayılı soruşturmasında adı geçen **1.Liste ;18 (ONSEKİZ)** ve **2.Liste ; 20 (YİRMİ)** şahıs ve yakınları (**anne, baba, eş, kardeş ve çocuk**) isimli şahıslar hakkında Şube Müdürlüğümüzce yapılan sorgulama neticesi düzenlenen tutanak CD'ye kaydedildikten sonra dosyanın Hash değeri alınarak (MD5:a4990380e6d3a7edf00a0f11d58c1bf5 ve fe6dc225e24a39a706dd8de1ace54517) yazımız ekinde gönderilmiştir.

Arz ederim.

  
Halil Volkan ER  
Mali Suçlarla Mücadele Şube Müdürü  
3. Sınıf Emniyet Müdürü

According to the document below titled 'Hotel Registration Information', in the investigations carried out by the Police within the scope of the terrorism staying in a hotel is considered evidence for accusations of terrorism. As specified in the document, if the person who is under investigation has a specific hotel registration, and another person

who has been identified and marked as 'FETO/PDY' also has a registration at the same hotel at the same time, that is considered sufficient evidence for a terrorism investigation. On the other hand, Korel Thermal Hotel mentioned in the document is a famous hotel with a capacity of 1,000 beds.<sup>18</sup>

#### OTEL KAYIT BİLGİLERİ

1)İncelenmesi yapılan  isimli şüphelinin **Afyon** ilinde bulunan **KOREL THERMAL OTEL** isimli tesiste **02.11.2013** günü ve **03.11.2013** günü arasında konaklama yaptığı kaydına rastlanılmıştır. Adı geçen şüpheli ile aynı tarih aralığında bu otelde konaklama yapan ve Polnet Kayıtlarında FETÖ/PDY Şerhi bulunan kişiler tablo halinde gösterilmiştir.

TC Kimlik No	Adı	Soyadı	Oda No	Geliş Tarihi	Ayrılış Tarihi	Polnet
--------------	-----	--------	--------	--------------	----------------	--------

Port Entry-Exit Information is also examined as part of terrorism investigations, and it is checked whether the person has a port entry-exit record on the same dates with people who have a FETÖ/PDY annotation against their names, just like hotel registration records above, and the information obtained is then included in the investigation file.

All of those whose names were found to be in the hotel registration or the port entry and exit registration at the same dates are asked about that at the Police while their statements are being taken and they are asked to explain their connections.



## ŞÜPHELİ YURTDIŞI GİRİŞ ÇIKIŞ VE KONAKLAMA KAYITLARI

FETÖ/PDY Örgüt mensuplarının örgüt saiki (güdü) ile hareket ettiklerinin deşifre edilebilmesi için şüpheli şahısların seyahat, tur, toplantı seminer vb. birlikte yurt dışı giriş çıkışları ile yurt içi otellerdeki konaklamaları göz önüne alınarak analiz çalışmalarında;

### **ŞÜPHELİ YURTDIŞI GİRİŞ ÇIKIŞ BİLGİLERİ**

1)İncelenmesi yapılan [ ] isimli şüphelinin **07.11.2015** günü yurtdışı çıkışı ile **21.11.2015** günü yurtiçine dönüşü incelendiğinde, aşağıdaki tabloda belirtilen Polnet kayıtlarında FETÖ/PDY şerhi bulunan şahıs ile beraber hareket ettiği tarafımızca değerlendirilmektedir.

There is a 'Name List' in the database of the police units under 18 different headings as mentioned above. Although it is not known how many the lists include, when the numbers mentioned in open sources are considered, it is believed that the database has more than 3 million names in it.

The information contained in the database consists entirely of personal data. Although it is not known on which legal basis the police units keep personal data in the said databases, keeping personal data is unconstitutional.

Restricting of fundamental rights may only be done by way of legislation. Changes in this regard may too be made only by legislation. (AY Article 13)<sup>19</sup> The use of personal data by investigative bodies without legal basis and/or a court order constitutes a violation of the law. Court judgments may not be based on illegally obtained personal data, and such data may not be taken as grounds for detention orders. Since the information stored in the database in clear violation of articles 217/2 and 38/6 of the The Criminal Procedure Act and the Constitution respectively are considered illegal evidence, the right to a fair is consequently violated in trials where the database is used. In the sample files, it is observed that personal data was used as primary evidence for arrest and conviction and the right to a fair trial has therefore been violated.

In addition to inquiries made in the database regarding the persons named by relevant police departments, as part of terrorism investigations, social media accounts of individuals are also investigated, social media posts, who they follow, who like their posts, etc. are also investigated.

Many people are detained and arrested on the grounds of their social media posts. In the statement made by the Ministry of Interior on 24.12.2016, it was announced that "Judicial proceedings were taken against 3 thousand 710 people, 1656 of them were arrested, 1203 were released on the condition of judicial control".<sup>20</sup>

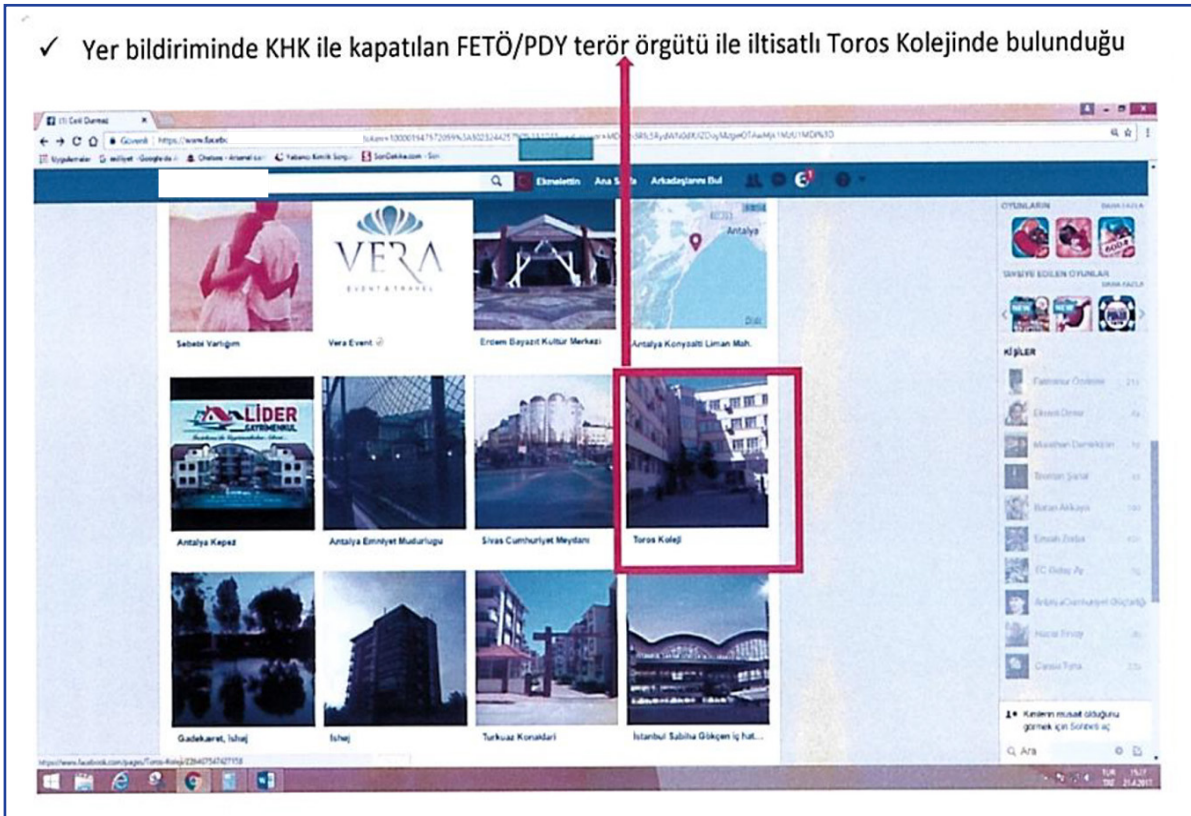
In addition, "The fight against terrorism is carried on with determination in the field of social media, as it is in every field; Collaborations with many national and international service providers, institutions and organizations, especially Twitter, Facebook and YouTube, have also been brought to the highest level.

In the research reports presented below as an example, a few of the topics that are accepted as terrorism criteria in social media analysis are presented.



In the research conducted on the Facebook application, a record showing that he checked in at a private school which was later closed down

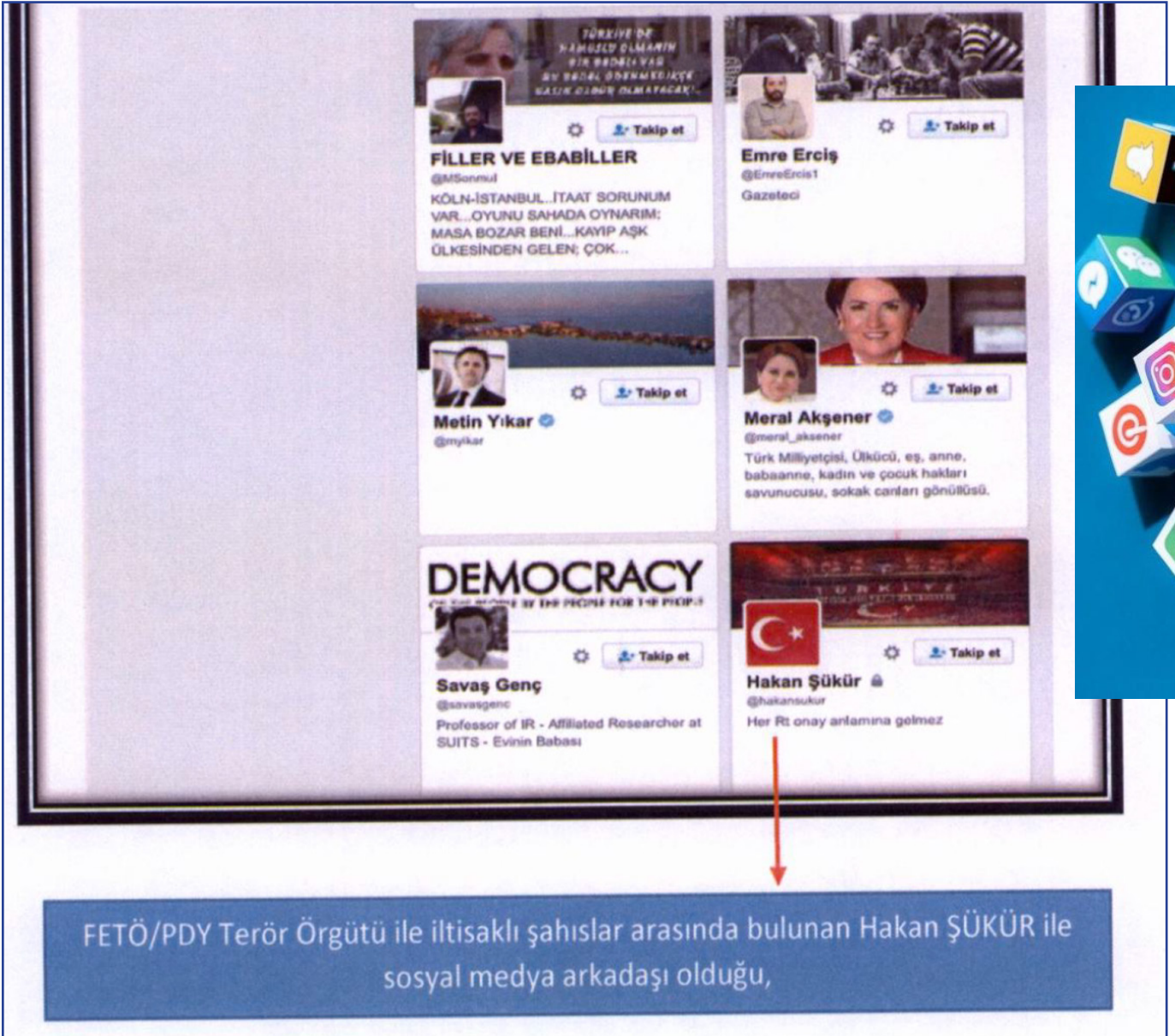
by an emergency decree law, was considered as grounds for accusation of membership to a terrorist organisation.





