

JUDICIAL HEARING FOR TUNA ALTINEL
NOVEMBER 19, 2019
REPORT, GREGORY CHERLIN

CONTENTS

1. Introduction	1
2. The court and the courtroom	3
3. The proceedings	5
4. Decisions taken	7
5. Review and conclusion	8
5.1. Review	8
5.2. Status of the case	9
<i>Court records and case file records</i>	
Appendix A. Official hearing record, Balikesir, November 19, 2019 transcribed (Turkish)	11
A.1. Transcription from Audio-Visual Recording system (SEGBİS)	13
A.2. Unofficial English translation of defense testimony, as transcribed from SEGBİS, and edited for clarity	15
Appendix B. Official hearing record, Balikesir, July 30, 2019 transcribed (Turkish)	19
Appendix C. Excerpts from the text of the indictment, July 30, 2019	21
Appendix D. Extract from the dossier: Report on a letter from the Turkish general consulate	24
Appendix E. Statement by Tuna Altinel, Balikesir, July 30, 2019	25
<i>Additional documents</i>	
Appendix F. An appeal to the public by Tuna Altinel, October 27, 2019	27
Appendix G. Glossary and references	28
Appendix H. Timeline	32

1. INTRODUCTION

The distinguished Turkish mathematician Tuna Altinel, Maître de Conférences habilité at the university Lyon 1 (France), where he has worked since 1996, has been the subject of two judicial procedures in his native Turkey.

- (1) The first of these, under the jurisdiction of the Istanbul courts, ended in acquittal on September 16, 2019.¹
- (2) The second, more serious procedure concerned a charge of membership in a terrorist organization, downgraded in the hearing of November 19, 2019 discussed here, to propaganda for a terrorist organization. This procedure resulted in the confiscation of his passport (still not returned) and 81 days

¹Timeline, p. 34; cf. Glossary: Academics for Peace, p. 28

of pre-trial detention, prompting a protest by the French Foreign Minister and statements of concern by a number of professional societies, some of which have sent observers to the proceedings in Balıkesir, Turkey. scope of enumerate.

A detailed report on the first hearing (July 30, 2019) in this second case has been published by the Committee of Concerned Scientists and the American Mathematical Society.²

A timeline and some information relating to the first hearing in this case, as well as the case now resolved by an acquittal, will be found in the appendices, but for a more detailed account we refer to the previous report.

The present report concerns the second hearing in the second case, which occurred on November 19, 2019.³

The initial concerns associated with the second case related to the confiscation of Dr. Altinel's passport and his subsequent arrest and pre-trial detention. He was released from detention after 81 days, on the day of the first hearing. In addition, the prosecutor's request for judicial control was rejected, and Dr. Altinel was released unconditionally, with no legal restrictions, and with no further obligation to attend the hearings; the latter point was repeated in the second hearing.⁴

Nonetheless, the issue of the passport remains unresolved, and Dr. Altinel is obliged to remain in Turkey, a country in which he has neither resided nor worked since at least 1996, when he took up a permanent position in France.⁵ The administrative authorities take the position that his application for restitution of the passport will not be considered until the legal procedures are complete, and the court has taken the position that this administrative issue lies outside their competence, a point of view reiterated emphatically in the second hearing, as we will discuss. In October Dr. Altinel issued a public appeal regarding the issue of the travel interdiction currently imposed on him (Appendix F). Formally, he is under no judicial restriction.

Of major international concern were the charges of membership in a terrorist organization, based on Dr. Altinel's attendance at, and participation as a translator in, a public meeting in Lyon, France by a registered organization under French law. At the first hearing it was revealed that this charge resulted from a report by the Turkish consul in Lyon, monitoring political activity in the area, to the authorities in Ankara. Furthermore it was learned that the Turkish consulate in Lyon had formally, and unsuccessfully, requested the cancellation of this meeting through the French authorities, on substantially the same grounds (Appendix D).

²<https://www.ams.org/about-us/governance/committees/JudicialHearingReportOnTunaAltinel.ByCherlin07-30-19.pdf>.

³A reasonably full account of the proceedings and context for the second hearing also appeared shortly after the hearing as a news article on Bianet, see <http://bianet.org/english/print/216032-prosecutor-demands-academic-for-peace-altinel-be-penalized-for-terror-propaganda>.

⁴However Dr. Altinel continues to attend each hearing and exercises his right to be heard.

⁵At the same time, Dr. Altinel has not sought French citizenship and has remained firmly attached to his native country, making regular and extended visits.

As a result of his participation in that meeting, and his service as a translator, Dr. Altinel was charged under article TCK 314/2 of the Turkish legal code with *membership* in an armed terrorist organization,⁶ namely the Kurdish Society of Lyon and Rhône–Alpes (Amitiés Kurdes Lyon et Rhône–Alpes: AKLRA), a registered organization under French law. There are two distinct elements to the original charge:

- Membership in AKLRA and the assertion that AKLRA is in some sense an affiliate of the PKK (see also Appendix D);
- Dr. Altinel’s service as interpreter on Feb. 21, 2019, at a meeting of the AKLRA in Villeurbanne, near Lyon, for a panel discussion in which former member of parliament Faysal Sariyıldız, now living in exile, was a participant.⁷

However, at the beginning of the November 19 hearing the prosecutor announced that the charge had been substantially reduced to *distribution of propaganda in favor of a terrorist organization* under article TMK 7/2 of the anti-terrorism legislation,⁸ a charge which still is punishable by up to 5 years in prison, and even up to $7\frac{1}{2}$ years when social media are used. The prosecutor submitted no changes to the text of the indictment, or in the evidence offered; see §3. The contents of this indictment were discussed in the previous report (social media postings by Dr. Altinel and other members of the AKLRA, statements by Dr. Altinel during interrogation). Some excerpts from this indictment are also found in Appendix C.

Among the decisions which had been taken at the conclusion of the first hearing was to request from Ankara the full investigative file associated with the accused, and one motivation for scheduling the second hearing was to allow ample time for a reply. No reply was received, and in consequence an additional ruling on this matter was issued on the conclusion of the second hearing (§4, item #2).

2. THE COURT AND THE COURTROOM

I attended the second hearing in Balıkesir on November 19, on behalf of the Committee of Concerned Scientists, the American Mathematical Society, and the Association for Symbolic Logic. Scheduled for 2:00 PM, the hearing began at 2:20 PM and ended at 2:40 PM. I do not speak Turkish and relied on two Turkish nationals present at the hearing for a general sense of what was said; I also discussed some points afterward with one of the two defense lawyers and reviewed the hearing transcripts.

The case was heard in Balıkesir Courthouse by the 2nd ACM (Turkish: Ağır Ceza Mahkemesi, or High Criminal Court). The panel of judges consisted of presiding judge Mehmet Deniz MALKOÇ together with judges Arife Ağaya ÜNAL and Nagehan KISACIK.⁹

⁶Glossary: TCK 314/2, page 30; the indictment lists 6 applicable articles

⁷Glossary: AKLRA, page 28; Sariyıldız, page 30.

⁸Glossary: TMK, p. 31.

⁹When there are two given names, in Turkish usage the *second* given name is the main one.

The public prosecutor was Lokman ARAS and the recording clerk was Recep KÖKLÜ.

Dr. Altinel was represented by the lawyers Oya Meriç EYÜBOĞLU, Esq. and Ahmet İnan YILMAZ, Esq. A French lawyer, Baptiste BONNET, Esq., was present on behalf of the university Lyon 1 and a representative of the French consulate in Istanbul was in attendance. Other observers included a representative of the London Mathematical Society, a representative of the European Mathematical Society, and mathematical colleagues of Dr. Altinel from Lyon and Paris.¹⁰ As Bianet posted a detailed article on the proceedings shortly after their termination, it would appear they had a journalist on the scene as well.

As is the custom in Turkish courtrooms, the hearing room is dominated by a high table at which the three judges on the panel are seated with the presiding judge in the middle. The prosecutor sits at the same table, on the left from the spectators' viewpoint. All others in attendance sit at audience level. Thus the recording secretary sits in front of and below the judges, while the two defense lawyers sat at a table on the right side. The accused sat in the center front, relatively close to the judges, in an enclosed witness area which in this instance was separated from the public by two empty rows of public seating.

The court room is equipped with television screens, divided into one screen showing the panel of judges and one screen showing the current speaker. The courtroom is equipped with an audio-visual recording system (SEGBİS) in Turkish, which fulfills much of the role of a stenographic record, and plays a prominent role in the hearing record—the initial transcript of the proceedings refers to the SEGBİS system for most of the testimony and discussion. However a transcription of the recorded material was ordered by the judge, and appeared in the case file soon after the hearing.

Certain contrasts between the first and second hearings should be noted at the outset. The courtroom itself was the same.

- The first hearing was held during the judicial recess and the personnel was significantly different. The presiding judge was the same in both instances, but the prosecutor and the two associate judges at the first hearing were filling in for their absent colleagues on a temporary basis, as had previously been explained, at the conclusion of the first hearing.
- The atmosphere of the two hearings was strikingly different. The general tone of the first hearing was accommodating to the public, almost diffident in some respects; at the second hearing the tone was much more assertive and the presiding judge was more firmly in control of the proceedings. Part of this may be attributable to the change in personnel (notably, the change in state prosecutor) and part was clearly not so attributable, namely the change in tone of the presiding judge, who presided over both hearings.
- A similar difference in tone on the part of the prosecution may be attributable at least to some degree to the change of personnel. The prosecutor

¹⁰Cf. p. 18.

in the first hearing had seemed uncertain and not well acquainted with the case, to the point that the presiding judge needed to prompt him to address the points raised, and to make concrete recommendations. In the second hearing the new prosecutor took a firm, assertive, and concrete approach to the case from the first.

- In the first hearing, the official limits of the hearing room capacity were set aside in favor of its practical limits, so that 60 of the roughly 200 supporters present were accommodated in a hearing room whose nominal capacity is about 40, and many details of the seating arrangements were left to the supporters to organize.

In the second hearing, the presiding judge made a point of exercising considerably tighter control over the physical arrangements than in the first, strictly limiting attendance to 35 and holding the closest two rows of spectator seating unoccupied.

Supporters of Dr. Altinel arrived by chartered bus from Istanbul, and the court had been apprised of the presence of international observers. Prior to the hearing, a demonstration and press conference was held outside the courthouse from 1:30 PM, attended by about 50 members of the public, many arriving on a chartered bus from Istanbul. A short press conference was also held after the hearing in the same public area.

The case lies far outside the type of cases normally encountered in provincial capitals such as Balıkesir, and there continues to be a very active police presence at these hearings. While Dr. Altinel's arrest initially attracted considerable attention from the Turkish press (in many cases, on the basis of the announced "capture" of a "terrorist" as presented in a press release by the Balıkesir authorities), to the best of my knowledge the case is no longer followed by the mainstream Turkish press, nor the subject of any additional communiqués by the authorities.

3. THE PROCEEDINGS

Throughout the rather brief but substantive proceeding of November 19, the prosecutor and presiding judge were consistently attentive. The two associate judges were less visibly attentive but all were equipped with computers and may possibly have been taking notes or consulting documents at certain points. In particular, they became active, at the end, in the discussion of possible dates for the next hearing.

