



***Permanent Representation  
of Turkey  
to the Council of Europe***

Strasbourg, 19 October 2015

Dear Director,

Concerning the alerts issued by the Council of Europe's "Platform to promote the protection of journalism and safety of journalists" on the list enclosed herewith, submitted by the European Federation of Journalists, the International Federation of Journalists, the Association of European Journalist and the Reporters Without Borders, I am transmitting at annex the responses of the Turkish Government concerning 15 submissions.

Yours sincerely,

Erdoğan İşcan  
Ambassador  
Permanent Representative

Encl.:

- List of alerts
- Information Notes (15)

**Mr. Matjaž Gruden  
Director  
Directorate of Policy Planning  
The Council of Europe**

**2 Apr 2015 - Form concerning Bahadır Baruter and Özer Aydoğan submitted by EFJ/IFJ under “Turkish Cartoonists Bahadır Baruter and Özer Aydoğan Found Guilty of Insulting President Erdoğan”**

**Information provided by the Ministry of Justice of the Republic of Turkey**

The caricaturists Ömer Bahadır Baruter and Özer Aydoğan of the satirical magazine named “Penguin” were tried by the 2<sup>nd</sup> Chamber of the Istanbul Criminal Court of First Instance with the accusation of defamation of the President of the Republic of Turkey, Recep Tayyip Erdoğan, on account of their caricature published on the cover page of the August issue of that magazine.

First of all, the decision issued by the said court is still pending at the appeal process and it has not become final yet. According to the reasoned decision of the court, these caricaturists were not tried because of the dialogues in the caricature in question. The statement “Oh, it's just not cricket. I wish we would cut a journalist at least (*böyle kuru kuru olur mu yaa, en azından bi gasteci kesseydik*).” was regarded as a criticism of the relationship of the President Recep Tayyip Erdoğan with the press. The trial was conducted because of the left hand gesture of the officer in the caricature, who greets the President Recep Tayyip Erdoğan. In the assessment made by the court, it was accepted that the signal, which was made with the officer’s left hand gesture, created a humiliating perception in the social life. According to the reasoning of the court, when the social life, cultural level, generally accepted words and behaviors in any region of the Republic of Turkey were taken as criteria, the person’s hand gesture in the said caricature can be considered as a humiliating signal.

According to the assessment made by of the court, it is considered as normal to criticize the ideas and practice of the President of the Republic of Turkey regarding the journalists. However, it was stated that, in this caricature, the aim of the accused persons has exceeded the limits of criticism and that the hand gesture in the caricature is a slander and it constitutes the offense of defamation. As a result, the caricaturists were not tried within the scope of the press’s right to inform and right to make harsh criticism towards politicians. They were tried on account of a hand gesture, which constitutes insult to the President of the Republic of Turkey in the caricature.