In another research report on the Twitter account, it is observed that the law enforcement officer, who is understood to have no knowledge on social media friendship, considers the user accounts which Twitter itself suggests to be followed as accounts which the person under investigation actually followed and he consequently prepared a report where he accused the said person of

making propaganda for a terrorist organization. According to this approach, for example, Hakan Şükür, who is said to be affiliated with the terrorist organization, is a world-renowned football player with 722 thousand followers. According to the law enforcement officer who prepared the research report, 722 thousand people following Hakan Şükür are actually making terrorist propaganda.



Another criterion in investigations concerning membership of a terrorist organization is whether subscriptions to certain digital TV platforms, namely TİVİBU, DİGİTÜRK, D-SMART have been terminated. After the removal of media organs such as Today TV, Samanyolu Haber and Mehtap

TV from the aforementioned platforms, as the cancellation of subscriptions to the said platforms is considered within the scope of membership in a terrorist organization, investigation is carried out within the scope of determining the membership to the organization.



SAYI : TT.Y.G.8521.806.39.04.01-575/861  
KONU : Tıbbi Aboneliği

17.10.2016

**SİMFKE KAYMAKAMLIĞI**  
İlçe Emniyet Müdürlüğü  
Kam Grup Amirliği  
**SİMFKE**

İlgi : 17.10.2016 gün ve [ ] sayılı yazı.

İlgi yazı ile isimleri bildirilen şahısların Tıbbi Üyeliklerinin bulunup bulunmadığının araştırılması ile, özellikle 17-25 Aralık sürecine ilişkin tarihler önce veya sonra Üyeliklerinin sonlandırılıp sonlandırılmadığının araştırılması istenmektedir.

Adı geçen şahısların Tıbbi Üyelikleri araştırılarak, abonelik kaydı bulunanlara ilişkin bilgiler ekte bilgilerinize sunulmuştur.

Arz ederim.

### DİĞİTÜRK

#### KREA İÇERİK HİZMETLERİ VE PRODÜKSİYON ANONİM ŞİRKETİNE

Abbasağa Mah. Sungurlar İş Hanı No:45/ Kat:1-2-3

BEŞİKTAŞ/İSTANBUL34353

Yazımız ekinde gönderilen listede kimlik bilgileri yazılı bulunan şüpheliler hakkında Cumhuriyet Başsavcılığımızca yürütülmekte olan soruşturmaya esas olmak üzere;

A) Şahısların Digitürk üyeliğinin bulunup bulunmadığı, üyelikleri varsa üyelik tarihinin belirlenmesi,

B) Digitürk platformu içerisinde yayın yapmakta olan Samanyolu TV, Mehtap TV, Yumurcak TV, Samanyolu Haber, Bugün TV, Kanal Türk isimli yayın kuruluşlarının platform içerisinden çıkartılması üzerine, şahısların digitürk üyeliklerini iptal ettirmek amacıyla şirketimize müracaat edip etmediklerinin araştırılarak, üyeliklerinin iptal edildiği tarih ile üyelikleri müşteri hizmetlerini telefon ile arayarak iptal edilmiş ise, iptal işlemlerine esas ses kayıtlarının Cumhuriyet Başsavcılığımıza gönderilmesini rica ederim.

The data of people who use or download the communication tool called Bylock, which was seized within the framework of intelligence activities, are used by the MIT in the investigations of terrorist organizations, especially in clear violation of the provisions of 6/2 and the following provisions of the MIT Law and article 8 of the ECHR.

The numbers in this data, where it is not clear how many people's names are in total, change from time to time. A report was prepared that the data obtained by MIT was manipulated and the contents were unreliable.<sup>21</sup>

### ARAŞTIRMA VE TESPİT TUTANAĞI

**FETÖ/PDY terör örgütü** mensuplarının özellikle 17-25 Aralık 2013 tarihinden sonra ve 15 Temmuz 2016 günü Darhe girişimi akabinde gerçekleştirilen operasyonlar neticesinde terör örgütü mensuplarının **ByLock** isimli programı kullandıklarına dair bilgilerin elde edildiği,

Bu bağlamda Emniyet Genel Müdürlüğü Terörle Mücadele Daire Başkanlığının 01.08.2016 tarih ve 45599763/56586.(12220)1239-1036(2)/ Bilgi İletimi yazıları ile İltisaklı IV kurumundan temin edilen ve İstihbarat Daire Başkanlığı tarafından, Terörle Mücadele Daire Başkanlığına gönderilen, FETÖ/PDY üyelerinin kendi içlerindeki iletişimi sağladıkları **"BYLOCK"** adlı programı mobil cihazlarına yükleyerek kullandıkları değerlendirilen şahısların listesi Daire Başkanlığımızca yapılan çalışmalar sonucu; Polnet ortamında çalışan **"D ŞUBE VERİLERİ PROGRAMI"** isimli sorgu programı haline getirilmiştir.

Bahse konu program üzerinde **"BYLOCK"** kullanıcıları ile ilgili, Antalya Cumhuriyet Başsavcılığının 2016/52076 sayılı soruşturması kapsamında yakalanarak gözaltına alınan şüphelilerden D Şube Verileri Programı üzerinden yapılan sorgulamasında Bylock tespiti yapılmış, 29.09.2016 tarihinde D Şube Verileri Programı veri tabanında güncelleme yapılarak yapılan sorgulamalar sonucunda Kırmızı, Turuncu ve Mavi renk olmak üzere kategorize edilmesine istinaden veri tabanı üzerinde yeniden yapılan incelemede;

# 04 | Prosecution's Criteria for Terrosim Investigations

Information which the prosecutor's office accepts as evidence of terrorism and orders investigation into are as follows;



1- Whether programs such as Bylock, Eagle are used,



2- Information about where they work,



3- Whether they have Bank Asya account,



4- Whether he has subscription to publications such as Zaman Newspaper, Sızıntı Magazine,



5- Whether they are members of certain unions, foundations or associations,



6- Social media posts,



7- Whether he has gone through any administrative investigation,



8- Whether he is mentioned in another investigation file,



9- Port entry-exit records,



10- Whether he has cancelled his Digiturk membership,



11- Cargo company records,



12- MASAK records,



13- HTS logs post 1.1.2013,

The information under the headings above is accepted by the prosecution as evidence terrorist activity and the suspect is prosecuted.

# İSTANBUL İLE EMNİYET MÜDÜRLÜĞÜ

## Güvenlik Şube Müdürlüğüne

Cumhuriyet Başsavcılığımızca FETÖ/PDY silahlı terör örgütüne üye olma suçundan yürütülen soruşturmalarda kapsamında, yazınız ekinde gönderilen listede belirtilen şahıslar hakkında,

1-) Şüphelilerin FETÖ/PDY silahlı terör örgütü ile irtibatlı / ilişkili olup olmadıklarına ilişkin araştırmaya yapılması.FETÖ/PDY Silahlı Terör Örgütü mensuplarının haberleşme amacıyla kullanılan ByLock, Eagle vb. programları kullanıp kullanmadıklarının tespiti ile soruşturmaya katkı yapabilecek istihbari tüm bilgi ve belgeler ile açık kaynak tespitlerine ulaşılması, Cumhuriyet Başsavcılığımızdan iş bu talimatı eklenerek Emniyet Genel Müdürlüğü İstihbarat Daire Başkanlığı,KOM Daire Başkanlığı ile gerekli yazışmaların yapılarak bu hususa rapor alınması,

2-) Şüphelilerin SGK araştırmalarını yapılarak FETÖ/PDY terör örgütüne maddi katkı, şirket, kuruluş vb yerlerde çalışıp çalışmadıklarının, işçilerin göüp geçmesdiklerinin tespiti,

3-) Şüphelilerin varsa Asya Katılım Bankasına (Bank Asya) ilişkin olarak geçmişe dönük özellikle 01.01.2013 tarihinden sonrası kapsamında kredi kartı çıkılması - kapatılması, kredi kartı kullanılması, mevduat hesabı, fon, altın, döviz, katılım hesabı ve benzeri tüm hesap hareketlerini içerir ayrıntılı dilettimanların o temin edilmesi. 01.01.2013 tarihinden sonra 15.07.2016 tarihine kadar geçen süreçte diğer bankalardan kredi çekip Asya Katılım Bankasına aktarılması veya kredi çekme tarihine yakın bir zamanda içerisinde Asya Katılım Bankasında hesap hareketliliğinin olup olmadığı hususlarının iş bu talimatınıza eklenmek suretiyle Bankacılık Düzenleme ve Denetleme Kurumundan Analiz Raporu alınması,

4-) Şüphelilerin zaman gazetesi, vakti dergisi gibi terör örgütüne ait yayın organlarına aboneliği bulunup bulunmadığının tespit edilmesi,

5-) Şüphelilerin FETÖ/PDY terör örgütüyle ilgili bağlantılı olduğu gerekçesiyle kapatılan dernek, sendika, vakıf gibi sivil toplum kuruluşlarına üye olup olmadığının tespit edilmesi,

6-) Varsa sosyal medya hesaplarında (facebook, twitter, vb) soruşturmaya esas olabilecek suç unsuru paylaşımların olup olmadığının araştırılması, tespiti halinde çıktıların alınarak soruşturma evrakına eklenmesi,

7-) Şüphelilerin FETÖ/PDY terör örgütü bağlantısı gerekçesiyle idari soruşturmaya geçirip geçirmediğinin, bu konuda idari bir dava açıp açmadıklarının tespiti, kurumlarından soruşturma alınılmaması/ihraç olmalarına esas teşkil eden belgelerin ve teltiş raporunun emaylı birer suretinin temini,

8-) İlimiz ve ülkemiz kapsamında yürütülen FETÖ/PDY soruşturmalarında şüpheli veya tanık olarak bilgisine başvurulmaların beyanlarında, dosya kapsamındaki şüphelilerin olup olmadığının tespiti,

9-) Şüphelilerin pasaportlarında yurtdışı giriş çıkış kayıtlarının olup olmadığının belirlenerek, yurt dışı giriş çıkış kayıtlarının bulunması halinde FETÖ/PDY Silahlı Terör Örgütü Yürütücüsü ve Üyesi olan kişilerle bağlantılı olup olmadıklarının ayrıca örgüte ait gezi, sohbet, toplantı, piknik ve benzeri etkinliklere katılıp katılmadıklarının tespit edilmesi,

benzeri etkinliklere katılıp katılmadıklarının tespit edilmesi,

10-) Şüpheliler hakkında Diğiblock (toplu abonelik sorumluluğu), MASAK (hizmet-uzatı bağlantıları) ve kargo şirketleri (sızıntı vb. Dergileri düzenli olarak alıp almama) ile gerekli yazışmaların yapılarak FETÖ/PDY bağlantılarının tespiti,

11-) Gerçekleri ise şüphelilerin örgütsel bağlantısının ortaya konulması veya örgüt üyesi olan diğer şüpheliler ile irtibatının belirlenmesi bakımından 01.01.2013 tarihi ve sonrasında telefon görüşmelerine (HTS Kayıtlarına) ilişkin olarak iletişimin tespiti için Cumhuriyet Başsavcılığımızdan talepte bulunulması,

12-) Şüphelilerin FETÖ/PDY Silahlı Terör Örgütü ile bağlantıları tespit edilen örgüt üyeleri ile irtibatlarının olup olmadıklarının tespiti,

13-) Soruşturmanın seyri hakkında bilgi verilerek taraddit edilen hususlarda ve gerekli diğer soruşturma işlemleri bakımından talimat alınması, suça ilişkin delillerin toplanması sürecinde ihtiyaç duyulan yakalama,gözetim,arama-el koyma ve sair hususlarda gerekli karar ve talimatların Cumhuriyet Başsavcılığımızda irtibata geçilerek alınması,

Yukarıda istenen hususların eksiksiz bir biçimde yerine getirilerek hazırlanacak tahlilat evrakının C.Başsavcılığımıza gönderilmesi rica olunur.