Proceedings began at 2:20 PM with a statement by the prosecutor. (The reader should recall that the prosecutor at the first hearing was a temporary replacement, and this is the first time the regular prosecutor participated in an open hearing for the case.) He began by stating briefly that rather than charging membership in a terrorist organization under TCK 314/2, he was charging dissemination of terrorist propaganda under TMK 7/2.¹¹

¹¹However the case was still entered on the daily calendar outside the court room as "membership in an armed terrorist group" with number 2019/232.

Ms. Eyüboğlu asked for a full statement of the charges.

The prosecutor's response focused on social media activities (mainly relating to the key public meeting of February 21, 2019 in Lyon, at which a documentary on the Cizre massacres was shown and discussed¹²). At this point the recording system (SEGBİS) was activated.¹³

Dr. Altinel then had the opportunity to respond and spoke concisely but emphatically. The two main points that he made were, first, that the specific posting quoted at length was not a personal message but a text prepared and issued by the organizing body, namely the cultural association AKLRA, and second, that the points made were not propaganda but documented historical facts. He also spoke pointedly of the unresolved problem of his confiscated passport and his inability to leave Turkey, and in particular his inability to resume his employment. (This last point later provoked a vigorous reply by the presiding judge after the formal conclusion of the hearing, to which we will return.)

Having made those points, Dr. Altinel requested his immediate acquittal.

The points made by Dr. Altinel are given by Bianet as follows (cf. note 3).¹⁴

First of all, it is not a personal message, it is a text jointly prepared by the association. What happened in that period has been documented by the reports of human rights organizations. So, what you read was not an example of terror propaganda, but a series of truths.

⋮

I am held as a hostage with my passport confiscated. I demand an end to this situation.

These remarks were followed by an audible reaction among the spectators (murmuring) who were otherwise very silent—an almost palpable silence of attention, and possibly tension.

At this point Ms. Eyüboğlu spoke at some length, to the following effect. The new charges are of the same type as those recently voided by a Constitutional Court decision, though based on different specific points; in this case, declarations made at a public meeting in France, and in the case previously reviewed, the Peace Declaration of 2016—the former actually harsher in tone and more detailed than the text at the opening of the hearing, which have been ruled a valid exercise of free speech. I.¹⁵ Thus after the reduction in charges the case had much the same content,

¹²Glossary: Cizre and Cizre Basement Massacres, pp. 29, 29.

¹³The original transcription is given together with a rough and unofficial translation into English in Appendices A.1, A.2.

¹⁴See also Appendix A.2, p. 15.

¹⁵For the Constitutional Court decision and the Peace Declaration of 2016 see the Glossary under Academics for Peace, p. 28 and the timeline in Appendix H.

and a weaker basis, than the one resulting in acquittal. Indeed, the presiding judge had previously sought to have the two cases joined.¹⁶

Mr. Yılmaz then spoke about international aspects of the case. As Turkey and France are joint signatories of the Council of Europe Convention on the Prevention of Terrorism (CECPT),¹⁷ if Turkey is aware of terrorist activity on French soil the appropriate way to handle it is through communication with French law enforcement.¹⁸ Mr. Yılmaz cast doubts on both the validity of the information, and, by implication, the legality or appropriateness of its collection by the Turkish consulate, without going into great detail, but promising to return to the subject in detail at an appropriate stage, once the file was complete.¹⁹

This was followed immediately by a second brief statement by Ms. Eyüboğlu, listing the observers attending the hearing from various international organizations and submitting their authorization documents together with Turkish translations.

The recording ends here.

The presiding judge, in what seemed to be a very decisive manner, inquired whether the defense was prepared to have a decision taken that day or wished time to prepare the defense.²⁰ It was agreed that another hearing would be held on January 24 at 2:30 PM.

At this point, with the proceedings essentially over, the judge once more addressed Dr. Altınel, stating quite emphatically that the matter of his passport (raised both in Dr. Altınel's opening statement and in Ms. Eyüboğlu's presentation) was not under his jurisdiction. Dr. Altınel replied that he was aware of that point, but felt that it needed to be raised in the courtroom.

Proceedings then closed about 2:40 after 20 minutes of discussion.

4. DECISIONS TAKEN

The official transcript of the hearing does not in itself contain much information as it refers to the audio-visual recording, giving only the names and roles of the speakers. It does however contain a lengthy opening statement by the prosecutor (consisting mainly of quotations from a single post attributed to the defendant), as well as the official rulings resulting from the hearing. Furthermore it was completed by the transcript of the recording system. Both of these transcripts omit the final interchange between the presiding judge and Dr. Altınel.

The following rulings are recorded in the official hearing transcript (Appendix A).

¹⁶This request was denied by Istanbul on the grounds that the charges were different, a distinction invalidated by the reduction in charges, but rendered moot by the prior acquittal in the Istanbul proceedings.

¹⁷Glossary: CECPT, p. 28.

¹⁸According to a report submitted by the Turkish authorities and included in the dossier, the Turkish consulate in Lyon attempted to invoke the intercession of the French authorities in advance of the February 21 meeting in Lyon on such grounds, without success (Appendix D).

¹⁹The tone of this discussion was noteworthy, and readers may wish to consult the rough translation on page A.2 to form their own impression.

²⁰Presumably on formal grounds, as the request had already been made.

- 1- To grant a delay to the defendant and his representatives until the next hearing to prepare their defense on the merits,
- 2- With the understanding that no answer has been received regarding the request to receive the investigative file 2019/121396 of the Ankara attorney general if it is not sealed, to inquire as to their final decision,
- 3- Regarding the transcription of the SEGBİS records from the first session (21 pages) in return for the labor and time spent, the Registrar Emre YILDIRAK should receive 420 TL for the discretionary fee,²¹
- 4- Putting the SEGBİS transcript into the written report in respect of this session, and authorizing the corresponding fees,
- 5- The defendant not being required to appear at the trial, it was decided unanimously that the trial would accordingly be recessed until January 24, 2020 at 14.30 PM.

5. REVIEW AND CONCLUSION

We will summarize the sequence of events up to this point and give an evaluation of the present status of the proceedings. The more detailed timeline of Appendix H has a broader scope.

5.1. **Review.** The main developments with respect to the proceedings in Balıkesir are the following.

- Feb. 2019 Public meeting in Lyon, France, showing a documentary on the massacres at Cizre, with the participation of former Turkish MP Sarıyıldız and the services of Dr. Altınel as translator. Turkish general consulate, Lyon, reports to Ankara on the meeting, the participation by Dr. Altınel, Dr. Altınel's role as a poll watcher in Lyon, and the lack of response from French authorities to the consulate's request to prohibit the meeting. Turkish Ministry of the Interior notified (Appendix D).
- April 2019 On Dr. Altınel's arrival in Turkey, passport confiscated at airport. First international protests and formal statements of support.
- May 2019 While requesting reissuance of passport from the authorities in Balıkesir, Dr. Altınel is interrogated and arrested, and kept in pre-trial detention. Balıkesir authorities issue press release concerning the "capture" of a terrorist affiliated with the PKK.
- June 2019 Questions in French National Assembly; issue raised in Ankara by French Foreign Minister.
- July 2019 Constitutional Court voids trials of Academics for Peace on the basis of their peace declaration of 2016. First hearing in trial of Dr. Altınel at Balıkesir on charges of membership in "terrorist affiliate" group (the registered French association AKLRA). Release of Dr. Altınel from pre-trial detention after 81 days, without judicial controls, and with exemption from the obligation to appear at future hearings. Question of passport declared outside court's competence. Request to join case with ongoing Istanbul case rejected on the

²¹The full transcript was received by the defense approximately three weeks after the hearing.

grounds that the charges are different. Full investigative report from Ankara to be requested for Nov. 19, 2019.

- Sep. 2019 In consequence of Constitutional Court decision, acquittals of many academics charged on the basis of their peace declaration of 2016; in particular, Dr. Altinel is acquitted in proceedings in Istanbul of the charge of making propaganda for a terrorist organization.
- Nov. 2019 Charges in Balıkesir modified from membership in terrorist affiliate to charge of making propaganda for a terrorist organization. Requested report from Ankara not received. Recess until January 24, 2020, to allow defense time to prepare on the basis of the revised charge and to obtain response from Ankara regarding investigative report. Question of passport again declared outside court's competence by presiding judge (not recorded in official transcript).

5.2. Status of the case. At this point Dr. Altinel faces a charge of propaganda in favor of a terrorist affiliate, with a possible penalty of up to 7.5 years (as specified in cases in which social media are used). The basis for this charge is a set of statements along the lines of those previously contained in the peace declaration of January 2016. Dr. Altinel faced the same charge as a result of his signature on that document, in a case which resulted in acquittal in September 2019 on the basis of the Turkish Constitutional Court ruling of July 2019.

The proposal to join the two cases made in July 2019 was rejected by the Istanbul Court on the basis that the charges were different. As of November 2019 the charges are identical, but the first case has already concluded with an acquittal, so this issue is moot.

In the case of condemnation, a relatively favorable outcome would be a conviction for less than two years which might possibly be suspended or reduced to time served. Any such conviction would presumably be appealed and could very easily find its way eventually to the Constitutional Court.

In the view of this observer, it is reasonable to suppose that the court is concerned both with the weakness of the case and the level of scrutiny they are receiving in consequence, but feels pressure to reach some sort of conviction that will not be overturned on appeal. The reduction in charges may be intended as a step toward addressing those three concerns. Now that the court is informed of the defense position and also of the defense's general intentions, as laid out briefly in the hearing testimony, it remains to be seen what attitude the court will adopt in the next hearing. Their firm reluctance, or inability, to intervene or comment on the passport situation, and the concomitant inflexibility of the passport authorities, remains a central difficulty.

The prospects for a return of the passport prior to the conclusion of the case do not appear favorable. The official position of the various competent authorities is that on the one hand this is a purely administrative issue that is not the concern of the court, and on the other hand that the request for a passport will not be considered until the legal proceedings are terminated, a process which could easily continue for years.

At present Dr. Altinel remains unable to fulfill his obligations to the university Lyon 1 or to return to his permanent residence in Lyon. We expect to observe and report on the hearing of January 24, 2020.

Note: It is unclear when a verdict will be reached. It is very possible that this trial will conclude on January 24, 2020, or continue for some time. But this appears to be the critical juncture.

END OF THE REPORT ON THE NOVEMBER 19, 2019 HEARING
FOR TUNA ALTINEL AT BALIKESIR, BY GREGORY CHERLIN
Documentation and contextual information follows

APPENDIX A. OFFICIAL HEARING RECORD, BALIKESİR, NOVEMBER 19, 2019
TRANSCRIBED (TURKISH)

T.C.
BALIKESİR
2. AĞIR CEZA MAHKEMESİ

DURUŞMA TUTANAGI

DOSYA NO : 2019/232 Esas
DURUŞMA TARİHİ : 19/11/2019
CELSE NO : 2.
BAŞKAN : Mehmet Deniz MALKOÇ 125282
ÜYE : Arife AGAYA ÜNAL 193541
ÜYE : Nagehan KISACIK 199054
CUMHURİYET SAVCISI : Lokman ARAS 211139
KATİP : Recep KÖKLÜ 116783

Belirli gün ve saatte celse açıldı.

