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Europe/Ex-USSR - Turkey

Successful investigation

Court convicts provincial newspaper publisher's murderers

2 August 2013

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Reporters Without Borders hails yesterday's conviction of those responsible for the murder of **Cihan Hayirsevener**, the publisher of *Güney Marmara'da Yasam*, a local newspaper based in the northwestern city of Bandirma

Hayirsevener [was gunned down in Bandirma on 18 December 2009](#) while investigating corruption involving the municipal government and members of an influential local family, the Kuruoglus.

At the end of a five-hour hearing yesterday that Reporters Without Borders attended, an Istanbul court sentenced the hitman, Serkan Erakkus, to life imprisonment for carrying out the shooting, and Ihsan Kuruoglu to 17 years in prison for ordering it.

Kuruoglu received an additional 10-year sentence for "founding an armed criminal organization," "illegal carriage of a firearm" and "bribery in connection with the awarding of contracts" – the activity that Hayirsevener was investigating at the time of his death.

"We salute the [serious and thorough judicial investigation](#) that led to this verdict," Reporters Without Borders said. "Transferring the case to Istanbul removed it from local pressure. As a result, the investigators were able to demonstrate the organized nature of this murder, its link with a major criminal network in Bandirma and the identity of the person behind it.

"This is an encouraging sign for the many regional journalists throughout Turkey who are the victims of violence or the targets of threats because they upset powerful local interests.

"We nonetheless fail to understand why the mastermind benefited from the significant sentence reduction envisaged for crimes committed 'following an unjust provocation.' The editorial dispute between Hayirsevener and the Kuruoglu family developed over a period of years, so the murder was clearly not carried out in a moment of anger.

"Above all, there are no grounds for saying Hayirsevener overstepped the limits of free expression in his articles. At no point was he convicted of libel or insult. We regard the court's ruling in this connection as an unacceptable posthumous conviction of Hayirsevener and we hope this aberration will be corrected on appeal."

All participants identified

The hitman, Erakkus, avoided aggravated life imprisonment (without possibility of a pardon) because he shot Hayirsevener in the legs. During the trial, a witness pointed out that, as Erakkus fired at close range, he could easily have shot Hayirsevener in the head or chest. The court nonetheless concluded that he did not intend just to injure Hayirsevener because he shot him four times. Hayirsevener died from loss of blood.

Kerem Yilmaz, Kuruoglu's driver, was sentenced to 11 years and eight months in prison for helping the hitman to flee after the shooting and for "membership of a criminal organization" and "illegal carriage of a firearm." Judge Ömer Diken nonetheless ruled that the 40 months he

had spent in pretrial detention was enough time served and ordered his release.

Kuruoglu's lawyer, Ferda Dünder, was convicted of passing on the instruction to murder Hayirsevener after visiting Kuruoglu, by then in prison for alleged payment of kickbacks. Kuruoglu's brother Osman, his son Ilbey and the journalist Engin Arican were sentenced to two years and eight months in prison for membership of the same criminal organization. Other defendants were found guilty of corruption.

Did Hayirsevener provoke Kuruoglu?

The Hayirsevener family's lawyer, Gökhan Küçük told Reporters Without Borders he intends to appeal against the court's conclusion that that Hayirsevener's investigative reporting constituted an attenuating circumstance under article 29.1 of Turkey's criminal code because it "provoked" Kuruoglu.

Article 29.1 says "whoever commits a crime under the effect of great rage or grief resulting from an unjust provocation shall be sentenced to (...) 12 to 18 years in prison if he or she had otherwise been facing a life sentence."

The court concluded that Hayirsevener's murder was the culmination of an escalating war of words that Hayirsevener and the Kuruoglu family had waged for years through the newspapers they controlled. The judges spoke of breaches of journalistic ethics on both sides without specifying who began the dispute.

The court is required to publish the arguments that led to its verdict in the next few weeks. Küçük wants the court to specify which articles by Hayirsevener it is referring to and to explain how they incited Kuruoglu to commit murder.

"This decision is a dangerous precedent for press freedom," he told Reporters Without Borders. "Ruling that newspaper articles can constitute incitement under article 29.1 could even have consequences for the lives of journalists."

During the trial, Hayirsevener's lawyer gave the court a dossier detailing the complaints that Hayirsevener had filed since 2005 against Kuruoglu and Engin Arican accusing them of insulting him.

The representatives of some of the other parties have also announced their intention to appeal, so the case will be transferred to the Court of Cassation in the coming months.

More information about this case:

- [Slain newspaper editor "knew he was in danger"](#) (24 Dec. 2009)
- [Blow to impunity awaited from newspaper editor murder trial](#) (29 Aug. 2012)

You can download those documents on our website :

- RSF: Hayirsevener cinayeti sanıkları mahkum oldu, (PDF - 76.2 kb)
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