Camer DABALOĞLU 118957

İstanbul Cumhuriyet Savcısı

## 05 | Criteria in Terror Trials in Assize Courts

Following its receipt of the outcome of the investigation carried out by the police the prosecutor's office applies to the Terror Assize Court requesting the punishment of the suspect with a custodial sentence which ranges between 5 and 20 years in prison for being a member/leader of a terrorist organization. Following the application, the Terror Assize Courts orders the prosecution to conduct a similar investigation for the purposes of the trial. The matters which the court orders to be investigated may be seen in the document titled "Preliminary Proceedings Report" below;



1- Records of requesting support to Bank Asya,



2- Port entry and exit records,



3- His place in the organizational structure,



4- Subscribers of Zaman newspaper, Aksiyon and Sızıntı magazines,



5- Whether messaging apps called Bylock or Eagle were used,



6- Texts of denunciation,



7- Whether the Private College is one of those linked with terrorist activity,



8- Whether the Digiturk subscription has been cancelled,



9- Which serial numbers the 1 USD bills are of,



10- Information as to the members of the unions, associations and NGOs closed down by emergency decree laws,



11- Information of those who attend to schools closed down by emergency decree laws

The matters included in the headings above were investigated by the court as evidence in the trial.



**T.C.**  
**K.Maraş**  
**2. AĞIR CEZA MAHKEMESİ**

**TENSİP ZAPTI**  
**TUTUKLU**

**DOSYA NO** : 2016/328 Esas

**BAŞKAN** : **Timuçin DEDEOĞLU 40195**

**ÜYE** : **Ahmet KEZER 151407**

**ÜYE** : **Güngör Murad UÇAR 120876**

**14-K.Maraş İl Emniyet Müdürlüğü TEM şube müdürlüğüne** müzekkere yazılarak FETÖ / PDY 'nin lideri olan Fethullah Gülen'in Bank Asya'ya destek olunması hususundaki sözlü talimatına ilişkin görüntü ve ses kayıtlarının tespit edilerek mahkememize gönderilmesinin istenilmesine,

**15-K.Maraş İl Emniyet Müdürlüğüne** müzekkere yazılarak sanıkların yurt dışı giriş ve çıkış kayıtlarının gönderilmesinin istenilmesine,

**16-K.Maraş İl Emniyet Müdürlüğüne ve Emniyet Genel Müdürlüğü Terörle Mücadele Dairesi Başkanlığı'na** müzekkere yazılarak FETÖ / PDY isimli örgüte yönelik olarak, örgüt şeması, örgütün hiyerarşik yapılanmasının ne şekilde olduğu, saik ve amaçları ile eylem tarzının ve kullanılan araçların nelerden ibaret olduğuna ilişkin yapılan çalışmaların ivedikle mahkememize gönderilmesinin istenilmesine,

**17-FETÖ / PDY örgütü ile iltisaklı olduğu ileri sürülen zaman gazetesi, sızıntı ve aksiyon isimli yayın organlarının** bağlı bulundukları şirketlerin 15 Temmuz Darbe girişiminden sonra KHK kararı ile kapatıldığı anlaşılmakla, TMSF'ye müzekkere yazılarak, FETÖ / PDY örgütü ile iltisaklı olduğu ileri sürülen zaman gazetesi, sızıntı ve aksiyon isimli dergilerin abonelik kayıtlarının kurumlarında bulunup bulunmadığı, bulunuyor ise ek de gönderilen iddianamede isimleri yazılı sanıkların ilgili gazete ve dergilere ilişkin aboneliklerinin bulunup bulunmadığı, var ise hangi tarihte abone oldukları ve bu aboneliklere dayanak oluşturan müstenid belgelerin gönderilmesinin istenilmesine,

**18- K.Maraş İl Emniyet Müdürlüğü TEM şube müdürlüğüne** müzekkere yazılarak; dosyamız sanıklarının FETÖ / PDY ile iltisaklı ve irtibatlı olduğu ileri sürülen Zaman Gazetesi, Sızıntı Dergisi vb. Yayın organlarına aboneliklerinin bulunup bulunmadığı hususunun araştırılarak buna ilişkin bilgi ve belgelerin mahkememize gönderilmesinin istenilmesine,

**19-K.Maraş İl Emniyet Müdürlüğü KOM ve TEM şube müdürlüklerine** müzekkere yazılarak; dosyamız sanıklarının FETÖ / PDY mensuplarınca kullanıldığı iddia edilen BYLOCK, EAGLE ve benzeri haberleşme programlarını kullanıp kullanmadıklarının tespit edilmesi ile kullanıyor iseler sanıkların söz konusu uygulamayı hangi tarihler arasında kullandıkları ve özellikle hangi renk kodunda kullandıkları, ayrıca verilen renk kodlarının ne anlama geldiği hususlarının tespiti ile mahkememize bildirilmesinin istenilmesine,

**22-K.Maraş Cumhuriyet Başsavcılığına** müzekkere yazılarak; sanıkların isimleri geçen ve genel nitelikteki iddianameye konu ihbar tutanaklarının tasdikli suretlerinin istenilmesine,

**23-Özel Ceyhan Kolejinin FETÖ / PDY ile irtibatlı ya da iltisaklı kurumlardan olup olmadığının bildirilmesi için Elbistan Emniyet Müdürlüğüne** müzekkere yazılmasına,

**24-KREA İçerik Hizmetleri ve Prodüksiyon AŞ. İsimli kuruluşa** müzekkere yazılarak; kamuoyuna ve basına yansıdığı kadarıyla FETÖ / PDY'nin propaganda aracı olan Samanyolu TV'nin Digiturk platformundan çıkarılması üzerine, FETÖ / PDY üyelerinin buna tepki olarak Digiturk aboneliklerini iptal ettirdikleri anlaşılmakla; dosyamız sanıklarının Digiturk aboneliklerinin bulunup bulunmadığı var ise halen devam edip etmediği, iptal edilmiş ise iptal edilme tarihleri ve bildirilmiş ise iptal sebepleri ile Samanyolu TV'nin Digiturk platformundan çıkarıldığı tarihin hangi tarih olduğu hususun tespit edilerek buna ilişkin bilgi ve belgelerin mahkememize gönderilmesinin istenilmesine,

**25-K.Maraş İl Emniyet Müdürlüğü TEM şube müdürlüğüne ve Ankara İl Emniyet Müdürlüğü TEM şube Müdürlüğüne** ayrı ayrı müzekkere yazılarak; FETÖ / PDY lideri Fetullah Gülen tarafından örgüt mensuplarına verilen/gönderilen 1 USD'lerin hangi serilerden olduğunun tespiti ile mahkememize bildirilmesinin istenilmesine,

**26-K.Maraş İl Emniyet Müdürlüğü TEM şube müdürlüğüne** müzekkere yazılarak dosyamız sanıklarının FETÖ / PDY ile iltisaklı veya irtibatlı olduğu gerekçesi ile Olağan üstü hal döneminde çıkarılan KHK'lar ile kapatılan sendika, dernek, veya STK kayıtlarının bulunup bulunmadığı, dosyamız sanıklarının kendilerinin veya bakmakla yükümlü oldukları çocuklarının yine FETÖ / PDY ile iltisaklı veya irtibatı nedeniyle olağan üstü hal döneminde çıkartılan KHK'lar ile kapatılan eğitim kurumlarında öğrenim görüp görmediklerinin tespiti ile buna ilişkin bilgi ve belgelerin mahkememize gönderilmesini istenilmesine,

**27-K.Maraş İl Emniyet Müdürlüğü ile Emniyet Genel Müdürlüğü Terörle Mücadele Daire Başkanlığı'na ve MİT Müsteşarlığı'na** müzekkere yazılarak FETÖ/PDY silahlı terör örgütü üyelerince kendi aralarındaki haberleşmede kullandıkları ileri sürülen **"ByLock" ve "EAGLE"** isimli haberleşme programlarının nasıl bir program olduğu, yükleme işleminin nasıl yapıldığı, yükleme işleminden sonra nasıl aktif hale geldiği ve nasıl kullanıldığı, "googleplay" veya "applestore" isimli mağazalardan veya internet üzerinden indirilmesinin mümkün olup olmadığı, BYLOCK isimli programın kullanıldığı ileri sürülen KIRMIZI, MAVİ ve TURUNCU renk kodlarının ne anlama geldiği hususlarının tespiti ve buna ilişkin bilgi ve belgelerin mahkememize gönderilmesinin istenilmesine,

The matters which the Terror Assize Court ordered to be investigated as far as the suspects are concerned are in line with the investigations conducted by both the prosecutor's office and police. In this judgment, which has been included in this report as an example, the court ordered an investigation as to the serial numbers of the 1 dollar (USD) bills

although the same was not ordered in the trials of the sample matters above.

In terrorism investigations, when a \$1 bill is found on the suspect or in his house, it is collected as evidence and the imatter is recorded in the case file.



-1 adet B 33446264 K seri numaralı 1 dolar  
-1 adet E 22453526 D seri numaralı 1 dolar  
-1 adet E 52624279 A seri numaralı 1 dolar  
-1 adet B 91882795 S seri numaralı 1 dolar  
-1 adet L 26644871 A seri numaralı 1 dolar  
-1 adet B 67718284 U seri numaralı 1 dolar  
-1 adet E 25176645 J seri numaralı 1 dolar  
-1 adet L 33198084 F seri numaralı 1 dolar  
-1 adet B 23416458 B seri numaralı 1 dolar  
-1 adet K 09997336 B seri numaralı 1 dolar zaptolunmuştur.  
Delil paraların yanında İçinden paraların çıktığı Boş zarflar

Eşyayı Teslim Edenin İmzası

ÖZGÜR KAMIŞLIK 33217  
Emanet İşlemleri Savcısı

Cumhuriyet Savcısı

 e-imzalıdır

According to the ECtHR, “any deprivation of liberty must have a legal basis in domestic law and its implementation must be in full conformity with national law in procedural and substantive terms” (Medvedyev and others v. France, § 120).

When Articles 91/2 of the Turkish Criminal Procedure Code (CMK) and 5/1c of the ECHR are evaluated together, there must be concrete findings that show the minimum reasonable suspicion of crime and convince an objective observer in order to detain a person.

Membership or management of a terrorist organization cannot be committed by negligence; but it can be done deliberately. This crime can be committed knowing that a formation is a terrorist organization and by voluntary actions. Until 15 July 2016, it is unthinkable for normal citizens to knowingly and willingly help and become a member of a formation that was not recognized as a terrorist organization even by the President who handles all confidential information of the state, before that date. Legal activities such as sending a child to school before this date, being a

member of the association, working in schools or institutions belonging to this formation, having an account in the bank or using the program called Bylock, which was closed in February 2016, cannot be a basis for accusations.

As stated in the Memorandum published by Human Rights Commissioner Nils Muiznieks on October 7, 2016, and the Venice Commission’s Report on Decrees dated 12.12.2016, the Gülen Movement was accepted as a completely legal entity before 15 July 2016. Before 15 July 2016, no one considered the Gülen Movement as a terrorist organization. From the statement made by the President on 16 July 2016 at 03:21, “It has been revealed that this group is an armed terrorist organization”, it is clear that the Gülen Movement was not a terrorist organization until 15 July 2016.

For this reason, only concrete evidence after this date can be used as a basis for accusations. All of the issues listed above and accepted as terrorism criteria are legal activities before 15 July, and it is not legally correct to be accused of a terrorist organization due to these activities.

## 06 | Denunciation as a new process

Denunciation literally means reporting, informing, secretly notifying the competent authority of someone he/she considers guilty or an event he/she considers an offense, giving away; in terms of criminal law; It is defined as informing the judicial authorities and law enforcement authorities that an offense has been committed.

This legal process has turned into a witch hunt tool with the directions of the government.