Sanık Ahmet Tuna Altınel ile sanık vekilleri Av. Oya Meriç Eyüboğlu ve Av. Ahmet Inan Yılmaz geldi. Açık durusmaya devam olundu.

Heyet değişikliği nedeniyle önceki zabıtlar okundu.

Ankara CBS nin 2019/121396 soruşturma sayılı dosyasına müzekkere yazılarak sanık hakkında gizlilik kararı mevcut değilse soruşturma dosyasının bir örneğinin mahkememize gönderilmesinin istenildiği, cevabının dönmediği anlaşıldı.

İDDİA MAKAMINDAN SORULDU: Tevsii tahkikat talebimiz yoktur. Esas hakkındaki mütalaamız hazırdır dedi.

İDDİA MAKAMI ESAS HAKKINDAKİ MÜTALASINDA: Deliller, iddia, sanık savunma ifadeleri, sosyal medya internet paylaşım çıktıları, dosyaya gelen yazı cevapları ve tüm dosya kapsamına göre, sanık hakkında yasadışı PKK/KCK terör örgütü üyesi olduğundan bahisle kamu davası açılmış ise de; sanığın iddianamede atılı 21/02/2019 tarihinde "CİZRE, Cizre Bir Katliamın Hikayesi" başlığı altında; *"Sıcaktı 2015 yazı, çok sıcak! Önce 7 Haziran'dan yükselen umudun sıcaklığı ısıttı barış isteyen yürekleri. Ama çok sürmedi bu. Kaos tüccarları harekete geçmişti. Önce Suruç Katliamı, hemen sonrasında Ceylanpınar'da failleri bulunmasın diye devletin elinden geleni yaptığı polis cinayetleri. Ve devlet tetiğe bastı. Savaş cehenneminin yakıcı, yıkıcı alevleri ortahğı kapladı.*

*Halkların yeni bir yaşam arayışına ses olmaya çalışan özyönetim çabalarına devletin tepkisi tahmin edilenlerin de ötesinde oldu. İnsanlar oturdukları mahalleleri, şehirleri terke zorlandı. Çıkmayanlara onları neyin beklediği söylenmedi bile. Ardından ablukalar, sokağa çıkma yasakları başladı. Meskun mahallelere ağır silahlar, tanklar sokuldu, asker, polis, özel hareketçi yığıldı. * Teröristler hendeklerine gömülecek emri vardı. Oysa savaşın mahalleli gençler, katledilenler sivillerdi. Bebekler, analar, dedeler keskin nisanlıların tercih ettiği hedefler haline geldi. Kanun, vicdan hepsi yerle bir edildi.*

Cizre de aldı payını bu vahşetten. 2015 Ağustosun'dan itibaren sahneye konan savaş oyununun son perdesi 2016 Şubat'ında oynandı. Savunmasız onlarca insan Cudi mahallesinin üç bodrumunda katledildi, yakıldı. Cizre belgeseli bizleri katliam kurbanlarının bazılarıyla tanıştırtıyor. Yasamlarına katılıyoruz, çabalarına tanık oluyoruz, beklentilerini dinliyoruz, onlar üç bes kiloluk kömürleşmiş kemik yığınları haline getiren vahşeti hissediyoruz.

Cizre belgeseli yönetmeninin yöre halkıyla yürüttüğü imece çalışmasının ürünü. İlk yarısında yükselen umutları resmediyor. İkinci yarıda yitirilenlerin yakınlarının tanıklıklarını dinletiyor. Bizleri, yöre halkıyla birlikte yakıntıların arasına sokuyor. Bodrumların bulunduğu binaların yerine TOKİ konutları dikerek suçlarını unutturacaklarını sananlara inat hafızamızı diri tutuyor.

Birlikte yaşam boş bir umut olarak kalmasın! 21 Şubat perşembe günü saat 19'da birlikte olalım. Dönemin HDP Şırnak Milletvekili, olayların tanığı FAYSAL SARIYILDIZ da bizlerle birlikte olacak, tanıklığını paylaşacak, soruları yanıtlayacak.” şeklindeki paylaşımının PKK/KCK terör örgütünün propagandasını yapma suçu kapsamında kaldığı, bu nedenle sanığın yasadışı PKK/KCK terör örgütünü övücü eylem ve fiilleri meşru gösterecek şekilde paylaşımlarda bulunduğu anlaşılacakla eylemine uyan TMK'nın 7/2-2.cümle, TCK'nın 53, ve 63. maddeleri uyarınca cezalandırılmasına,

Karar verilmesi kamu adına talep ve mütalaa olunur, dedi.^{22,23}

SEGBİS kaydına baslandı.

SANIK AHMET TUNA ALTINEL'DEN SORULDU: SEGBİS'le kayıt altına alındı.

SANIK AHMET TUNA ALTINEL VEKİLİ AV. OYA MERİÇ

EYÜBOĞLU'NDAN SORULDU: SEGBİS'le kayıt altına alındı.

SANIK AHMET TUNA ALTINEL VEKİLİ AV. AHMET İNAN YILMAZ'DAN

SORULDU: SEGBİS'le kayıt altına alındı.

SEGBİS kaydına son verildi.

SANIKTAN SORULDU: Duruşmalardan varestede tutulmayı talep ederim dedi.

Dosya incelendi.

GEREĞİ DÜŞÜNÜLDÜ:

1- Sanık ve vekillerine esasa dair savunmalarını hazırlamak üzere gelecek celseye kadar süre verilmesine,

2- Ankara CBS nin 2019/121396 soruşturma sayılı dosyasına müzekkere yazılarak sanık hakkında gizlilik kararı mevcut değilse soruşturma dosyasının bir örneğinin mahkememize gönderilmesinin istenildiği, cevabının dönmediği anlaşılacakla, akıbetinin sorulmasına,

3- SEGBİS kayıtlarının fiziki ortama aktarılmasına ilişkin olarak 1. celsede (21 sayfa) sarf ettiği emek ve mesaisine karşılık olarak Zabıt Katibi Emre YILDIRAK'a 420 TL ücret takdirine, bu hususta sarf kararı yazılmasına,

4- SEGBİS dökümünün bu celse yönünden yazılı tutanaga dökülmesine, buna ilişkin sarf kararı yazılmasına,

5- Sanığın duruşmalardan varestede tutulmasına, Bu nedenle duruşmanın 24/01/2020 günü saat 14.30'a bırakılmasına oy birliği ile karar verildi. 19/11/2019

Baskan 125282 Üye 193541 Üye 199054 Katıp 116783

E-İmza

E-İmza

E-İmza

E-İmza

²²T.C. BALIKESİR 2. AĞIR CEZA MAHKEMESİ Duruşma Tar: 19/11/2019 Dosya No : 2019/232 Esas Bu belge 5070 sayılı Yasa hükümlerine göre elektronik olarak imzalanmıştır** UYAP Bilişim Sistemindeki bu dokümana <http://vatandas.uyap.gov.tr> adresinden xXIRxHf - lGB8+Gc - w6yVX4F - 6iRkFA= ile erişebilirsiniz.

²³The italicized material in blue is a lengthy citation from an announcement of the February 21, 2019 public meeting held in Lyon. The bulk of the hearing was recorded on an audio-visual system denoted SEGBİS, and only the names of the subsequent speakers are given until the system is turned off at the end of the hearing, and the rulings are given.—GC

A.1. Transcription from Audio-Visual Recording system (SEGBİS).

BALIKESİR 2. AĞIR CEZA MAHKEMESİ — 2019/232 ESAS

T.C.

BALIKESİR

2. AĞIR CEZA MAHKEMESİ

DOSYA No : 2019/232 ESAS

SEGBİS KAYDI ÇÖZÜMLEME TUTANAĞI

Balıkesir 2. Ağır Ceza Mahkemesi'nin 2019/232 Esas sayılı dava dosyasının 19/11/2019 tarihli yapılan duruşmasına ilişkin (Celse 2) görüntü kaydının dökümü:

SEGBİS kaydına başlandı.

SANIK AHMET TUNA ALTINEL'DEN SORULDU:

Çok fazla uzatmayacağım.

Bu okuduğunuz bildiri, geceyi düzenleyen derneğin ortaklaşa hazırlanmış bir metnidir. Bir tek benim bundan suçlanmam bence hakkaniyetli değildir. Ayrıca içeriği zaten o dönemde ve ondan sonraki yani bu yaz ve ondan sonraki dönemde 2015-2016 yıllarında yapılmış bir sürü ulusal ya da uluslararası insan hakları raporları tarafından da doğrulanmıştır. Siz şu anda bir terör örgütü propagandasını okumadınız, bir gerçekler silsilesini okudunuz. Bu suçlamayı reddediyorum ve derhal beraatimi talep ediyorum.

Ayrıca geçen sefer siz beni tahliye etmişsiniz, buradaydınız, diğer arkadaşlar, özür dilerim heyet üyeleri burada değillerdi. O dönemden beri pasaportumu alamadım, taciz ediliyorum bir anlamda. Tutuksuz yargılanmama hiçbir yurt dışı yaşayışımın olmamasına rağmen çok hakkaniyetsiz bir şekilde işimin başına dönemiyorum. Türkiye'de mahsur bırakılıyorum, bu ülkeyi benim için bir hapisaneyeye çeviriyor bu idarî kararlar.

Bunu da burada dillendirmek, dile getirmek istedim bir kere daha ve yeniden tekrarlıyorum, okuduğunuz metin bir terör propagandası olamaz çünkü dediğim gibi 2015 yazından başlayıp 2016 yaz başına kadar süren süreç, çatışmalı süreçte olan bir çok insan hakları ihlalleri, uluslararası bağımsız kuruluşlar tarafından şey yapılmıştır, biz de buna karşı üyesi olduğum dernek de buna karşı bir duyarlılık yaratmak için bir gece düzenlemişti, bunun tanıtım metnidir. Bir gerçekler silsilesidir okuduğunuz, propaganda değildir. Derhal beraatimi talep ediyorum ben de.

SANIK AHMET TUNA ALTINEL VEKİLİ AV. OYA MERİÇ EYÜBOĞLU'NDAN SORULDU:

Sayın başkan, sayın heyet, zaten daha önceki duruşmada da hem sözlü hem de yazılı olarak buradaki suçlama konusunun terör örgütü üyeliği olamayacağını tartışmıştık. Dolayısıyla mütalaa, iddianamenin böyle kurulması abeste iştigaldi zaten. Şu an savcılık makamının terör örgütü üyeliğiyle ilgili herhangi bir isnatta bulunmamasına elbette bu yönüyle biz de katılıyoruz ama burada suç yoktur, terör örgütü propagandası suçu da yoktur.

Yazılı olarak bir hazırlık yapmak için de süre talebimiz olacak elbette ama o kadar uzun yoldan geldik, bu nedenle izninizle birkaç cümleyi ifade ederek bu bölümü toparlamak istiyorum.