President Erdogan, in a speech he made on 10 August 2016;<sup>22</sup> "You may have friends within that group. I say, expose them! You have to report it to the prosecutor's office. This is a patriotic duty. Intelligence may not know, security forces may not know, or they may not be able

to catch up, look, they are fleeing." He started a new process with his statement. After Erdoğan's speech, denunciations began to be made about the members of the Gülen Movement to the Prosecutor's Office, the Police, the Gendarmerie and the National Intelligence Organization.

While the number of reports made to the National Intelligence Organization (MIT) before 15 July involved about 2 thousand people per month, it reached over 10 thousand per month after the coup attempt. The target of the reports were members of the Gülen Movement. In an article published in the Habertürk newspaper on October 1, 2016,<sup>23</sup> it was said that in Turkey, following the mukhtars themselves, the citizens had also eagerly participated in the denunciation mechanism.



The President called on the public to report the members of the Gülen Movement through a separate hotline set up by the Turkish National Police for this purpose.<sup>24</sup>

Apart from the hotlines, a regulation was issued to give monetary rewards to those who would help catch criminals sought under the Anti-Terror Law.<sup>25</sup> An "Award Commission" of eight people was formed under the chairmanship of the Deputy Minister of the Interior responsible for security affairs. Depending on the information provided, the offense or the perpetrator himself, the upper limit of the reward was determined as 200 thousand Turkish Liras, but it was announced that the amount of the reward could be increased up to 50 times considering the fact that the offender is a senior leader in a terrorist organization or the impact the offense created on the public.<sup>26</sup>





It has been understood from the practices that the purpose of this arrangement and the promised rewards is that the members of the Gülen Movement are reported, detained, arrested and punished.

The purpose of criminal proceedings is to reveal and prove the material truth. However, the proof of the material truth may not be achieved at any cost, but only with evidence obtained in accordance with the law. It is stated in different judgments that unless it is supported by material evidence, a sentence of conviction may not be established by abstract denunciations, as in abstract confessions.

The denunciation system is about reporting to judicial authorities those who are members of the Gülen Movement. The denunciators report

those who they believe are members of the Gülen Movement to the relevant authorities. The contents of the denunciations have been made do not include any information as to a specific terrorism offense has been committed.

Denunciations are generally made to the Police, and those which have been made to different institutions are forwarded to the Police through relevant bodies.

When a denunciation has been received by the police, an investigation is started after the law enforcement officers inform the Public Prosecutor of the same.

After July 15, within a period of 3 months, more than 40,000 people were reported to the Ankara Anti-Terrorism Branch, alleging that they were 'fetoists'.<sup>27</sup> Among these denunciations, the increase in the number of those declaring their children, neighbours and spouses as 'Feto' is worthy of specific attention. As it is understood from the text of the news article in question, notifications are not in the form of informing of criminal acts, but in the form of denunciation of individuals without actually associating them with any criminal activity.



# Examples of Denunciations

A few examples of the denunciations cited as the basis for making search, detention, arrest and conviction decisions in terrorism investigations are presented below. All of the reports are not reports of terrorist crimes in concrete terms, but are reports of people who are said to be members of the Gülen Movement:

Solidarity with Others	1	155 ihbar hattını 15.08.2016 günü saat 11:29 sıralarında arayan ve sesinden erkek olduğu anlaşılan şahsın yapmış olduğu ihbarda; "Tarsus emniyetinde polis memuru ve oğlu [ ] bu da Van da polis memuru ve [ ]'un kızı [ ] öğretmen sanırım ablık yapıyor. Ben [ ]'un kız kardeşi [ ]'la evliydim geçen yıl boşandım ve mahkeme kararıyla çocukların velayeti onlarda kaldı. Ben barışma amaçlı bunların yanına gittim telefonla görüşürken duydum fetö'yle içli dışlı ve yandaşlık yapıyor aile boyu bağlılar, ben geçen ay bu konuyla alakalı iç işleri bakanlığını aradım konuyu ilettim bana net bilgi verenin numarasını vereyim (tel no: [ ] ve [ ] arasında geçen konuşma yapılan numara [ ]) oradan fetö'yle alakalı konuşmaları geçiyor darbeciler alınmaya başladıkça bunlar telefon görüşmelerinde fetö'cular patladı sus kapat çeneni kimse duymasın başımıza iş açacaksın şeklinde konuşmalara şahit oldum. Bu aile apartmanında oturuyorlar adresleri de [ ] de ikamet ederler ihbarım gizli kalsın benim ihbar ettiğim duyulursa bana ve çocuklarıma zarar verebilirler " diyerek telefonu kapatması üzerine;	
	2	<b>İhbar Bilgisi :</b> <b>Konu :</b> Fetö/Pdy terör örgütü <b>Mebusevler</b> İsminin Cüneyt olduğunu söyleyen, [ ] Numaralı telefonu kullanan bir kişi, yanında genç bir adamla Tandoğan'da ofis aramaktadır. Eğitim üzerine çalışacaklarını söylüyorlar. Bu iki kişinin her hareketinden Fetö Pdy terör örgütü üyesi oldukları anlaşıyor. Giyimleri, konuşmaları, oturup kalkmaları terör örgütünün yıllarca maske olarak kullandığı eğitim alanında iş yapacaklarını söylemeleri vs.	
	3	155 ihbar hattını 29.08.2016 günü saat 13.12 sıralarında arayan ve sesinden erkek olduğu anlaşılan şahsın yapmış olduğu ihbarda; "Mahallesi [ ] Sk. Numara [ ] isimli şirket sahibi [ ]'nin fetöye maddi olarak yardım ettiğini biliyorum. Banka hesapları incelendiğinde konu anlaşılır diye düşünüyorum. Biz öğrencilere yardım gönderiyoruz şeklinde sözler söylerti" diyerek telefonu kapatması üzerine;	
	4	<b>Başvuru Metni</b> Fetullah gulen orgutu ile ilgili bir ihbarda bulunmak istiyorum . Ankara calisan bir avukat [ ] ve esi [ ] fetullah orgutune mensup kisilerdir. Kendileri uzakdan akrabam olur takat vatam hainligi akrabam filan dinlemez. Bayramda bekleyin turkiye ne gorecek diyen insanlar bunlar. Twitter hesabından cumhurbaskanimiza imali sozler yazan sahis bu darbe girisiminden sonra hesabini kapatmistir. Gerekli arastirmalari yapip gerekeni yapacaginizi biliyorum.simdiden tesekkur ederim.	
	5	155 ihbar hattını 08.08.2016 günü saat 01.14 sıralarında arayan ve sesinden erkek olduğu anlaşılan şahsın yapmış olduğu ihbarda; "[ ] ilçesi [ ] mahallesi [ ] caddesi No: 79 [ ] apartmanı altı şahıs elektrikçi dükkânı dükkânın ismi yok. Sahibi adı [ ]. Bu şahıs dün fetöye 10 milyar para gönderdi. Bir şahıs geldi. 10 milyar ald gitti." diyerek telefonu kapatması üzerine;	
	6	155 ihbar hattını 25.07.2016 günü saat 16.18 sıralarında arayan ve sesinden Bayan olduğu anlaşılan şahsın yapmış olduğu ihbarda; "[ ] isimli şahıs telefon numarası yok eşinin ismi [ ] tel no: [ ] Sultanbeyli [ ] otururlar, sürekli toplantılar yaparlar, ben fetöcüyüm diye söyler, oy verme döneminde Recep Tayyip'e oy vermeyin diye baskı yaptılar." diyerek telefonu kapatması üzerine;	
	7	155 ihbar hattını 04.08.2016 günü saat 14:51 sıralarında arayan ve sesinden erkek olduğu anlaşılan şahsın yapmış olduğu ihbarda; "[ ] ilçesi [ ] Mahallesi [ ] Sokak No [ ] 2. Katta bulunan Bolu lu olan [ ] isimli şahıs fetö örgütü üyesidir, bu şahsın eşi olan [ ] isimli şahısta örgüt adına himmet toplar bu şahısların oğlu da Marmara Üniversitesi İlahiyat Fakültesinde okur ancak ismini bilmem bu şahısta fetö örgütü gençlik kollarına bakar" diyerek telefonu kapatması üzerine;	30

Konu : fetö elemanı.

B.N. 1625728

8

merhaba, fetö üyesi olduğunu düşündüğüm 5 yıl yurt dışında fetoculara görev yapan 15 temmuzdan sonra bile fetoya hocaefendi diyerek şavunan bu kişi hakkında araştırma talep ediyorum, ismi [ ] telefonu [ ] ayrıca aşağıdaki vereceğim isimler kesinlikle fetoya hizmet ederek maddi destek veren şahıslardır emniyet tarafından araştırıldığında ortaya çıkacaktır ( [ ] sahipleri ) [ ] sahipleri) detaylı bilgi için telefon numaramdan ulaşabilirsiniz. isminin gizli kalmasını rica ederim.

155 ihbar hattını 11.09.2016 günü saat 12:47 sıralarında arayan ve sesinden erkek olduğu anlaşılan şahsın yapmış olduğu ihbarda;

"[ ] da [ ] yapının ortağı [ ] isimli şahıs 2012 de beni Zaman Gazetesine abone yaptı ve benden 1 kurban parası aldılar. Bu şahıs sürekli fetöye destek veren bir şahıstı. Diğer şahısta inşaat firması sahibi [ ] isimli şahıs. [ ] isimli şahsın telefon numarası [ ] 4-5 aydır tanıyorum bu şahsı. Bu firmanın adresini bilmiyorum. Daha önce ben fetöcülerin evlerinde kaldım. İnsan kendini bunlara (fetöcüler) borçlu hissediyor. 15 Temmuz dan önce durumu çok iyiydi, 15 Temmuz dan sonra benzin param bile yok diyen birisi oldu. Mal varlıklarına el konulmuş da olabilir. Konunu araştırılmasını istiyorum. Bilgilerim gizli kalsın." diyerek telefonu kapatması

9

01.08.2016 GÜNÜ Saat: 18.00 sıralarında haber merkezimiz 155 ihbar hattını arayan bir bayan;

"İyi günler ben Fetö örgütü ile ilgili bir ihbarda bulunmak istiyorum İstanbul! [ ] mahallesi Kızılay caddesi üzerinde [ ] isimli işyerinde daha önce çalıştım buranın sahipleri [ ] ve [ ] isimli şahıslar dır. Bu şahısların Fetö ile bağlantıları var sürekli bu abiler denen şahıslar gelip gidiyordu ayrıca sekreter olarak çalıştımdan sürekli telefon geliyordu Genç işadamları derneğinden telefonlar geliyordu sürekli olarak bu derneğe 5-10-15 bin TL. Para gönderiyorlardı bilgisayardan sürekli fethullah Güleni takip ediyorlardı iş yerinin üstünde bir odaları var Fethullah Gülen kitapları ile dolu devamlı kilitli duruyor gelen abiler ile beni tanışırken bu hanım kızımız da bizden diyorlardı daha sonra benim AKP teşkilatından olduğumu öğrenince yaklaşık 8 ay önce işten atıldılar yaklaşık 2-3 ay çalıştım kendileri de AKP li gibi görünüyorlar"

[ ] MAH OTOGAR YANI [ ] BİNA İÇERİSİNDE ŞİRKET MÜDÜRÜ ODASI YANINDA BULUNA AYRI BİR ODADA. FETÖ ÖRGÜTÜNE AİT KİTAPLAR VE YAYINLARIN OLDUĞUNU AYRICA BUNLARA AİT DÖŞEME ALTINDA ANTALYA ÜNİVERSİTESİ YANINDA DA YERLERİNİN DE OLDUĞUNU ORDADA TOPLANTI SALONLARININ VE YAYIN ARAÇLARININ OLDUĞU BİLDİRİLİR. ESKİ ÇALIŞANI AŞÇI İÇLERİNE GİRMEDİĞİM İÇİN 2 SENE ÖNCE İŞTEN ÇIKARILDIĞINI SÖYLER. AYRICA İLGİLİ BİRİMİN KENDİLERİNİ ARADIKLARI TAKTİRDE YARDIMCI OLCAĞINI SÖYLER