Müvekkilin yargılandığı bir başka dava vardı, hem tutuklandığı dönemde hem de geçen celse huzurunuzda olduğumuz zaman o yargılama devam ediyordu. O yargılama biraz önce mütalaa dinlediğimiz konuyu içeren dönemde 2015'in ikinci yarısında Cizre'de de yine biraz önce mütalaa okunan alıntılarda da vardı, orada yaşanan, bölgede yaşanan daha doğru ifadeyle, tam olarak söylersem uzun ve aralıksız sokağa çıkma yasaklarının yaşandığı dönemde yaşanan hak ihlallerini içeren 1128 akademisyen tarafından imzalanan bu suça ortak olmayacağız başlıklı metni imzaladığı için yargılanıyordu.

Biliyorsunuz mutlaka çünkü İstanbul 29. Ağır Ceza Mahkemesi birleşme yönünde muvafakat isteyen ara karar da oluşturmuştunuz.

İşte İstanbul 29. Ağır Ceza Mahkemesi'ndeki yargılama sona erdi. Beraat kararını, gerekçeli beraat kararının bir örneğini de mahkemenize sunmak istiyorum. Bizim davamız açısından önemi nedir, tam şu an aldığımız mütalaayla bağlantısı nedir, önemle altını çizmek isterim, aynı konjunktür de, aynı politik iklimde, aynı dönemde yaşanan hak ihlallerini içeren bir metindir söz konusu olan.

Bu metin kıyasladığımızda göreceksiniz, belki de biliyorsunuz zaten, söz konusu olan bu suçta ortak olmayacağız başlıklı metnin kamuoyunda bilinen bir metin olduğu için heyetinize de bilineceğini tahmin ediyorum. Kaldı ki kimi evraklar, 29. Ağır Cezanın kimi evrakları mahkeme dosyasında gelmiş durumda. Çok daha ağır eleştiriler içeren bir metindir ama söz konusu olan metin Anayasa Mahkemesi'nin önüne gitmiştir. Temmuz sonunda Anayasa Mahkemesi Genel Kurulu tarafından metin cümle cümle tartışılmış ve nihayetinde bunun ifade özgürlüğünün kullanımı olduğu, sert eleştiri olduğu ifade edilmiştir. Bu metinle kıyaslanamayacak ölçüde bir dernek tarafından yapılan toplantının çağrı metnini facebook hesabında paylaştığı için müvekkilin yine aynı maddeden terör örgütü propagandası 7/2'den keza 2. cümle de var gördüm onu mütalaanızda. Cezalandırılmasını istemek, her şey bir tarafa Anayasa Mahkemesi'nin bu yakın tarihli kararına da aykırıdır. Bugün bu sınırdaki söylemiş olayım söyleyeceklerimizi. Yakın bir tarihe biz duruşma talep ediyoruz çünkü mahkemenizin ortada hiçbir suç yokken 81 gün özgürlüğünden mahrum kalmış müvekkilimiz için beraat kararı vereceğine inancımız tam.

Maalesef ki pasaportla ilgili de dava açtık, idarî yargıya başvurduk ama yaptığımız idarî başvurularda müvekkilim biraz önce ifade etti, beraat kararı istiyoruz diyen hukukî dayanağı olmayan bir idarî işlemle karşı karşıya kaldığımız için sizin yakın bir tarihe gün vermeniz ve bir an önce dosyanın sonuçlanması önemli ki, Lyon 1 üniversitesindeki görevinin başına, öğrencilerinin yanına akademik çalışmalarının yanına gidebilsin. Bu nedenle süre talebimiz çok uzun olmayan bir süre yönünde olacak. Bunu da gerekçeli kararı da mahkemeye sunmak istiyorum.

Hem gerekçesi yönünden, hem de 7/2 dediğim gibi, hem de içeriği yönünden.

SANIK AHMET TUNA ALTINEL VEKİLİ AV. AHMET İNAN YILMAZ'DAN SORULDU:

Sayın başkanım, muhterem heyet, iddia makamının yani tabii yazılı olarak beyanlarımızda bunu ayrıca tartışacağız ama bir hususa ben mahkemenizin bugünden dikkatini çekme zorunluluğu görüyorum. İddia makamının dayandığı ve biraz önce huzurunuzda okuduğu bir metin var. Bu metnin kime ait olduğu konusunu ben daha önce küçük bir aralıkta tartışmışım ve demiştim ki ülkemizin parçası olduğu bir konvansiyon var. Bunun içerisinde bu toplantının yapıldığı ülke ve biz de varız ve bununla beraber bütün Avrupa Birliği ülkeleri var. Diyor ki, ben topraklarımda terörist faaliyet yaptırmam diyor. Şimdi efendim eğer siz konvansiyon gereğince anlaştığımız partner olduğunuz bir devletin topraklarında terör faaliyeti yapıldığı iddiasında iseniz işin başka bir boyutu daha vardır, dolayısıyla bunun sonuçları düşünülmüş müdür ya da bu tartışmanın bizim tarafımızdan yapılacağı öngörülmemiş midir? Biz bu tartışmayı yapacağız efendim. Siz kendinizin konvansiyonla bağladığımız bir ülkenin kendi toprakları içerisinde bir terör faaliyeti yapıldığı iddiasında mısınız? İddia bu mudur? Şimdi dolayısıyla ben bunu teröre karşı 7 nolu konvansiyon üzerinden konuşuyorum. Bu çerçevede biz bir beyanda bulunacağız ama eğer bu iddia gerçekten cezalandırma için dayanak tutuluyor ise bu delil, bu delilin sıhhatini sorgulamanız gerekir.

Örneğin bu bilgi dosyanıza nereden gelmiştir? Bu gelen bilgi bir internet üzerinde bir şeyse sıhhatinizi sorguladınız mı? Yok efendim Dışişleri Bakanlığı, büyükelçilik, o bakanlık

bu bakanlık diyorsanız ben mahkemenizden bir an olsun bu delilin sıhhatini sorgulayınız. Lyon Büyükelçiliği Lyon'da yapılan bir Fransız derneğinin Fransız yasalarına göre uygun toplantısını kayda mı almış, izlemiş midir soruşunu sormak zorunda kalabilirim. Dışişleri Bakanlığı üzerinden bu soruya cevap temin etmek zorunda kalabilirsiniz ya da doğrudan büyükelçiliğe sorarsınız. Ama bunun da başka türev etkileri vardır.

Sayın başkanım tabi ki biz yazılı olarak savunmalarımızı sunacağız, kıymetli meslektaşım çok güzelce açıkladı ancak dayandığımız delilin kalitesine ilişkin bir tartışma bahse açıktır, bunu şunun için söylüyorum, mahkemeniz huzurunda biz delil tartışması evresini yaşamadık. Bir önceki celse beraberce yaşadık, bir karar verildi. Bu ilk celsemizdir bizim teknik olarak. Biz delilleri tartışmadık, bu delilin sıhhatlerini bilmiyoruz. Dolayısıyla kovuşturmanın bulunduğu evreye uygun olarak neyi tartışacağımız konusunda izin verirseniz biz bütün malzemelerimizi tüketmedik, biz iddia makamının dosyaya koyduğu ve bugün de esas hakkında mütalaaya çevirdiği konuyu konuşuyoruz halen. Onun için esasa ilişkin savunmalarımızı sunduğumuz aşamada bilinsin ki dilekçemiz içerisinde kısaca özetlemeye çalıştığım bazı usul, ceza usulüne ilişkin hususlar da olacaktır. Bu çerçevede belki de mahkemeniz Dışişleri Bakanlığı'na bir büyükelçiliğinin yabancı ülkede o devletin vatandaşlarının düzenlediği yasal bir toplantıyı takip edip etmediğini, takip sonucunda hangi bulgulara ulaştığını sormak durumunda kalabilir. Sadece bunu söylemek isterim, sağolun.

SANIK AHMET TUNA ALTINEL VEKİLİ AV. OYA MERİÇ EYÜBOĞLU SÖZ ALARAK:

Sayın başkan afedersiniz, bir şeyi eksik bırakmışım, direkt mütalaayla başlayınca. Burada yine mahkemenize sunmak üzere Türkçesi ve ilgili dilde metinleri olan bir dizi evrak sunacağım. Özet olarak da söylemek istiyorum, duruşmayı takip etmek üzere huzurda hazır bulunan Sembolik Mantık Derneği temsilcisi, Londra Matematik Derneği, Kaygılı Bilim İnsanları Komitesi, Amerikan Matematik Derneği, Paris Üniversitesi Sorbonne Üniversitesi Ulusal Bilim Araştırmalar Merkezi temsilcileri, Matematik Araştırma Laboratuvarı Lyon'dan, İnsan Hakları Birliği temsilcisi, Clooney Adalet Vakfı, Lyon Üniversitesi temsilcisi ve ilgili yetki belgelerini dosyaya sunuyoruz. Burada kendileri huzurda, bunlar da görevlendirme belgeleri. İlgili dildeki orijinali ve Türkçesi.

SEGBİS kaydına son verildi.

Katip 116783

Başkan 125282

****Bu belge 5070 sayılı Yasa hükümlerine göre elektronik olarak imzalanmıştır****

A.2. Unofficial English translation of defense testimony, as transcribed from SEGBİS, and edited for clarity.

SEGBIS RECORD RESOLUTION MINUTE
CONTENT OF THE VIDEO RECORD OF THE CASE FILE
OF THE BALIKESIR 2ND HIGH CRIMINAL COURT
ON THE DATE OF 19/11/2019 (CELSE 2):

SEGBIS recording started.

TUNA ALTINEL:

I will not be very long.

The text cited is a jointly prepared announcement by the association organizing that night. I do not think I am the only one responsible. In addition, its content has already been confirmed by a number of national or international human rights reports made during and after that year, in the summer and thereafter in 2015-2016. You have not been reading

terrorist organization propaganda, you have read out a series of facts. I reject this accusation and demand my immediate acquittal.

You also released me last time, you were here, the other friends — I'm sorry, the other members of the delegation²⁴— were not present. I have not received my passport since then, in a sense I am being harassed. Although I have no ban on international travel while at liberty during my trial, I very unjustly am unable to return to my work. I am left stranded in Turkey, this administrative decision is turning this country into a prison for me. I wanted to express this point here, and once again I reiterate, the text you have just read cannot be construed as terrorist propaganda.

As I said, in the period starting from the summer of 2015 to the beginning of the summer of 2016, in the course of the conflict there were many human rights violations. Something has been done by independent international organizations, and the association of which I am a member was also concerned and organized a night to foster awareness of the issue, for which this is the introductory text. What you have read is a series of facts, not propaganda. And I demand my immediate acquittal.

OYA MERİÇ EYÜBOĞLU, ESQ.:

Mr. President, Your Honors, we have already discussed in the previous hearing, both verbally and in writing, that the charge here cannot be that of membership in a terrorist organization. Therefore, the formulation of such an indictment was already preposterous. Of course, we also agree with the omission by the prosecution of any reference to membership in a terrorist organization;²⁵ but there is no crime here, and no crime of propaganda for a terrorist organization is to be seen.

Of course we will request time to prepare a written brief, but having just come a long way to attend, I would like to summarize in a few sentences, with your permission.