11

155 ihbar hattını 17.08.2016 günü saat 18:55 sıralarında arayan ve sesinden erkek olduğu anlaşılan şahsın yapmış olduğu ihbarda;

"[ ] İlçe Emniyet yakınındaki [ ] Caddesi tarafında bulunan [ ] isimli iş yerinin sahibi [ ] isimli şahıs fetö üyesi, zamanında para desteğinde bulunuyordu." diyerek telefonu kapatması üzerine;

12

155 ihbar hattını 17.07.2016 günü saat 12:52 sıralarında arayan ve sesinden ERKEK olduğu anlaşılan şahsın yapmış olduğu ihbarda;

"[ ] ilçesi [ ] mahallesi [ ] sokak [ ] evleri a blok daire 27 de oturan [ ] ve daire 28 de oturan mütahitlik yapan [ ] isimli şahıslar fetö terör örgütü ile ilişkileri var [ ] isimli şahsın evine sürekli birileri girip çıkar evde Fetö Terör Örgütü propaganda yapıyorlar [ ] isimli şahıs örgüte maddi yardımda bulunuyor " diyerek telefonu kapatması üzerine;

13

14

21.07.2016 tarihinde İstanbul ili Muhabere Elektronik Sube Müdürlüğü'ne "Antalya öğretmen [ ] kendileri amcam olur FETÖ yapısında ve büyük abilerdendir. Ankara'daki toplantılara katılmaktadır. Paralel Yapı Dershanelerinde çalışıyordu ama dershane olayları olduğunda soyismini değiştirerek [ ]'tan, [ ] yaptı. Antalya'nın [ ] Kaymakamlığı'nda Sosyal Hizmet Uzmanlığı yapıyor. Bu darbe olayları çıktığında kansı ve çocuklarının Afyon'a gittiğini öğrendik ama kendisinden haber yok ve telefonlarını açmaz çok şey bildiği kanaatindeyim konuşturulması gerekiyor." içerikli gönderilen ihbarla ilgili olarak;

Konu : Vatana ihanet

15

Elaazgı millî eğitim bakanlığında öğretmen olarak çalışan Erzurum harmanlı [ ] fetocudur...

OPERATOR NOTU :

ÖZCE ÜNİVERSİTESİ İLAHİYAT FAKÜLTESİNDE ÖĞRETİM ÜYESİ OLARAK GÖREV YAPAN [ ] İSİMLİ

ŞAHISLAR FETO TERÖR ÖRGÜTÜ MENSUBUDUR AYRICA BU FAKÜLTEDE BUNLARIN YANINDA OLAN ŞAHISLARDA ÖRGÜT MENSUBUDUR ANCAK İSİMLERİ AKLIMA GELMİYOR BİLGİLERİMİN GİZLİ KALMASINI TALEP ETİĞİNİ BELİRTİR

16

Terror Report

# 07 | Two Examples of Denunciation-Based Terrorism Investigations

What actually happens after a terrorism investigation process has been started will be explained with examples by two separate investigation files. It has been observed that all of the actions which have taken in the said sample files apply in a similar way to other terrorism files.

## 07-1 | 1- “Denunciation subject: FETÖ”

In the denunciation text in the first file which is being shared below as an example, the denunciator claims that the person he is naming is a member of the criminal organization and works for it. He states that the person he is reporting as a member of a terrorist organisation

is a teacher, but does not provide any concrete information to back up his claim that the person is actually a member of a terrorist organization. (The name of the teacher mentioned in the denunciation is changed and will be referred to as 'Teacher X' henceforward.)

İHBAR KAYIT NUMARASI	:	786282
İHBAR TARİHİ	:	18-09-2016 20:06
İHBAR ŞEKLİ	:	E-Posta
İHBAR KONUSU	:	FETÖ
OLAY YERİ	:	
OPERATOR NOTU	:	ELAZIĞ DA ÖĞRETMENLİK YAPAN ERZURUM NARMAN LI FETOCUDUR Bİ SUREDE ABLALIK YAPAN FETÖYE ÇALIŞMIŞTIR.BİLGİNİZE.MM

After the said denunciation had reached the security forces, the intelligence unit, the Anti-Terrorism Branch, and the Anti-Smuggling and

Organized Offense Branch were all informed by the unit which received it. Following that, an investigation was started.



**HBARA YAPILAN İŞLEMLER :**

18-09-2016 20:08 tarihinde 2320-İST|HBARAT()’e Genel Anons Yapıldı.

18-09-2016 20:08 tarihinde 2420-TEM()’e Genel Anons Yapıldı.

18-09-2016 20:08 tarihinde 3420-KOM()’e Genel Anons Yapıldı.

İş bu ihbar tutanağı tarafımızdan tarzimize imzalanmıştır.

18.09.2016 20:10

Following the informing of different police departments, an ‘investigation’ started to be carried out by the Anti-Terrorism Branch Directorate regarding X who was named in the denunciation, to determine whether she was actually a member of a terrorist organization. It

is understood from the investigation file that, at the start of the investigation, the only evidence which could be taken as grounds for accusing X of membership to a terrorist organization was the denunciation.

**TUTANAK**

Ankara Cumhuriyet Başsavcılığı Anayasal Düzene Karşı İşlenen Suçlar Soruşturma Bürosunun yürüttüğü 2018/15377 sayılı CBS soruşturma dosyasına istinaden 23/01/2018 tarihinde verilen talimat ile 1.Liste ;18 (ONSEKİZ) ve 2.Liste ; 20 (YİRMİ) şahıs ve yakınları (anne, baba, eş, kardeş ve çocuk) hakkında Bylock kaydı, Bank Asya hesap hareketleri, başka il ve ilçelerdeki Cumhuriyet Başsavcılıkları tarafından haklarında soruşturma yapıp yapılmadığı, dernek veya vakıf üyeliklerinin bulunup bulunmadığı, FETÖ/PDY isimli terör örgütü yöneticileri ile irtibatlı olup olmadıkları, FETÖ/PDY silahlı terör örgütü ile irtibat ve iltisakı tespit edilen ve diğer Cumhuriyet Başsavcılıkları tarafından haklarında soruşturma yürütülen kişiler ile aralarında herhangi bir bağlantı bulunup bulunmadığı gibi bilgilerin gönderilmesi istenilmektedir. Şube Müdürlüğümüzde KOM bilgi sisteminden **SORGULANAN KAYITLAR, KRİZ MERKEZİ VERİSİ, SORUŞTURMALAR (EKİP), BANK ASYA, BELGE EVRAK/DERNEK, ŞİRKETLERİ SORUŞTURMA (EKİP), ŞİRKETLERİ BANK ASYA, ŞİRKETLERİ BELGE EVRAK, BYLOCK, TEPE YÖNETİMİLE İRTİBAT, ŞÜPHELİ ŞİRKETTE SGK KAYDI, ŞÜPHELİ ŞİRKETTE (EKİP) SGK KAYDI, SORUŞTURMALAR (ARŞİV), ŞİRKETLERİ SORUŞTURMA (ARŞİV), ŞÜPHELİ ŞİRKETTE (ARŞİV) SGK KAYDI** modülleri üzerinden sorgulama yapıp alınan veriler tutanağa aktarılmaktadır.

**1.SORGULANAN KAYITLAR:** FETÖ/PDY örgütü kapsamında oluşturulan veri havuzunda sorguları yapılan T.C. kimlik numaralarını gösterir tablo;

The document above which is titled “Record” which was prepared by the police, explains the headings under which the investigation was carried out about the person it is about. It is also

understood from the document that separate investigations were carried out concerning the mother, father, spouse, siblings and children of the person.

In the case of teacher X, following a search on Facebook, a report was prepared stating that the user could not be found, and no accusation was made in that context. According to the document named WEB Search Report, social media accounts

of individuals in social media such as Facebook or Twitter are examined by law enforcement officers, and where social media posts are determined to be terrorism propaganda, a report is prepared in that regard.

<p style="text-align: center;"><b>WEB ARAŞTIRMA RAPORU</b></p> <p>Terörle Mücadele Şube Müdürlüğü'nün EBYS-2016.09.29-10.17.30.520-81 sayılı EBYS yazısı ekinde belirtilen şahısların FETÖ/PDY terör örgütünün propagandası anlamında paylaşımlarına yönelik açık kaynak araştırılması yapılması istenmiştir.</p> <p>Bahse konu yazıda belirtilen [redacted] isimli kullanıcıdan Sosyal paylaşım sitesi <a href="http://www.facebook.com.tr">www.facebook.com.tr</a> adresinde birden fazla kullanıcı olduğundan tespit yapılamamıştır.(Resim 1 ve 2)</p>
---

Anti-Terror police conducted an investigation on the twitter accounts of teacher X, and checked

what kind of tweets he posted, who she followed and which tweets she liked.

<p style="text-align: center;"><b>WEB ARAŞTIRMA RAPORU</b></p> <p>Terörle Mücadele Şube Müdürlüğü'nün EBYS-2016.09.29-10.17.30.520-81 sayılı EBYS yazısı ekinde belirtilen şahısların FETÖ/PDY terör örgütünün propagandası anlamında paylaşımlarına yönelik açık kaynak araştırılması yapılması istenmiştir.</p> <p>Bahse konu yazıda belirtilen [redacted] isimli kullanıcıdan Sosyal paylaşım sitesi <a href="http://www.twitter.com.tr">www.twitter.com.tr</a> adresinde birden fazla kullanıcı olduğundan tespit yapılamamıştır.(Resim 1 ve 2)</p>
---

It is understood from some reports prepared in this context that there was no legal criterion in the evaluations made by the police and that the evaluation was shaped according to the evaluations of the politicians. It is also observed that some of the law enforcement officers who carried out the checks did not have any knowledge about the use of social media, but they nevertheless prepared a report stating that offense of terrorist organisation propaganda had been committed.

This may be deduced from two different examples found in the search records. In the document below, it is observed that the Facebook account of the person about whom the search was conducted was examined. In the determination made by law

enforcement officers, it was stated that the person liked the news site samanyoluhaber.com and that that site was linked to FETÖ/PDY.

There is no legal basis for following or liking a news site that is not covered by any prohibition as terrorist organization propaganda.

Moreover, according to the screenshot in the report, it is understood that the person in question did not include the site named samanyoluhaber on his list of likes, but rather it was just a suggestion by the Facebook algoritme. The law enforcement officials who prepared a report on a subject which they obviously did not know anything about concluded that propaganda for a terrorist organization was made.

**SAYI** : TT.50171348 - 185.06.04 - 232406  
**KONU** : Tivibu İptaller

04.10.2016

**T.C. ELAZIĞ VALİLİĞİ**  
(Elazığ İl Emniyet Müdürlüğüne)  
ELAZIĞ

03.10.2016 tarih ve 12022625-13378-12422-2016/ sayılı yazınızda belirtmiş olduğunuz şahıslara ait TIVIBU abonelik iptal bilgileri yazımız ekinde iletilmiştir.  
Bilgilerinize arz ederiz.

**EMNİYET MÜDÜRLÜĞÜNE**  
**ELAZIĞ**

İlgi :03/10/2016 Tarihli ve 12022625.13378- sayılı yazınız.

İlgi yazınız ekindeki listede ismi bildirilen şahısların, 667 sayılı KHK kapsamında 23/07/2016 tarihinde el konularak kapatılan FETÖ/PDY'ye mensup özel okullarla ilgili E-Okul sisteminde yapılan sorgulama neticesinde elde edilen bilgiler ilişikte sunulmuştur.

Bilgilerinize arz ederim.

**Ahmet BAĞLITAŞ**  
MİLLİ EĞİTİM MÜDÜRÜ

**ELAZIĞ VALİLİĞİ**

**İl Emniyet Müdürlüğü'ne**

TEM şube tarafından 12022625-13378-(63044-2016/ ) sayı ve 03.10.2016 tarihli Ekli listede TC kimlik numaraları bulunan şahısların yapılan araştırmasında hiçbir üyelik kaydı bulunmamıştır.

**ELAZIĞ VALİLİĞİ**  
**İl Emniyet Müdürlüğü**  
**ELAZIĞ**

İlgi:03.10.2016 Tarih ve 12022625-13378- sayılı yazınız.

İlgide kayıtlı yazınız ekinde gönderilen 20 kişilik listede ismi geçen şahısların özel sektörde geçen çalışmaları sorulmaktadır. Kayıtlarımızın tetkiki ile kişi bazında düzenlenen listeler yazımız ekinde sunulmuştur.

Arz ederim.

**Ayhan PALAOĞLU**  
İl Müdürü a  
Müdür Yardımcısı

After the database and open-source research, which is of intelligence in nature, a report is prepared. In that report, it is stated under which heading the person in question has a record. If a record is found under any heading, the arrest, search and detention procedures are initiated concerning him.

About 2 weeks after the denunciation was sent to the police, a search and arrest warrant was issued for teacher X, and she was arrested at 6:35 am by 7 from the terrorism unit police officers for being a member of a terrorist organization.

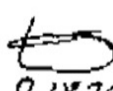
YAYALAMA TUTANAKI

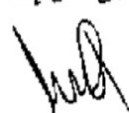
Elazığ Sıh Crtı hatimliginin 2016/38 93 Sogılı korarına

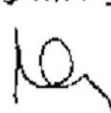
istifaaon Fadı

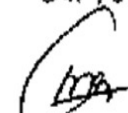
YDY Zorur Örgütü üyesi olma suçlari ile yasal hakları yüzüne  
karsi, okunduktan Sonra Zararimilla Jür olizine alınmistir.

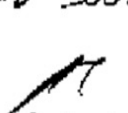
is bu tutanak taraf larca okunup dogrultugu onlosilakt  
Zon Sonra imza altına alınmistir 04.10.2016 Saat 06<sup>35</sup>

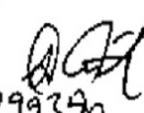
  
218706

  
171026

  
178242

  
186110

  
22262

  
299390

185033

Article 98 of the Criminal Procedure Law specifies the circumstances in which the “arrest” shall be made; ‘At the investigation phase, an arrest warrant may be issued by the Criminal Judge of Peace at the request of the Public Prosecutor, concerning the suspect who did not appear as summoned or could not be summoned’. Teacher X was taken into custody at his home by 7 police officers from the terrorism unit at around 6:00 am without being summoned give her statement at the investigation phase.

In line with the decisions of the ECtHR, as far as terrorism offences are concerned an “arrest” order may be made based on ordinary suspicion. This is due to the great danger that organized terrorism offences pose to society. However, this is not the case in Turkish law. Following the 2014 amendment, terrorism offences have been included in general jurisdiction, “concrete evidence which indicate a strong suspicion” (CMK 100/1) is a prerequisite for arrest.



According to the decisions of the ECtHR, there should be “reasonable suspicion” in order for an arrest warrant to be issued in terrorism offences, and so as to determine whether there is reasonable suspicion an objective observer must assume in advance that there are grounds or information that would enable him to conclude that the person concerned may have committed the offense.

The fact that an ambiguous and anonymous denunciation text has been cited as the grounds for teacher X’s arrest shows that the arrest warrant is unlawful.

Following the search conducted at X’s house, his phone and sim card were confiscated, and it was recorded that there was nothing criminal was found.

According to Article 116 of the Code of Criminal Procedure where there is reasonable suspicion that criminal evidence might be found, a suspect’s person, belongings and home may be searched. It has been observed in the files we have examined that in the majority of the searches carried out in connection with teacher X as well as searches made in other similar files which concerned allegations of terrorism offences, the searches were carried out in order to find something that might be used as evidence, not upon reasonable suspicion that evidence could be obtained.

[redacted] kullandığı LG 63 marka cep tlf (imral 3541520607 23 237) bu tlf takılı olduğu 6417 AYFA 665532 Yoten sim kartı, teprimizce el konulmuştur buşkara ikametle her hangi bir suç ve suç işlenmesi hususunda yapılan aramaya 01.10.2016 günü Saat 07:10 Son verilmiştir

In the case of X, as stated in the report prepared following the search, the fact that no criminality has been found, allows to conclude that there existed no reasonable suspicion to enable the search.

Teacher X was taken into custody following the search. Decision to take into custody is a procedure separate and independent from arrest. The judicial police has been given the power to arrest only. Order to take into custody may only be given by the public prosecutor (CMK 91). The decision of the Public Prosecutor’s Office to take the arrested person into custody is subject to two conditions; The necessity of the detention measure and the existence of

concrete evidence that that the person has actually committed the offense.

The statement of teacher X was taken by the anti-terrorism police concerning the accusation of membership to a terrorist organization three days after he was taken into custody. The questions asked by the terror police are important in the sense that they show the scope of the investigation and the grounds for the accusation. In the light of other similar investigation files, it can be said that similar questions were asked to those who have been accused of being a member of a terrorist organisation

## Questions Asked to the Suspect of Terrorism

Questions asked to X teacher who was detained for being a member of a terrorist organization;



QUESTION 1: Which schools did you go during your primary, secondary, high school and university education and when? In which years were you appointed as a teacher and following which exams? Which exams have you taken so far and how many scores did you get? What year were you appointed as a teacher and what is the score on which the appointment is based? Could you give detailed information about this?



QUESTION 2: How many children do you have? Which schools do they attend? If your children have already graduated, from which school and when? What do your children do? If your children are civil servants, when did they become civil servants and what is their role in the institution they work? Can you give information about this?



QUESTION 3: As a result of the correspondence with the Provincial Directorate of National Education, it has been determined that you sent your son Emin Üzümlü to the private Yavuz Selim-Güzide Hanım Primary School in the 2014/2015 academic year and the 2015/2016 academic year. It has been understood that Private Yavuz Selim-Güzide Hanım Primary School was closed down with an emergency decree law due to its connection with the FETÖ/PDY terrorist organization. Do you know that this school has ties to the FETÖ/PDY terrorist organization? Why did you choose this school? Is there a special purpose in choosing this school? Is there anyone who directs and instructs you to enrol your child in this school? If yes, what are the details of his ID? Give your statement on this subject? (The letter from the Ministry of Education was shown and read to the person)



QUESTION 4: Have you had any relatives who took the Public Personnel Selection Exam (KPSS)? If yes, how many points did he get, was he appointed to any institution? Do you have any relatives or acquaintances who have undergone judicial and administrative investigations regarding the KPSS exam? Can you comment on this?



QUESTION 5: Anywhere in the country, together with the members of the FETÖ/PDY terrorist organization; Have you been in an event under the name of a meeting or a camp at its hotels or thermal spas?



QUESTION 6: Do you have passport and driver's license? Have you ever travelled abroad legally/illegally? If you have been abroad, who did you talk to and about what? Do you know the full identity details of the person you met with and what does this person do?



QUESTION 7: Do you have a mobile phone which you use? In whose name it is registered to, and since what date have you been using it?



QUESTION 8: Do you use social messaging programs such as Whatsapp, line, messenger, telegram, hangouts, bylock, coverme, eagle, and if so, which messaging programs do you use?



QUESTION 9 : Police 155 Police Helpline has received several reports on your behalf that you are a member of the FETO/PDY terrorist organization. (All 155 calls and e-mail notifications were shown and read to the person.) Why are there many reports about you that you are a member of the FETÖ/PDY terrorist organization and that you are a sister in the organization? What is sisterhood within the organization? In which provinces have you acted as a sister for the organization so far? What are the criteria in order to become a sister in the organization? As a sister, what is your role in the organization? Give your statement on this subject?



QUESTION 10: As a result of the investigation carried out about you, it has been found that you had worked in Ses Special Education (2005/2006), Akmer Education and Press Release (2006/2007), Sema Press Education Centre (2008/2009) as evident in the correspondence of the Provincial Directorate of Social Security. It has been assessed that the aforementioned institutions have been closed because they have links with the FETO/PDY terrorist organization. Give your statement on the subject? (Document printed out was shown to the person)



QUESTION 11: Do you have any relatives or acquaintances who have been active within the FETO/PDY terrorist organization, arrested, detained or convicted in Turkey or other countries? If yes, tell us what you know about full identity information.



QUESTION 12: Is there any person or persons that you know who are active within the FETO terrorist organization in the city center, districts and villages of Elazig? Can you explain in detail?



QUESTION 13: Have you ever carried out any activity abroad on behalf of the FETO/PDY terrorist organization? Have you come into contact with any person operating on behalf of a terrorist organization abroad? Explain in detail.



QUESTION 14: Do you have contact with organizations such as associations, unions, non-governmental organizations where the Fetö terrorist organization operates, explain in detail what you know about these organizations?



QUESTION 15: Can you explain in detail who or which organizations are helping the FETO terrorist organization in the country and abroad, how and by whom these aids are passed on to the FETO/PDY terrorist organization?



QUESTION 16: Are there any media that you subscribe to, that you follow constantly, or that you are involved in the printing, distribution and selling of, how are the activities of the said media organised, what is the foreign connection of this media?



QUESTION 17: Have you ever been given anything by the FETO/PDY terrorist organization to safekeep it on you/at home/at your workplace?



QUESTION 17: Have you ever been given anything by the FETO/PDY terrorist organization to safekeep it on you/at home/at your workplace?

When the questions are examined, it is understood that the questions are generally about her affiliation with the Gülen Movement, and that no questions about an offense committed within the scope of the anti-terror laws are actually asked.

After giving her statement at the police, teacher X was taken to the Criminal Judgeship of Peace by the public prosecutor for her arrest. Following her questioning by the Criminal Judge of Peace, teacher X

was arrested for "Membership to an Armed Terrorist Organization".

As understood from the statement of X taken at the Criminal Court of Peace, being a member of a specific union, having an account at Bank Asya, using Bylock and the denunciation statement of an unknown witness have been taken as grounds for her accusation of membership to a terrorist organization about X teacher.



**ŞÜPHELİ****MÜDAFİİ HUZURUNDAKİ SAVUNMASINDA:**

Ben emniyet müdürlüğünde vermiş olduğum beyanlarımı tekrar ederim, ben atılı örgüt üyeliği suçlamasını kabul etmem, bylock tabir edilen sistemi kesinlikle kullanmadım. Aktif eğitimsen üyeliğim olmadı. Bank Asya hesabını ise sadece Urfa'da çalışmış olduğum özel kurumun maaş aracılığıyla bu banka yaptığı için bu bankada hesabım oldu. İsimsiz bir elektronik ihbarla abla olduğum iddia edilmiştir, bu iddiayı da kesinlikle kabul etmem, benim cemaat yapılanması ile tek bağım atanamadığım dönemde bu yapıya bağlı olduğumu bildiğim bir özel okulda çalışmamdır, üç tane çocuğum vardır en küçüğü 21 aylıktır, tutuksuz yargılanmak isterim dedi.

**T.C. ELAZIĞ SULH CEZA HÂKİMLİĞİ**

Sorgu No : 2016/

**1-Şüpheliler**

isnad edilen "**Silahlı Terör Örgütüne Üye Olma (TCK 314/2)**" suçun vasfı ve mahiyeti, mevcut delil durumu, şüphelilerin ayrı ayrı örgüt yapılanması ile irtibatlı olduğu düşünülen kuruluşlarla irtibatlarının bulunması, hepsinin istihbari araştırmalara göre değişen düzeylerde Bylock tabir edilen ve örgütün gizli haberleşme için özel olarak kurduđu sisteme dahil olduklarının anlaşılması, arama ve el koyma tutanaklarında şüphelilerden ele geçen dijital materyallerin henüz teknik incelemesinin yapılamamış bu manada delillerin tam olarak toplanamamış olması, olay yakalama ve el koyma tutanağı ile diğer belgelere göre kuvvetli suç şüphesinin var olduğu, atılı suçun CMK 100. maddesinde sayılan suçlardan olması nedeni ile tutuklama nedenlerinin var olduğu, kanunda öngörülen ceza miktarı, delillerin tam olarak toplanmamış olması dikkate alındığında şüphelilerin kaçma şüphesinin var olduğu ve bu aşamada adli kontrol hükümlerinin yetersiz kalacağı, tutuklamanın ölçülü olduğu anlaşılacakla şüphelilerin CMK 100 ve devamı maddeleri gereğince ayrı ayrı **TUTUKLANMALARINA, tutanaktan bir suretinin şüphelilere tebliğine (Tebliğ Edildi.)**

2-Haklarında yeteri kadar vicahi tutuklama müzekkeresi çıkartılmasına,

3-Şüphelilerin tutuklama kararına 7 gün içerisinde itiraz etme haklarının bulunduğu hususunda bilgilendirilmesine, (bilgilendirildi, bir sureti elden tebliğ edildi.)