Our client was tried in another case, ongoing both at the time of his arrest and when we attended the previous hearing. He was on trial for signing a text signed by 1128 academics including references to violations of human rights during the long and uninterrupted curfews in the second half of 2015 in Cizre, and that trial contains the same information we have just heard, quotations of statements of opinions in sharper terms than those just heard were read out there. You are certainly well aware of this as you prepared a request to the 29th High Criminal Court in Istanbul seeking consent for a merger of the two cases.

At this point the 29th High Criminal Court of Istanbul has concluded its trial. I would like to present the acquittal and a copy of the decision to your court. I would like to emphasize the importance of this case, and the connection with the opinions you are currently reviewing: the very same circle of events, a text that describes human rights violations in the same political climate and in the same period is in question.

You will see this when you compare this text, perhaps you already know it; I will guess that the committee will know the text entitled *We will not be parties to this crime*, as it is a text known to the public. Moreover, some documents, some of the 29th High Court documents are found in the present case file.

The text of the petition contains much more severe criticism than the announcement of February 21, but it went before the Constitutional Court. At the end of July, the General Assembly of the Constitutional Court discussed that text sentence by sentence and ultimately stated that it constituted an exercise of the right of freedom of expression, and the right to express harsh criticism. One cannot compare my client's sharing of a meeting announcement

²⁴Correcting a slip of the tongue.—GC

²⁵Referring to prosecution's opening statement.—GC

on Facebook to this petition or, again, its content to propaganda on behalf of a terrorist organization according to article 7/2 as I have seen in your second statement of views. It would be contrary to this recent ruling of the Constitutional Court to demand punishment for this.

Today I will say what can be said at this juncture. We demand another hearing in short order as we are confident your court will decide to acquit our client who has been deprived of his liberty for 81 days in the absence of any crime.

Unfortunately, we have filed a lawsuit with regard to the passport, directed to the administrative judiciary, but in our administrative application, as my client just stated, since we are facing an administrative process that insists on a prior acquittal it is important that we continue in the near future and proceed to a conclusion of the case as soon as possible, and that he be permitted to take up his duties at Lyon 1 with regard to his students and their academic instruction. Therefore, our request is for a delay for a relatively limited period.

I wish to present a considered analysis to the court: in terms of justification with regard to both 7/2, as I have said, and in terms of content.

AHMET İNAN YILMAZ, ESQ.:

Mr. President, the honorable delegation, the prosecution: of course we will discuss these matters further in written briefs, but I feel an obligation to draw the court's attention to one particular matter as of today. There is a text on which the prosecution is based which has been read out before you. I have previously discussed, quite briefly, the question as to whom this text belongs, and I have said that there is a convention to which our country adheres.²⁶ This convention includes the country in which the meeting in question was held, and our own, as well as all countries of the European Union. It says, I do not permit terrorist activities on my territory. Now, sir, if you allege that terrorist activity is taking place on the territory of a state with which you are a partner in accordance with this convention, there is another dimension to the affair, whose consequences are to be considered—or is it not foreseen that we will enter into this discussion? We will enter into this discussion, sir.

Do you claim that on the territory of a country that is our partner under the convention on the prevention of terrorism, a terrorist activity has been carried out? Do you claim a terrorist activity? Is this the claim? Accordingly I will now discuss the Council of Europe Convention on the Prevention of Terrorism number 7.²⁷

We will have a statement to make in this context, but if this claim is actually to be taken as the basis for punishment, then this evidence, you must inquire into the health of this evidence. For example, from what source did the information in the file come? If this information is something on the internet, did you inquire into its reliability?

If you say the Ministry of Foreign Affairs, the embassy, this or that that ministry, then your court ought to take a moment to examine the reliability of this information. I may be obliged to inquire whether the Lyon consulate has recorded, observed, a meeting of a French association authorized by French law. You may have to inquire through the Ministry of Foreign Affairs or ask the embassy directly. But this has further implications.

Mr. President, of course we will present our defense in written form, my esteemed colleague explained very well, but there is an open debate on the quality of the evidence you are relying on, and we have not entered yet before the court into the phase of the discussion of the evidence. We have gone through the previous session and a decision has been made. This is our first session, technically.

²⁶The Council of Europe Convention on the Prevention of Terrorism.—GC

²⁷An apparent reference to the additional protocol to the CECPT, 2015, Article 7 (Glossary: 28).—GC

We did not discuss the evidence, we do not know the value of this evidence. Therefore, if you allow us to discuss what we can discuss at this stage of the prosecution, we have not exhausted all of our materials, and we are still talking about what the prosecution is putting in the file, and what it is still considering.

Therefore, at the stage where we present our defenses on the merits, it will be on the record that there are some procedural issues and issues concerning criminal procedure that I tried to summarize briefly in our petition. In that context, your court may have to ask the Ministry of Foreign Affairs whether an embassy has monitored a legal meeting organized by the citizens of that state in a foreign country, and what findings it has reached as a result of its monitoring.

That is all I wished to say, thank you.

OYA MERİÇ EYÜBOĞLU, ESQ., :

Mr. President, excuse me, I omitted a point, when I started directly with a statement of our views. I once again wish to submit a series of documents with texts in Turkish and other languages to to your court.

In summary, I would like to say that there are representatives in attendance as observers of the hearing and the process from the Association of Symbolic Logic, the London Mathematical Society, the Committee of Concerned Scientists, the American Mathematical Society, the Sorbonne, University of Paris, the National Science Research Center, the Mathematical Research Laboratories (Lyon), the League of Human Rights, the Clooney Justice Foundation, and Lyon University; and I would like to add to the file their authorization documents.

They are in attendance, and here are the authorization documents in the relevant languages and in Turkish.

SEGBIS recording was terminated.

Clerk 116783

President 125282

** This document is signed electronically according to the provisions of Law No. 5070 **

APPENDIX B. OFFICIAL HEARING RECORD, BALIKESİR, JULY 30, 2019 TRANSCRIBED
(TURKISH)

All-caps entries refer to recordings of the speakers. The recurrent phrase “SANIK AHMET TUNA ALTINEL” refers to “the accused, (Ahmet) Tuna Altinel,” “VEKİLİ” means “defense,” and “SEGBİS ile kaydedildi” signifies that their statements were recorded by the AV system. Thus the record of the main body of the hearing consists of a list of the speakers whose statements were recorded, in the order in which they spoke.

DURUŞMA TUTANAĞI

Dosya No : 2019.232 - Esas
Duruşma tarihi : 30/07/2019
Celse No : 1
Başkan : Mehmet Deniz Malkoç 125282
Üye : Bayram Cem Kara 196022
Üye : Yıldız Yanık 196177
Cumhuriyet Savcısı : Mehmet Parlar 122417
Katip : Emre Yıldırak 154720

Belirli gün ve saatte celse açıldı.

Tutuklu sanık Ahmet Tuna Altinel’in (Balıkesir L. Tipi Kaplı CİK’ten Mahkeme huzuruna getirilerek) bağısız olarak hazır edildiği.

Tutuklu sanık vekilleri Oya Meriç Eyüboğlu, Ayşe Aylin Barcın, Av. Ali Avdun, Av. İmdat Ataş, İlahi Öz, Ahmet İnan Yılmaz’ın geldikleri görüldü.

CMK.nun 191 şaddesi gereğince iddianamenin kabulü kararı okundu, açık duruşmaya başlandı.

Heyet değişikliği nedeniyle tensip zaptı ve diğer belgeler okundu.

Tutuklu sanığa CMK 176/3 md. uyarınca iddianame ve duruşma gününün tebliğ edildiği, Sanığın tutuklu bulunduğu Balıkesir L. Tipi Kapalı Ceza İnfaz Kurumuna duruşma günü mahkememizde hazır edilmesine dair müzekkere yazıldığı,

Sanık müdafimine duruşma gün ve saatini bildirir tebligat çıkartıldığı,

Ankara TEM Daire Başkanlığı ve Balıkesir TEM Şube Müdürlüğüne, sanık hakkında terör araştırması yapılmasının istenilmesine dair yazılan müzekkere yanıt verildiği,

İstanbul 29. ACM’nin 2018/14 esas sayılı dosyasına, her iki dosyanın İstanbul’da birleştirilmesi için muvafakat sorulmasına dair yazılan müzekkereye gelen cevabi yazıda muvafakat verilmediğine ilişkin cevap verildiği,

Görüldü. Gelen bilgi ve belgeler okundu. Dosyasına konuldu.

SEGBİS KAYDINA BAŞLANILDI. SAAT : 14:48

Sanık huzura alındı, sanığa 5271 S.Y. CMK. 106.2. maddesinde düzenlenen adres ilişkin yükümlülükleri ve CMK. 147.1-a maddesi gereğince kimliklerine ilişkin yönetilen soruları doğru olarak cevaplandırmaları yönündeki yükümlülükleri ihtar edilerek CMK. 191/3-a maddesi uyarınca hüviyet tespitine geçildi,

SANIK: AHMET TUNA ALTINEL, İSMAİL SAMİ Oğlu, EMİNE ZUHAL’dan olma, 12/02/1966 doğumlu, BALIKESİR ili, SUSURLUK ilçesi, DEMİRKAPI köy/ mahallesi, 16 cilt, 62 aile sıra no, 14 sıra no’da nüfusa kayıtlı, 73 Rue Boileau 69006 Lyon/Fransa adresinde ikamet eder.

CMK'nin 191/3-b maddesi gereğince sanığa Balıkesir C. Başsavcılığınca düzenlenen iddianame ile ekli gelgeleri okundu, yüklenen suçlama anlatıldı. CMK'nın 147, 191/3-c. maddeleri uyarınca yüklenen suç hakkında açıklamada bulunmamasının kanuni hakkı olduğu, müdafî seçme hakkının bulunduğu ve onun hukuki yardımından yararlanabileceği, müdafî seçecek durumu olmadığı ve bir müdafî yardımından faydalanmak istediği takdirde kendisine baro tarafından bir müdafî görevlendirebileceği, şüpheden kurtulması için somut delillerin toplanmasını isteyebileceği ve kendisi aleyhine varolan şüphe nedenlerini ortadan kaldırsak ve lehine olan hususları ileri sürmek olanağının bulunduğu şeklindeki yasal hakları açıkça anlatıldı.

Sanıktan soruldu: Yasal haklarımı anladım, iddianame bana tebliğ edildi, süre talebim yoktur, savunmamı hazır olan müdafilerim huzurunda yapacağım, dedi.