4-Şüphelilerin tutuklandığının Cumhuriyet Başsavcılığı kanalıyla CMK 107. maddesi gereğince bir yakınına veya istediğı bir kişiye haber verilmesine,

5-Soruşturma evrakının ikmali için Cumhuriyet Başsavcılığı'na iadesine,

Dair, ilgililerin kararı öğrendikleri günden itibaren 7 gün içerisinde Hakimliğimize verilecek bir dilekçe veya tutanağa geçirilmek koşulu ile Hakimliğimiz zabıt katibine beyanda bulunmak sureti ile Malatya Nöbetçi Sulh Ceza Hakimliğine itirazı kabil olmak üzere karar verildi.06/10/2016

Katip 149608  
e-imza

Hakim 165565  
e-imza

It is observed that the arrest warrant of teacher X, which is a template, is also used for others arrested on charges of terror organization.



## Collective Arrest Orders

In the decision taken below as an example, it is observed that the detention of more than 300 people arrested in different provinces was re-evaluated in an investigation carried out by the Ankara Public Prosecutor's Office.

Ankara 7. Sulh Ceza Hâkimliği'nin 04.05.2017 tarihli, 2017/416 Sorgu sayılı tutuklama kararı  
Ankara 6. Sulh Ceza Hâkimliği'nin 09.05.2017 tarihli, 2017/464 Sorgu sayılı tutuklama kararı  
Afyonkarahisar Sulh Ceza Hâkimliği'nin 26.08.2016 tarihli, 2016/237 Sorgu sayılı tutuklama kararı  
Mardin 2. Sulh Ceza Hâkimliği'nin 09.05.2017 tarihli, 2017/120 Sorgu sayılı tutuklama kararı  
Ankara 2. Sulh Ceza Hâkimliği'nin 06.05.2017 tarihli, 2017/534 Sorgu sayılı tutuklama kararı  
Ankara 1. Sulh Ceza Hâkimliği'nin 08.05.2017 tarihli, 2017/504 Sorgu sayılı tutuklama kararı  
Ankara 2. Sulh Ceza Hâkimliği'nin 06.05.2017 tarihli, 2017/528 Sorgu sayılı tutuklama kararı  
Ankara 2. Sulh Ceza Hâkimliği'nin 06.05.2017 tarihli, 2017/519 Sorgu sayılı tutuklama kararı  
Ankara 7. Sulh Ceza Hâkimliği'nin 08.05.2017 tarihli, 2017/421 Sorgu sayılı tutuklama kararı  
Afyonkarahisar Sulh Ceza Hâkimliği'nin 26.09.2016 tarihli, 2016/284 Sorgu sayılı tutuklama kararı  
Afyonkarahisar Sulh Ceza Hâkimliği'nin 08.05.2017 tarihli, 2017/176 Sorgu sayılı tutuklama kararı  
Konya 1. Sulh Ceza Hâkimliği'nin 09.05.2017 tarihli, 2017/438 Sorgu sayılı tutuklama kararı  
Afyonkarahisar Sulh Ceza Hâkimliği'nin 08.05.2017 tarihli, 2017/176 Sorgu sayılı tutuklama kararı

Şüphelilerin üzerilerine atılı kuvvetli suç şüphesinin varlığını gösteren olguların ve tutuklama nedeninin bulunması, üzerine atılı suçun vasfı ve mahiyeti, mevcut delil durumu, suça dair yasada yazılı cezanın üst haddi dikkate alınarak 5271 sayılı CMK'nın 108/1 maddesi uyarınca **şüphelilerin ayrı ayrı TUTUKLULUK HALLERİNİN DEVAMINA,**

Tahliye talebinde bulunanların tahliye **taleplerinin REDDİNE,**

Kararın C. Başsavcılığınca şüpheli veya şüpheli müdafisine **tebliğine,**

Hazırlık Evrakının Cumhuriyet Başsavcılığına **iadesine**

İş bu karara CMK 267-268 maddeleri uyarınca tebliğ tarihinden itibaren 7 gün içerisinde hakimliğimize verilecek bir dilekçe veya zabıt katibine yapılacak bir beyan ile tutanağa geçirilmesi ve hakime onaylatılması suretiyle itirazının kabil olduğu

İtiraz merciinin Ankara 3. Sulh Ceza Hakimliği olduğuna karar verildi.30/05/2017

Katip 181064

Hakim 120718

In this decision, which was included here as an example, the detention of more than 300 people were re-evaluated. With a four-line decision in which only the names of the people in detention were cited it was ruled that their detention would continue without making any concrete assessment about them.

It is observed that no concrete re-assessment was made in the detention order given by the Criminal Judge of the Peace regarding 10 people including teacher X an, and that the decision was made using broadly, without specifying any concrete evidence concerning X herself. An investigation was started against teacher X for membership to a terrorist organization after several unknown persons reported her, a search, arrest and detention order was following an investigation on the police database only. The file of teacher X is similar to other terrorism offence files, and it has been observed that in over 1,000 files that we have examined the same procedure was followed.

The procedures carried out within the scope of the investigation regarding the X teacher were explained above. In the process that started with an anonymous phone call that did not contain any concrete accusations, after the investigations carried out within the scope of the research titles accepted as terrorism criteria, teacher X was arrested after a short decision that did not contain any concrete justification.

X teacher, a mother of 3 young children and caring for her mother with cancer, was arrested on the grounds of her activities, which are considered a constitutional right, without being associated with a concrete act of terrorism. Considering the practices of the High Criminal Courts and the Supreme Court, teacher X will be sentenced to at least 6 years and 3 months in prison as a result of the trial.

Mehmet Yılmaz, Deputy Chairman of the High Council of Judges and Prosecutors (HSYK), made a statement to the Cumhuriyet Newspaper on September 22, 2016, "As you know, there was a debate about whether this organization is an armed terrorist organization. In order for this to become criminal, an armed terrorist organization had to be identified. ... On that day, on the night of the coup, when the clear statement that this organization was a terrorist organization, and the evidence that no one could object to, the Ankara Chief Public Prosecutor's Office opened an investigation in accordance with Article 314 of the Turkish Penal Code, which regulates the crime of membership in an organization..."<sup>28</sup>

As can be understood from this statement, although a senior member of the judiciary stated that someone could not be charged with an armed terrorist organization until 15 July, it is not correct to accuse only a teacher as a member of a terrorist organization.

The following statements are also included in the indictment of the lawsuit against the leaders of the terrorist organization, which was heard at the Ankara 4th High Criminal Court and referred to as the Roof case.

'Believers, sincere members of the community who do all their work for the sake of Allah, are outside the field of criminal law unless they are deliberately involved in a crime. Merely belonging to this movement is not sufficient for punishment. Supporting or sympathizing with this movement, or working in a company, school or private teaching institution, or staying there for a while, is not criminal behavior that creates criminal responsibility. The subject of the investigation is those who know what the crimes committed by the organization that actually manages the organization and who, after learning the truth about the organization, continue in this activity and continue to commit crimes deliberately.'

Contrary to this determination in the indictment against the executives, as seen in the case study, individuals are detained and arrested as members of a terrorist organization on abstract allegations and a verdict of conviction is given.

## 07-2 | 2- “Books found” Investigation

A second file has been examined in order to see whether the terrorism accusations interfered with freedoms in the name of fight against terrorism. The investigation in question too was started following a denunciation. The subject matter of the denunciation, is, in own words of the police, “ books found”.

Upon receiving a report from a member of the public that “there are books written by M. Fethullah Gulen’ and after the meeting with the terrorism offences prosecutor the police department to which the reporting was made, the books were

taken from the place where they were thrown, and fingerprint on them were collected and a terrorism investigation was started against those whose fingerprints were found on the books.

T.C.  
DİYARBAKIR VALİLİĞİ  
İl Emniyet Müdürlüğü

Sayı : 37732461.12598 (13212)-2016/  
Konu : Buluntu Kitap.

25/08/2016 .../08/2016  
C. Savcısı 92585  
T.C. 314/2.

DİYARBAKIR CUMHURİYET BAŞSAVCILIĞINA  
(Terör Suçları Soruşturma Bürosu)

22.07.2016 günü saat:11.00 sıralarında Muhabere Elektronik Şube Müdürlüğüne gelen “Şanlı urfa yolu üzeri Mega Center AVM karşısında bulunan Eminevim isimli işyerinin önünde FETÖ/PDY Terör Örgütü lideri M.Fetullah Gülen'e ait kitaplar var” şeklindeki ihbara istinaden Nöbetçi Cumhuriyet Savcısı (Terör Suçları Soruşturma Bürosu) ile yapılan görüşmede alınan talimatlar üzerine olay yerine gidilmiş, bahse konu kitapların belirtilen adreste olmadığı, çevreden yapılan araştırmada kitapların Peyas mah. 206. Sokak üzerindeki Hazreti Sıddık Camii yanındaki boş arazide olduğu tespit edilmiş olup yapılan incelemede FETÖ/PDY terör örgütüne ait kitapların bulunduğu anlaşılmıştır.

Bahse konu olay ile ilgili olarak tutanak tanzim edilmiş, kitaplar üzerinde parmak izi incelemesi yapılmış olup tanzim edilen evraklar yazımız ekinde gönderilmiştir.

Arz ederim.

The terrorism offences prosecutor was instructed to take statements from people whose fingerprints were found in the books as suspects. The statements of the persons, against whom there was no concrete accusation, were taken by the

police for being members of a terrorist organization, in line with the orders of the prosecutor's office, on the grounds that there were fingerprints on the books which were actually not banned.

## DİYARBAKIR İL EMNİYET MÜDÜRLÜĞÜ'NE

İLGİ: ../08/2016 tarih ve 37732461.12598(13212)-2016/ sayınız.

İlgi sayılı yazınıza istinaden konu olayla ilgili olarak. Parmak izleri tespit edilen kişilerin şüpheli sıfatıyla ifadeleri alınarak hazırlanacak olan evrakların Cumhuriyet Başsavcılığımıza gönderilmesi rica olunur.

MUSTAKİM TÜRKYILMAZ 174685

Cumhuriyet Savcısı

(e-imza)

### The questions asked by the police concerning ‘Found Books’;

When the questions which were put by the police during interview to the people who were taken into custody after their fingerprints were found on the books in question were examined. It is observed that legal activities and constitutional rights were being made the subject of a criminal investigation for terrorism.

?

QUESTION 1: With whom or which dormitories did you stay during your education? Have you received any scholarship or similar financial support during your education? If so, who are these institutions/organisations/persons?

?

QUESTION 2: Do you have a driver's license and passport? Have you ever gone abroad legally or illegally? Give your statement on these matters.

?

QUESTION 3: Are you a member of any political party, union, association or similar organization? If yes, what are the names and purposes of these organizations? Do you have a subscription to magazines, newspapers or membership to any bookstore? In the institution you work for or in any gathering or meeting you attended to, has there been any suggestion or coercion against you to subscribe to, buy or read books-newspapers-magazines etc. belonging to persons who are collaborating with the FETO-PDY terrorist organization. If so, how and by whom? What is the connection of these people with the FETÖ-PDY terrorist organization? Explain.



?

QUESTION 4: Did you stay at private homes, private teaching institutions, schools or courses affiliated with the FETÖ/PDY terrorist organization, or have you ever sent your child to educational institutions affiliated with this organization? What kinds of activities are carried out there? Give your statement on these matters.

?