SANIK AHMET TUNA ALTINEL SAVUNMASINDA: SEGBİS ile kaydedildi

SANIK AHMET TUNA ALTINEL VEKİLİ AV. MERİÇ EYÜBOĞLU'NDAN SORULDU: SEGBİS ile kaydedildi

SANIK AHMET TUNA ALTINEL VEKİLİ AV. AHMET İNAN YILMAZ'DAN SORULDU: SEGBİS ile kaydedildi

SANIK AHMET TUNA ALTINEL VEKİLİ AYŞE AYLİN BARCIN'DAN SORULDU: SEGBİS ile kaydedildi

SANIK AHMET TUNA ALTINEL VEKİLİ AV. İLAHİ ÖZ'DEN SORULDU: SEGBİS ile kaydedildi

İDDİA MAKAMINDAN SORULDU: SEGBİS ile kaydedildi

SANIK AHMET TUNA ALTINEL VEKİLİ AV. MERİÇ EYÜBOĞLU'NDAN SORULDU: SEGBİS ile kaydedildi

SANIK AHMET TUNA ALTINEL VEKİLİ AV. AHMET İNAN YILMAZ'DAN SORULDU: SEGBİS ile kaydedildi

SANIK AHMET TUNA ALTINEL VEKİLİ AV. İLAHİ ÖZ'DEN SORULDU: SEGBİS ile kaydedildi

SANIK'TAN AHMET TUNA ALTINEL'DEN SORULDU: SEGBİS ile kaydedildi

SEGBİS KAYDINA SON VERİLDİ: 16:14

Dosya incelendi.

GEREĞİ DÜŞÜNÜLDÜ :

1 - Sanık Ahmet Tuna Altinel hakkında Mahkememizin tensip ara kararı gereğince İstanbul 29. Ağır Ceza Mahkemesinin 2018/14 Esas sayılı dosyası üzerinden birleştirme muvafakati sorulmuş olsakla suç türü ile suç tarihlerinin farklı olduğu, yargılamanın ayrı yapılması gerektiği gerekçesi ile birleştirmeye muvafakat verilmediği anlaşılmakla bu aşamada İstanbul 29. Ağır Ceza Mahkemesinin 17/06/2019 tarihi müzekkere cevabı uygun görülmele bu aşamada dosyaların birleştirilmesine yer olmadığına,

2-Sanık Ahmet Tuna Altinel'in dosyadaki mevcut delil durumu, delillerin büyük oranda toplanmış olması, sanığın sorgusunun ikmal edilmiş olması sebepleri gözetilerek bu aşamada bihakın TAHLİYESİNE,

3- Mahkememizin müstecir yetkili üyelerinin her üçünün de izinde oluşu, bu celseye iştirak eden üye hakimlerin komisyon görevlendirmesi ile geçici olarak duruşmaya çıktığı gözetilerek dosyanın esas bakımından müstemir yetkili üyelerle birlikte değerlendirme yapılmak üzere dosyanın bu aşamada incelemeye alınmasına,

4- Sanığın sorgusunun ikmal edilmiş olması ve talepler değerlendirilmeye duruşmalardan başışık tutlumasına,

5-Ankara CBS'nin 2019/121396 soruşturma sayılı dosyasına müzekkere yazılarak sanık hakkında gizlilik kararı mevcut değilse soruşturma soyasının bir örneğinin Mahkememize gönderilmesinin istenilmesine,

Bu nedenle duruşmanın 19/11/2019 günü saat : 14:00'a bırakılmasına oy birliği karar verildi. 30/07/2019.

Followed by four e-signatures: the panel of judges and the court clerk.

APPENDIX C. EXCERPTS FROM THE TEXT OF THE INDICTMENT, JULY 30, 2019

After the hearing I was able to review the original indictment (12 pages) and an English translation giving the general sense though not preserving the style. Some pages consist of screenshots of social media. Excerpts follow.

Indictment: Page 1

The Defendant: Ahmet Tuna ALTINEL

The Alleged Crime: Membership in a terrorist organization

Date and Place of the Crime: 10/05/2019 and previously.

Date of Detention: 10/05/2019. 11/05/2019.

Date of Arrest: 11/05/2012 (... Balıkesir ..., interrogation number 2019/168)

Articles of Referral: ... 3713: 5,7; 5237: 314/2, 53/1, 58/9, 63

Evidence: The allegation; records of statements and interrogation reports of the suspect; minutes of the search; investigation and findings prepared by the security agencies; minutes of the open source examination; the civil registry record; and the contents of the investigative file.

Indictment: Page 3, last lines of the historical review of the PKK

That these bodies affiliated to the KCK/Rojava have been formed by the senior leaders of the terrorist organization of the PKK/KCK upon the directives of Abdullah Öcalan.²⁸

Indictment: Page 3, 2nd half, charges detailed

It is hereby understood that: as shown by the report issued by the Ministry of Foreign Affairs ... dated February 27, 2019 ... regarding the conference organized in Lyon by PKK affiliates, a conference called *Cizre—The Story of a Massacre* which took place in the Palais du Travail of the Municipality of Villeurbanne on February 21, 2019, was organized by affiliates of the terrorist organization of the PKK/KCK; that in this conference held on February 21, 2019 by said affiliates ... unsubstantiated claims and accusations were made by Faysal Saryıldız, whose passport has been invalidated due to his illegal organizational activities and for whom a search warrant has been issued; that it was claimed that ... certain war crimes were committed and that civilians had been massacred, and that Western countries had remained silent in the face of this massacre; that, according to the information provided by the general consulate of Lyon, Ahmet Tuna Altinel is the person who had hosted the event and made simultaneous translation for Faysal SARIYILDIZ, and that he

²⁸Öcalan (PKK): incarcerated in Turkey since 1999; involved in peace negotiations with the Turkish government in the period 2012–2015.—GC

organized the conference and played the most visible role in the event;²⁹ that on PKK/KCK and Armenian websites [sic] he demonstrated an adversarial attitude to our country;

*Indictment, Page 7:
Screenshot of social media posting,
as further evidence of PKK membership*

(Text shown)

Tomorrow on April 19 at 12:30, we will meet to show our solidarity with Füsün Üstel. We do not live with shame as the citizens of a country that imprisons its academics, but with the pride of our uncompromising struggle against the perpetrators of this shame.

Peace smiles, war frowns, and despots shake like a leaf!

*Indictment, Page 10:
Verbatim extract from a post by AKLRA
announcing the meeting of February 21*

The summer of 2015 was boiling with heat! First the hope that condensed on June 7 warmed hearts that longed for peace. But this did not last long. The agents of chaos took action. It began with the Suruç massacre, and then came the assassinations of police officers in Ceylanpınar, where the state did everything possible to prevent the perpetrators from being identified. And then the state pulled the trigger. The cataclysmic flames of the inferno of war devoured everything.

⋮

Cizre also took its share. The final act of war as a play, which opened on August 15, was presented in February 2016. Tens of defenseless people were massacred.³⁰ ...

⋮

The documentary about Cizre ... keeps our memories alive ...

Don't let co-existence remain a vain hope! Let's be together on February 21 at 7 PM. Faysal SARIYILDIZ, who was a member of parliament for the HDP at that time, will be with us ... He will share his testimony and answer questions.

(End of verbatim quotations in the indictment)

*Indictment, bottom p. 10, and p. 11:
information from Tuna Altinel*

That he invited Faysal SARIYILDIZ ... via a phone call; that he had told him that he was organizing a conference that addressed the massacre at Cizre and that he had invited him to participate ...; that his main purpose ... was not to let the massacre in the basements be forgotten; that the PKK/KCK had no influence in the organization of this event; that the mentioned foundation had no affiliation with the PCK/KCK; that the video footage he screened ... was partially prepared by him and partially brought by Faysal SARIYILDIZ;

That he followed the massacre that the state forces carried out in Cizre from a channel called IMC TV; that he is of the opinion that defenseless people who sought refuge in a basement in Cizre were massacred by state forces; that he organized the

²⁹These phrases recur as a photo caption later on, in lieu of a discussion.—GC

³⁰Massacred: 178, by the estimates of the Turkish Human Rights Association; over 100 burned in basements according to the UN.—GC

aforementioned conference of his own accord and together with the [AKLRA]; that he organized it in order to exalt Turkey because he thinks that confronting the truth exalts a country; that he did not insult Turkey and that he did not demonstrate any attitude that insults Turkey on PKK or Armenian websites.

That he also attended protests that took place in Lyon along with [various] HDP parliamentarians; that he had got to know the foundation [AKLRA] in the course of these protests and that he has been a member of it for three years; ...

Indictment: pp. 11–12

[C]ertain digital materials were seized and no other [sic] elements of crime were found;

That the copying/extracting and analysis of these digital materials can take a considerable amount of time; taking into account that there is suspicion, sufficient to indict the suspect of committing the alleged crime; ... the results of the analysis of the digital material can also be presented in the prosecution phase; ... [such] reports ... will immediately be submitted to your court;

... though the investigation ... was initiated on the grounds of a crime of propaganda, ... the actions ... are judged to fall under the crime of membership in a terrorist organization.

Finally, the concluding summary on page 12 highlights the following alleged activities, and concludes on the basis of these allegations that the accused is a member of a terrorist organization (namely, the Kurdish Society of Lyon and Rhône–Alpes).

[T]he suspect ...

has designs against the territorial integrity of the Turkish Republic;³¹ ...

depicts military operations against terrorists in the PKK ... as a massacre; ...

acted in collaboration with other members of the organization that adopt the same discourses and attitudes;³² ...

played an active role in organizing the conference “Cizre—The Story of a Massacre;”

...

[acted] together with an organization whose actions are considered to be coordinated with the PKK/KCK and that bears the term “Kurdistan” on its logo;³³ ...

started a smear campaign; ... acted as host and translator ...

A number of the points in question, and the conclusion, were vigorously contested during the hearing by the accused and his lawyers (§3).

³¹Glossary: Kurdistan, page 30

³²ibid.

³³ibid.

APPENDIX D. EXTRACT FROM THE DOSSIER: REPORT ON A LETTER FROM THE TURKISH
GENERAL CONSULATE

Re: Conference organized at Lyon by PKK affiliates, 2/27/2019

TO THE MINISTRY OF THE INTERIOR (General Directorate of Security—Foreign
Relations Department)

A letter received from our general consulate in Lyon brings to our attention the organization of a conference on February 21, 2019, in the hall known as the Labor Palace, belonging to the commune of Villeurbanne, on the theme *Cizre—History of a Massacre*, by affiliates of the PKK established in Lyon, notably the one called the Lyon and Rhône–Alpes Kurdish Association.

In a letter addressed to the Rhône prefecture our general consulate has requested that the conference be canceled on the grounds that what is in question was in no way a massacre nor a crime against humanity, but merely an episode in the fight against the PKK, an organization which is considered terrorist by the European Union, and in particular by France, since 2004, and that such an event would amount to propaganda for a terrorist organization. In spite of this request the conference did indeed take place.

The poster for the event published on social media affiliated with the PKK alleges that our security forces had massacred civilians calling for democratic autonomy in the course of operations conducted against PKK terrorists at Cizre in the month of February, 2016. In this setting, according to our information, a documentary film was shown during the conference, and afterward Mr. Faysal Sariyıldız, a former HDP deputy and purported witness of the “massacres,” made a speech. The event was streamed live in its entirety on the Facebook page of the Lyon and Rhône–Alpes Kurdish Association.

An inquiry conducted by our vice consul in Lyon on Konsolosluk.net discovered a recording according to which the fugitive Faysal Sariyıldız is sought by Interpol for organized clandestine activities, with his passport indicated as “canceled.”

During the conference, attended by approximately 40 people, Sariyıldız made entirely baseless allegations concerning our country, in particular that of a “massacre” of civilians in the course of operations carried out by our security forces in February in 2016 at Cizre, which according to him would be tantamount to war crimes, while casting reproaches on the silence of the West in the face of this tragedy.

The videos of the event shared on social media show Ahmet Tuna Altinel (Turkish citizenship number 34423039064) as a presenter of the event acting also as an interpreter for Sariyıldız. The individual in question is a professor of mathematics at the University Claude Bernard Lyon 1. He was an authorized observer with the right to intervene on behalf of the HDP in the votes organized by our general consulate on the campus DITIB on 7-19 June for the presidential and legislative elections (for the 27th national assembly).³⁴

³⁴The indictment itself does not retain authorized poll watching as evidence of terrorist activity.-GC

APPENDIX E. STATEMENT BY TUNA ALTINEL, BALIKESIR, JULY 30, 2019

As reported by Bianet July 31, 2019: <https://bianet.org/english/law/211078-academic-for-peace-tuna-altinel-released>. This gives the text of Tuna Altinel's declaration at Balıkesir, July 30, 2019, in an English translation (presumably less polished than the original text, and with some omissions) as well as a synopsis of the events leading up to the hearing; the latter is not reproduced here.

English translation as given on Bianet

Today, friends of democracy from various places in the world are here.

I am present in front of you because I attended an event held by the AKLRA, or the Lyon and Rhône-Alpes Kurdish Friendship Association on February 21, 2019. I am charged with membership of a terrorist organization. The text called the bill of indictment leans on two concrete facts to reach this conclusion: One, my membership to the mentioned association, and two, the mentioned event.

In the last paragraph where the type of my crime is tried to be proved as membership of a terrorist organization, it is evaluated that the association is “operating together with the armed terrorist organization PKK/KCK [Kurdistan Workers’ Party/Kurdistan Communities Union].”

The AKLRA is a legal association that was founded in line with the laws of France. It was founded in 2013 by Thierry Lamberthod, a citizen of France and the current chairperson and his friends. All its board members are French.

The aim of the association which does not have a certain political line is to promote Kurdish culture, to establish platforms that will ensure the recognition of the rights of the Kurdish people, and contributing to the economic, social and cultural projects aimed for peace.

The long and the short of it, it is not possible for such an association to be an extension of a terrorist organization.

Anyway, neither in the intelligence notice of the Ministry of Foreign Affairs nor in the bill of indictment there is concrete information or evidence regarding the connection between the association that I am a member of and the PKK/KCK.

Let’s get to the mentioned event. The event was held by the association which I am a member of. I, as a member of the association, contributed it. The purpose was to make a discussion and a study of memory based on witness accounts. Propagandizing for any legal or illegal organization was not in question.

Faysal Sarıyıldız was chosen and invited because he was an MP from Şırnak in the period where the mentioned incidents occurred and a first-hand witness of the incidents. When he came to Lyon, it was clearly told him that the event was not for political propaganda.

He made a speech, shared visuals and answered questions. Contrary to the allegation on the ninth page of the indictment, he neither presented nor moderated the event. Drawing such a conclusion from a photograph can only be seen in an indictment that is hastily written in two days.

Within the event, communication between the languages of Turkish and French was up to me. Because I had the best command on both of these

languages, I undertook the French-Turkish part of the simultaneous interpretation. I would like to emphasize this again: There was no such thing as “presenting with Faysal Sariyıldız.”

So, what happened after this? I was chosen as the target and subjected to an extrajudicial execution. The Ministry of Foreign Affairs spied on me because I, as a citizen of the Republic of Turkey, attended an event that touched on sensitive matters. My passport was confiscated on April 12, 2019, in my last entrance to Turkey where I frequently come.

In İstanbul, I knocked on every door that came to my mind for a month. I did not receive any satisfying response. At last, I came to Balıkesir. When the officer who send me away, saying, “You came here for nothing,” at the passport confiscation branch at the Governorship of Balıkesir and invited me to the governorship, I, so to speak, ran to the governorship. I was detained in front of the Governorship of Balıkesir as if I was a criminal who attempted to run away. I was brought to the Anti-Terror Branch without any explanation was given to me. On the following day, on May 11, I was arrested on the allegation of “propagandizing for a terrorist organization.” A few hours after my arrest, the Governorship of Balıkesir declared me as an “academic who propagandize for a terrorist organization,” disregarding the presumption of innocence.

The charge of “propagandizing for a terrorist organization” which was used for my arrest was not enough to explain the unjust and prejudiced attitude I was subjected to. They stepped up a gear. With allegations that do not have any basis and consistency, they raised the charge to “membership of a terrorist organization.” Dear judges, I am not a member of a terrorist organization. The only thing I do and the reason that I have been arrested for almost three months is that I contributed to an event of a legal organization. What experienced in those days have been subject to the reports of national and international rights organizations and judicial verdicts, notably those of the ECtHR since mid-2015.

For the last part, the General Assembly of the Constitutional Court ruled that the penalization of academics who signed the text titled, “We will not be a party to this crime,” which I also signed, is against the law. Apparently, the government is uncomfortable about this matter to be spoken, questioned and enlightened. But, truths emerge with opposite ideas expressed without bans.

I request your court to not pay attention to the uproar created about me, not be a tool for this injustice and immediately rule for my release.

One of the reasons for my arrest was “suspicion of escape.” I would like to remind a sentence in my statement to the police that is not included in the bill of indictment on purpose: “If I would like to insult Turkey, I would certainly not come to Turkey.” I would like to repeat the same sentence with changing it a bit: *If I had an intention to escape, I would not have come to Turkey.* In brief, I want freedom.

APPENDIX F. AN APPEAL TO THE PUBLIC BY TUNA ALTINEL, OCTOBER 27, 2019

Addressed to the public

Who am I? Tuna Altinel, an associate professor in mathematics at Lyon 1 University, a French civil servant since October 1996, the (co-)author of some twenty research papers and a monograph, the instructor of many students at all university degrees, but also a hostage of the Turkish State.

On February 21, 2019, I attended an event organised in the Palais du Travail of the municipality of Villeurbanne (France), by the “Amitiés Kurdes Lyon-Rhône-Alpes”, an association duly registered under French laws. The topic was the Human Rights violations committed against civilians in January 2016 in the Kurdish town of Cizre, under the guise of waging war against terror. On April 12, my passport was seized at the Turkish border. No reason was given.

For a whole month I kept searching for the reasons of this withdrawal. Facing mere waffle, I went on May 10 to Balıkesir where my birth certificate is registered and of which the Prefecture had opened the inquiry leading to the confiscation of my passport. This attempt proved as fruitless as the others, and while preparing to return to Istanbul I was arrested in front of the Balıkesir prefecture.

On the following day I was charged with terror propaganda and sent to the jail of Kepsut, Balıkesir. Just a few hours after, I was declared “academic involved in terror propaganda” in a press release of the above mentioned Prefecture. The latter had not forgotten to tip the Yeni Akit newspaper, a daily close to the political power, and which would use the exact same text, thus violating the presumption of innocence.

It took only two days to prepare a bill of indictment on the sole basis of a letter from the Turkish Consulate in Lyon regarding the evening of February 21. The consulate had taken the liberty to spy on a legal French association. The charge was much stronger than when I was arrested, now being “belonging to a terrorist group”, a crime punishable with 5 to 10 years in prison.

I spent 80 days in jail. I was released on July 30th with no restrictions, no administrative measures, no judicial review, no ban to leave the country. The next hearing is scheduled on November 19, 2019, 2PM.

Following the favourable decision from the Court, on August 27 my lawyer and I requested that my passport be returned. No answer was given for a month. Back to the Balıkesir prefecture on September 27, we finally obtained a copy of the reply, whose second and last paragraph is concluded in the following terms: “In case your client is acquitted at the end of the ongoing trial, your demand will be reconsidered should you request so.” As a last resort to Law, my lawyers have opened a case before the Administrative Tribunal.

The Turkish State refuses to return my passport. The State which first sent me to jail with unjustified reasons, which threatens me with years in jail, also violates my right to travel as protected by Clause 23 of the Constitution of the Republic of Turkey. My right to work, protected by Clause 49 of the same constitution, is also violated: I cannot fulfill my teaching duties in Lyon, and the letter sent to the court by my University is being simply ignored.

I am calling for an end to this series of injustices!

Tuna Altinel

APPENDIX G. GLOSSARY AND REFERENCES

An extensive glossary is included in the report on the first hearing, July 30, 2019, pertinent primarily to the material in the indictment and the related trials of the Academics for Peace. We give only a few salient points here, relevant to the proceedings in the second hearing.

- ACADEMICS FOR PEACE

Signers of a peace petition January, 2016, initially 1128 and ultimately 2212, mostly Turkish academics.

Through the end of July, 2019 the number formally charged had reached 786 and was rising steadily.

However, a Constitutional Court ruling on July 26, 2019 voided some of these cases directly and appeared broadly applicable; in the event, since September 2019 (the resumption of regular trials after the summer judicial recess) the tendency has been for these cases to be rapidly dismissed, with some exceptions. (Note: this entry reflects the situation as of November 2019.)

- AKLRA (AMITIÉS KURDES LYON ET RHÔNE-ALPES)

The Kurdish society of Lyon and Rhône-Alpes, founded and run by French nationals; president: Thierry Lamberthod. Registered French social club promoting Kurdish culture. Referred to as a “PKK affiliate” in the text of the indictment, generally without explicit mention.

Organizer of the February 21 screening and discussion of a documentary in Villeurbanne (near Lyon), which served as the basis for the indictment of Tuna Altinel as a PKK member, on information supplied by the Turkish consulate in Lyon.

- ALTINEL, DR. TUNA

Turkish mathematician working and residing in France since 1996. Advocate of civil liberties and freedom of expression. Facing prosecution for signing the 2016 peace petition of the Academics for Peace (jurisdiction: Istanbul; next hearing December 26, 2019) and for organizing and participating in a conference in Lyon in 2019 relating to the massacres at Cizre in 2015–2016 (jurisdiction: Balikesir; next hearing November 19, 2019).

Reference: https://en.wikipedia.org/wiki/Tuna_Alt%C4%B1nel.

- CECPT: *Council of Europe Convention on the Prevention of Terrorism*

Signed by Turkey January 19, 2006, ratified March 23, 2012, entered into effect July 1, 2012, with reservations with respect to Article 19 (extradition).

Some provisions are as follows.

- Article 4 – International co-operation on prevention
- Article 5 – Public provocation to commit a terrorist offence
- Article 6 – Recruitment for terrorism
- Article 7 – Training for terrorism
- Article 12 – Conditions and safeguards
- Article 14 – Jurisdiction
- Article 17 – International co-operation in criminal matters
- Article 18 – Extradite or prosecute

When more than one Party claims jurisdiction over an alleged offence set forth in this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution.

In the *Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism* (Riga, 22.X.2015) Article 7 reads as follows.

Article 7 – Exchange of information

1 Without prejudice to Article 3, paragraph 2, sub-paragraph a, of the Convention and in accordance with its domestic law and existing international obligations, each Party shall take such measures as may be necessary in order to strengthen the timely exchange between Parties of any available relevant information concerning persons travelling abroad for the purpose of terrorism, as defined in Article 4. For that purpose, each Party shall designate a point of contact available on a 24-hour, seven-days-a-week basis.