QUESTION 5: What are the details of your bank accounts that you have used? Why did you open an account with these banks? Have you provided any financial resource to the FETÖ-PDY terrorist organization from these accounts or through other means? Have there been any deductions from your salary or accounts under the name of aid, scholarship or benefaction made by members of the FETÖ-PDY terrorist organization? If so, how often and in what amounts such cuts were being made? To what extent were cuts made? Who determined the sums to be deducted? Was there any explanation given to you about the fate of those deductions and where they were being used? Give your detailed statement on the matter.

?

QUESTION 6 : After the 17/25 December coup attempt, Fethullah Gülen, who was the ringleader of the criminal organization, called for money to be deposited into Bank Asya, and then some members of the organization deposited all their money into their existing accounts or opened accounts to do so, and it is believed that a number of individuals borrowed from their relatives or took out loans from other banks to deposit money into Bank Asya. Has anyone given you any instructions or suggested that you deposited money in Bank Asya? Did you deposit money into this bank after Fethullah GÜLEN's call to do so? If this is the case, explain in detail.

?

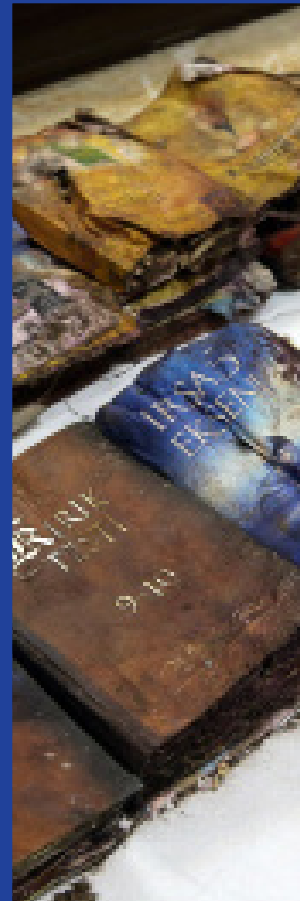
QUESTION 7: Do you have any connection or contact with the FETO/PDY terrorist organization? What is your position within the organization? Who are the person(s) active within the organization? In what events and activities have you participated?

?

QUESTION 8: Tell us what you know about the activities of the FETO/PDY terrorist organization.

?

QUESTION 9: Were there any instructions, orders or anything similar given by members of the FETÖ/PDY terrorist organization for your participation in the coup attempt?







As it can be deduced from the questions asked in the terrorism investigation carried out, they are trying to obtain information through such questions, rather than putting forward concrete accusations or evidence about the person whose statement they were taking.

Although the Code of Criminal Procedure provides that suspects maybe asked about their personal circumstances as part of the police interview, it would not be lawful if such questions interference with his constitutional rights and freedoms. The questions above were not relevant to the criminal investigation which was being conducted.

The vague definition of “terrorism” in the Anti-Terror Law, which has been the most damaging to freedom of expression and publication since its entry into force, has paved the way for arbitrary practices. Because of this uncertainty, the law of terror has been shown as a basis for fingerprint research on burned books, as seen in the photos on the left.

After 15 July 2016, upon the investigation letter of Bakırköy Public Prosecutor’s Office dated 29/07/2016 and numbered 2016/68394, the decision of the Bakırköy 3rd Criminal Court of Peace with the decision dated 29/07/2016 and numbered 2016/3189, regarding Fetullah Gülen and The printing and distribution of 672 books, CDs, DVDs and other electronic materials related to Gülen were prohibited and it was decided to impose a sales ban. The publication dates of the books that were banned are before 2010, and the books that were published in the 1990s were also banned.

All of the banned publications have religious, social, historical and cultural content and do not constitute incitement and/or encouragement to coercion and violence. For this reason, there is no doubt that there is an interference with the freedom of expression and dissemination of thought, since the reason for banning the publications in question is clearly unlawful.

It is clearly unlawful to accept the possession and reading of books that do not encourage coercion and violence as evidence of membership in a terrorist organization and to be sued for this reason.



# 08 | Conclusion, Evaluation and Recommendations

In today's Turkey, torture, kidnappings, unjust detentions, interferences with the independence of the judiciary, expulsion of individuals in violation of international agreements and the principle of non-refoulement, resorting to criminal measures against non-governmental organizations, dissidents, members of the media, human rights defenders and lawyers clearly demonstrate that the most fundamental principles of law are violated in the name of fight against terrorism.

The guarantee in Article 7 of the ECHR (no punishment without law), which is one of the fundamental elements of the rule of law and which according to Article 15 of the ECHR may not be suspended, have been rendered ineffective by the judiciary. Although the aforementioned provision prohibits, inter alia, the extension of the scope of existing offenses to include acts which did not constitute offenses at the time they were committed, and lays down the principle that the criminal law may not be broadly interpreted against the accused in a way, for example, which may lead to inference, the most fundamental principles of law are currently being ignored.

The provisions of the Turkish Penal Code and the Anti-Terrorism Legislation are used by the judicial authorities to punish actions and statements that are considered to be in line with the aims or supposed instructions of a terrorist organization, when there is no material evidence to prove membership to that organization.

As a result of the climate of fear created within the Turkish judiciary, laws are being used as a tool to punish opponents. Human rights defenders are portrayed as enemies of the state or sympathizers of terrorism, and discourses targeting them both personally and as a group are voiced by President Erdoğan himself.

Since the start of the state of emergency, prosecutors and courts have increasingly broadened the scope of offenses against

those they deem as "terrorists" or "members of a terrorist organization". In this context, with the help of terms such as "collaboration" and "connection", which blur the distinction between lawful and criminal acts, prosecutors and courts, instead of reaching the perpetrator through evidence, by presuming motive or intent in the suspect before first collecting and examining available evidence, they seriously expanded the scope of the offense of membership to a criminal organization, in the sense that lawful acts are now considered evidence for membership. The natural consequence of this has been that the trials turned into "proceedings of intent" (*procès d'intention*) in a way that no material evidence could prove a person's innocence.

As a result, the extent and the scale of unlawful interferences with the rights and freedoms guaranteed in the ECHR have increased. The ignorance of the judiciary of the most fundamental principles of law which are the elements of a state ruled by law, such as the presumption of innocence, the non-retroactivity of offenses, not to be tried again for the same offense, the security of law and the foreseeability of acts which constitute an offence, has reached such a point that it has become impossible to foresee whether a comment or criticism aimed at the government would be considered a criminal act by the courts. The Turkish judiciary, therefore, use the law as a tool to punish opponents.



## In Turkey, fundamental human rights are violated during investigations and trials which are carried out under anti- terror laws.

For reasons explained above;



1. The broad interpretation and unpredictable application of the definition of membership of a terrorist organization must be stopped. The principles of “Legality and Foreseeability” of criminal laws should be determined in a way which would leave no room for interpretation and should be adhered to.



2. Penalties should be imposed in case of arbitrary use of laws. In this context, public officials, judges and prosecutors who apply the laws arbitrarily or do not act in accordance with the laws should be liable to damages.



3. In the context of freedom of expression, any expression that does not encourage duress or violence should not be punished, and those who criticize the government should not be treated as terrorists. In this context, the scope of article 7/2 of the Turkish Anti-Terror Law should be narrowed and the article should be amended to make it clearer.



4. The notification system in Turkish Anti-Terror Law Art. 14 should be amended so as to ensure that anonymous and unsigned denunciations would not taken into account. Penalties should be brought against public officials who process unfounded and unsigned denunciations.



5. The Reward System in Turkish Anti-Terror Law (Art. 19) which has turned into a tool to target opponents should be amended.

# INTERVENTION IN FREEDOMS UNDER THE NAME OF COMBATING TERRORIST

20  
22

— ■  
Nurullah Albayrak



1. <https://adlisicil.adalet.gov.tr/Home/SayfaDetay/adalet-istatistikleri-yayin-arsivi>
2. Avrupa Konseyi Direktifi, 2017/541, AB Resmi Gazetede yayın tarihi 31.03.2017
3. <https://hdp.org.tr/Images/UserFiles/Documents/Editor/2021/aihm-sd-karar-2020.pdf>
4. <https://www.yenisafak.com/gundem/fetoden-612-bin-kisiye-islem-3587006>
5. <https://t24.com.tr/haber/bank-asyada-hesabi-olan-1-milyon-600-bin-kisi-inceleniyor,361044>
6. <https://www.cumhuriyet.com.tr/haber/kayyim-atanan-sirket-sayisi-aciklandi-aralarinda-8-de-holding-var-750355>
7. <https://tr.solidaritywithothers.com/closed-institutions>
8. <https://tr.solidaritywithothers.com/closed-institutions>
9. <https://tr.solidaritywithothers.com/closed-institutions>
10. <https://www.sabah.com.tr/gundem/2016/03/14/650-bin-abone-var-ama-ortada-tek-bir-isim-yok>
11. <https://tr.solidaritywithothers.com/closed-institutions>
12. <https://www.slideshare.net/firatacaci/kimse-yok-mu-sunum>
13. <https://www.yeniakit.com.tr/haber/iste-bylock-uygulamasina-kayitli-kullanici-sayisi-264575.html>
14. <https://tr.solidaritywithothers.com/dismissal-by-decree-laws-and-hsk>
15. <https://www.tmsf.org.tr/File/Download?fileId=50696F5F-ACC7-497B-88FE-33D6BC44BA19&typed=1>
16. <https://www.sabah.com.tr/ekonomi/2020/07/15/3-buyuk-grupta-20-bine-yakin-kisi-calisiyor>
17. <https://www.olaganustuhale.com/ohal/pasaport-sorunlari/pasaportu-iptal-edilen-kac-kisi-var-iste-sayisi/>
18. <https://www.korelthermal.com>
19. <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.2709.pdf> II. Temel hak ve hürriyetlerin sınırlanması Madde 13 – (Değişik: 3/10/2001-4709/2 md.) Temel hak ve hürriyetler, özlerine dokunulmaksızın yalnızca Anayasanın ilgili maddelerinde belirtilen sebeplere bağlı olarak ve ancak kanunla sınırlanabilir. Bu sınırlamalar, Anayasanın sözüne ve ruhuna, demokratik toplum düzeninin ve lâik Cumhuriyetin gereklerine ve ölçülülük ilkesine aykırı olamaz.
20. <https://www.dw.com/tr/türkiyede-sosyal-medya-operasyonları/a-36902397>
21. <https://blog.fox-it.com/2017/09/13/fox-it-debunks-report-on-bylock-app-that-landed-75000-people-in-jail-in-turkey/>
22. <https://www.cnnturk.com/turkiye/erdogan-o-camiadan-dostlarinizi-ihbar-edin>
23. <https://www.haberturk.com/gundem/haber/1304185-mite-feto-ihbari-yagdi-basvurular-5e-katlandi>
24. <https://www.kamupersoneli.net/19511/feto-ihbar-hatti-kuruldu/>
25. <https://www.resmigazete.gov.tr/eskiler/2019/11/20191105-1.htm>
26. Madde 5/2, Ödül Miktarının Belirlenmesi: Ödül Komisyonu tarafından belirlenen her bir ödül miktarı 200 bin Türk Lirasını geçemez. Ancak, suç failinin terör örgütünde üst düzey yönetici olması veya ortaya çıkarılan suçun toplumda oluşturduğu infial ve etki de dikkate alınarak verilecek ödülün miktarı, Ödül Komisyonunun önerisi ve İçişleri Bakanının onayı ile 50 katına kadar artırılabilir.
27. <https://www.al-monitor.com/tr/contents/articles/originals/2016/10/turkey-coup-attempt-aftermath-snitching.html>
28. [http://www.cumhuriyet.com.tr/haber/turkiye/604177/HSYK\\_\\_ihraclarin\\_neden\\_darbeyi\\_bekledigini\\_acikladi.html](http://www.cumhuriyet.com.tr/haber/turkiye/604177/HSYK__ihraclarin_neden_darbeyi_bekledigini_acikladi.html)

# Solidarity with Others

[www.solidaritywithothers.com](http://www.solidaritywithothers.com)



Nurullah Albayrak