2 A Party may choose to designate an already existing point of contact under paragraph 1.

3 A Party's point of contact shall have the capacity to carry out communications with the point of contact of another Party on an expedited basis.

References:

<https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/09000016808c3f55>

<https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168047c5ea>

- CIZRE

City in Şırnak province, southeastern Turkey, with a predominantly Kurdish population. Subject to military curfew September 4–11, 2015 and from December 2015 through February 2016. Scene of major violations of civil rights and civilian deaths, which played a role in the formulation of the peace petition of the Academics for Peace in 2016.

See also Cizre Basement Massacres.

References:

[https://en.wikipedia.org/wiki/Cizre_operation_\(2015\)](https://en.wikipedia.org/wiki/Cizre_operation_(2015))

https://en.wikipedia.org/wiki/December_2015%E2%80%93February_2016_Cizre_curfew

Report:

U.N., February 2017, Office of the United Nations Commissioner for Human Rights, “Report on the human rights situation in South-East Turkey,” https://www.ohchr.org/Documents/Countries/TR/OHCHR_South-East_TurkeyReport_10March2017.pdf

- CIZRE BASEMENT MASSACRES

Massacre of an estimated 178 civilians in Cizre, February 7, 2016, by Turkish security forces. Many bodies were found burned in basements where civilians had sought shelter.

Request from the UN to inspect the site denied, and the site was bulldozed.

Any discussion of this event is viewed as PKK propaganda by the Turkish authorities.

Reference:

https://en.wikipedia.org/wiki/December_2015%E2%80%93February_2016_Cizre_curfew (Wikipedia)

Report: U.N., February 2017, Office of the United Nations Commissioner for Human Rights, “Report on the human rights situation in South-East Turkey,”

https://www.ohchr.org/Documents/Countries/TR/OHCHR_South-East_TurkeyReport_10March2017.pdf

- HDP

Turkish political party, People's Democratic Party, in the majority in southeast Turkey. See Sarıyıldız, Faysal.

- KURDISTAN

A politically weighted term. May mean any of the following.

- a geographical area with a substantial Kurdish population, overlapping Turkey, Iraq, Iran, and Syria;
- various historical (or, in modern times, proposed) nations in that geographical region;
- aspirationally, an independent nation to be established in that general region
- since 1992, an autonomous region in northern Iraq

Use of the term with reference to Turkish territory is considered *PKK jargon* by the Turkish government and is currently treated as a form of terrorist propaganda by the judiciary. In practice only the last usage is acceptable.

The flag of Kurdistan was flown at Atatürk International Airport on the occasion of an official visit by President Barzani of the Kurdish Autonomous Region of northern Iraq, Feb. 26, 2017. In response to criticism from MP Devlet Bahçeli of the MHP, Turkish Prime Minister Binali Yıldırım stated

According to its Constitution, the Northern Kurdistan Regional Administration is an autonomous entity. It has a Parliament. It has a Prime Minister, ministers, and a different flag,

- SARIYILDIZ, FAYSAL

HDP party member, and member of parliament for the province of Şırnak at the time of the Cizre massacres. Born in the city of Cizre, which is in the province of Şırnak.

Accused by President Erdoğan of active cooperation with the PKK and facing prosecution in Turkey, he went into exile and was stripped of parliamentary membership for non-attendance.

Now living in exile.

Honorary citizen of Champigny-sur-Marne (2016). Invited speaker in Lyon, France, on February 21, 2019 at the screening of a documentary on the Cizre massacres organized by the AKLRA.

- TCK 314/2

Anti-terrorist legislation, article concerning membership in an armed terrorist organization. See <https://www.legislationline.org/documents/id/20076>. An extract from page 104, containing article 314, follows.

Armed Organization

Article 314

(1) Any person who establishes or commands an armed organization with the purpose of committing the offenses listed in parts four and five of this chapter, shall be sentenced to a penalty of imprisonment for a term of ten to fifteen years.

(2) Any person who becomes a member of the organization defined in paragraph one shall be sentenced to a penalty of imprisonment for a term of five to ten years.

(3) Other provisions relating to the forming of an organization in order to commit offenses shall also be applicable to this offense.

The term “affiliates or extensions” is used in court documents to refer to other organizations viewed as being in league with such groups as narrowly defined.

- TMK 7/2

Article 7, section 2 of the Turkish anti-terrorism law concerning the offense of *making propaganda on behalf of a terrorist organization*, aimed principally at journalists but acting as the central pillar of the case against the Academics for Peace peace petition.

An article by the European Commissioner for Human Rights found at [https://rm.coe.int/ref/CommDH\(2017\)5](https://rm.coe.int/ref/CommDH(2017)5) goes into the details as of February 2017 and remains applicable in full. We quote from that.

the judicial harassment of journalists can be based on several other articles of the Criminal Code, such as incitement to hate and hostility (Article 216), defamation, or propaganda on behalf of a terrorist organization (Article 7 §2 of the AntiTerrorism Law). Illustrations of the latter case are the prosecutions related to the solidarity campaign with Özgür Gündem, which have targeted, among others, Erol Önderoğlu, the respected journalist and Turkey representative of Reporters without Borders. The examples are too numerous to enumerate and show a consistent pattern of judicial harassment with a clear chilling effect that stifles criticism.

⋮

Prosecutors and courts must stop using criminal procedures, and in particular detention on remand, to punish and discourage the exercise of freedom of expression, including on the Internet, where there is an absence of direct, incontrovertible evidence establishing criminal wrongdoing and membership of a criminal organization, in particular when the only basis is the content of journalistic writings or perceived affiliation based on spurious evidence. However, in the Commissioner’s opinion, failure to address deep-rooted problems of independence of the judiciary, which have reached alarming levels recently, will render all efforts to improve freedom of expression and media freedom moot.

A July 26, 2019 decision of the Turkish Constitutional Court invalidates a group of prosecutions under TMK 7/2 based on the signing of the Academics for Peace petition of January 2016. The existing trials relating to the peace petition are for the most part being dismissed as their respective court dates arrive, with sporadic resistance from some courts. (This is the situation in late November 2019.)

Reference: <https://www.legislationline.org/documents/id/16875> (10 pp., pdf).

APPENDIX H. TIMELINE

An ongoing peace process relating to an insurgency in eastern Turkey broke down in Summer 2015; in Fall 2015 extensive military operations were undertaken in southeastern Turkey and military curfews were imposed, leading to a declaration in favor of peace, and against human rights violations, by academics in July 2016, resulting in approximately 800 prosecutions, largely voided in Fall 2019 on the basis of a ruling by the Constitutional Court in July 2019. One of those so charged was Tuna Altinel. In May he was arrested on a second and initially more serious charge, since reduced though not voided.

Altinel's first trial was under the jurisdiction of Istanbul, and resulted in acquittal in September 2019; the second trial is under the jurisdiction of Balikesir and is ongoing. He was released from pre-trial detention after 81 days of prison but his passport has not been returned.

The time line since January 2016 runs as follows.

Legend:

AP—Academics for Peace; Ci—Cizre basement massacres;

TA—Tuna Altinel; Pol—Political Developments

<i>Date</i>	<i>Cat.</i>	<i>Description</i>
2016		
Jan. 11	TA, AP	Peace Petition, <i>We will not be parties to this crime!</i> —Press conference; petition released with 1128 signatures; among them Tuna Altinel.
Jan. 12	AP	President Erdoğan: “One must choose a side. One is on the side of the Turkish government, or that of the terrorists.” Arrests and prosecutions begin.
Jan. 21	AP	Peace petition closed: 2212 signatures.
Feb. 7	Ci	Cizre basement massacres.
July 15	Pol	Attempted military coup in Turkey, followed by a massive purge of military, police, judicial system, and educational system (public and private). Aims and motives of the plotters unknown.
2019, January		
Jan. 30	AP	As of this date, 452 cases have been opened against signatories of the 2016 Peace Petition.
Jan. 30	AP	Letters rogatory: Request for interrogation of a UC Davis professor of history and signatory of the 2016 peace petition, Baki Tezcan; denied by the U.S. Department of Justice on U.S. constitutional grounds.


2019, February–July

- Feb. 21 TA, Ci **Documentary and discussion in Lyon, France: the Cizre massacres.** Reported to Turkish authorities by the Turkish consulate, Lyon. Resulting in:
- Feb. 27 TA **Report on Dr. Altinel (Turkish Foreign Ministry).** Cited as the basis for his subsequent arrest.
- Feb. 28 TA, AP Defense statement by Dr. Altinel in first legal case—grounds for the peace petition of 2016; vigorous reiteration of its principles.
- April 12 TA **Dr. Altinel’s passport confiscated** on arrival, Istanbul airport.
- May 8 AP First incarceration of an Academic for Peace, after appeal denied. (Appeals to Constitutional Court: see July 26.)
- May 10 TA **Dr. Altinel’s arrest and interrogation,** on arrival at Balıkesir to request a new passport.
- May 11 TA **Altinel: pre-trial detention:** decision to hold Dr. Altinel pending trial on new charges.
- June 11 TA French National Assembly, question addressed to the French Foreign Minister concerning the case of Altinel in the French National Assembly, by the deputy (MP) Cédric Villani.
- June 13 TA **French Foreign Minister raises Dr. Altinel’s** case with his Turkish counterpart in Ankara.
- June 13 AP Academic for Peace Noémi Levy, historian, is sentenced to 30 months.
- June 23 Pol Istanbul Mayoral Election rerun after a formal complaint by President Erdoğan. AKP defeated.
- June 26 AP Prof. Tezcan arrested on arrival in Turkey (see above, January 30).
- July 16 AP, TA Sentencing hearing for Dr. Altinel (Istanbul); verdict postponed to December 26, 2019.
- July 26 AP **Constitutional Court decision voids trials** using peace petition as evidence under TMK 7/2 on appeal of a group of Academics for Peace cases.
- July 30 TA **First hearing, Balıkesir** trial of Tuna Altinel on charge of membership in a terrorist organization. **Released from prison pending trial.**
- July 31 AP As of this date, 786 cases have been opened against signatories of the 2016 Peace Petition, for propaganda in support of a terrorist organization.

2019, September–November

- Sep. 16 AP, TA **Acquittal of Dr. Altinel in Istanbul trial**, on the basis of the Constitutional Court ruling of July 26.
- Sep. AP **Refusal of passport** pending final resolution of legal proceedings.
- Nov. 19 TA **Second hearing, Balıkesir trial of Dr. Altinel; charge reduced to propaganda under TMK 7/2**. Next hearing scheduled for January 24, 2020.

In addition, a timeline of international reactions to the incarceration of Dr. Altinel in the press, by professional societies, and from French governmental institutions is found at <http://math.univ-lyon1.fr/SoutienTunaAltinel/?lang=en>.



The views and observations expressed in this report are those of its author, Gregory Cherlin. The English translations provided come from a variety of sources and are not to be considered authoritative; this point is particularly relevant when legal terms or legal arguments are involved.