

To the 33rd High Criminal Court of Istanbul

File No: 2017/168

DEFENDANT : ÇAĞDAŞ ERDOĞAN
Silivri No 5 L Type Prison

SUBJECT : My response concerning the allegations in the indictment and my request for release

STATEMENT :

As the court knows, I was taken into custody on 2 September 2017 (the second day of the Feast of Sacrifice holiday) near Moda coast and Kalamış Park allegedly for taking photographs of an “invisible” building purported to belong to the National Intelligence Organization (MİT). I was taken to the Kadıköy Rıhtım Police Station, where four police officers forced me to take my clothes off and sexually harassed me under the guise of a strip-search. At the [Istanbul] Police Department on Vatan Avenue where I was subsequently taken, I was kept in custody for 12 days in the same cell as suspects detained for suspected links to ISIS. On the second day of my detention, I was interrogated by two people who claimed to be MİT [national intelligence] officials -- in actual fact, I was forced to disclose my sources. Those MİT officials threatened me, saying the “prosecution would be guided by their decision” and that in the event I did not provide them with intelligence, I would be jailed. Indeed, as a journalist who preferred to not disclose his sources -- a right enshrined under the Constitution-- I have been unlawfully jailed for the past six months. Before I proceed with my defense statement, I would like to point out that as a journalist, I would never exchange information with any other institution or organization other than the press. This is what my professional responsibilities and as human being dictate.

I have been a photographer since 2009, and a journalist since 2014. I worked as a freelancer for some of the most prestigious news and photo agencies including The AP, AFP and Getty Images. My photographs have been featured in dozens of magazines and news outlets, such as *The New York Times*, *the Guardian*, and BBC. My documentary photobook *CONTROL* was published by Akina Books, a reputable independent publisher. The *British Journal of Photography*, published since 1850 and billed as the world’s top magazine dedicated to photography, has cited me among their list of up-and-coming photographers, entitled “Ones to Watch.” I am one of only four photographers from Turkey who have make it to this list. My photographic work is displayed internationally as part of festivals and at various galleries. During the time I was in prison, I had four exhibitions -- one of took place in Greece, another in Italy, and two in Turkey -- and because I was unlawfully imprisoned, I was unable to attend my exhibitions. Furthermore, the accusations I face are based on the photographs I took for some of the world’s most prestigious newspapers. The charges are two ill-founded claims: “membership in an armed terrorist organization” and “disseminating propaganda for a terrorist organization.” Based on these two allegations, I have been deprived of my work, my family, my friends, and most importantly, my freedom, for the past six months.

I will reiterate my previous statements below to try and explain the ill-intentioned manner in which the indictment was prepared and how unfounded the allegations are.

Firstly, I would like to touch upon the allegation that I photographed a social facility belonging to MIT, which was purported to be the grounds for my arrest. I have been going to the Moda coast for years for recreational purposes. Anyone who lives in Kadıköy would know that the Moda coast is a highly popular outdoor recreation area that is open to the public and where people spend a lot of time. On the day I was arrested, I took a leisurely stroll on the Moda coast. As I walked, I took photographs of things I thought were interesting, like I always do, to add to my Instagram stories -- which is an occupational habit. This is the exact explanation I provided to a police officer at the scene who looked like a civilian, when he asked me to come closer and then inquired why I was taking photos. He then told me that photographing the area was prohibited. Then, although I showed him my press card and provided explanations, and despite the fact that there were no criminal material on my cell phone, I was taken into custody as a suspect. I would like to point out once again that the Moda coast is a public place. The Kalamış Park is located right next to the shoreline, and clearly, it is a park. There are no buildings in this area. Furthermore, even if there were, there was not even one signpost or warning saying that the area was allocated to MIT, or that taking photos in that area was prohibited. I am a journalist and I have enough expertise to discern where taking photos might be prohibited. Where I was taken into custody is a public place and taking photos in public places is legal. What's more, to me, taking photos is an professional instinct.

At this point, I would like to specifically touch upon how outdated the allegation that I was "taking reconnaissance photos" is. We are in the 21st century and the age we're living in is billed as the "space age." Maps are now available online on numerous apps and platforms. One can now access very detailed, high-resolution aerial images of any place on earth online. At this point, I would like to ask this: As a person who has so much knowledge on photography, from its history through to academic knowledge, had I been taking those photos for recon, why would I put myself through so much trouble, in broad daylight, to access a piece of information I could easily access online, through a few clicks? Obviously, this indictment is entirely ill-founded and was issued through an automatic reflex fueled by the ongoing state of emergency. Furthermore, security camera footage would clearly show that the police officer who checked my ID was sitting in his booth in the park for over an hour as I stood waiting outside the park, awaiting the completion of the criminal record check [GBT]. Now I ask: Had I had any intention of fleeing, why would I wait there and do nothing despite having the opportunity to escape? The rest of the indictment proves just that. Evidence was fabricated and the method of "copying and pasting" [from other indictments] was heavily used in order to manipulate opinion about me so as to justify the threat by the MIT officials that I would be arrested in case I refused to report information [on my sources]. However, the allegations are related to nothing but my occupation as a journalist.

Firstly, I would like to touch upon the allegation that my old phone number was found in the phonebook of a person called Yusuf Kaya. Like I said in my statements both during the police interrogation and before the prosecutor, I do not know that person. [According to the indictment,] this person is said to have been reported missing by his family in 2015 and was taken into custody in Istanbul and then was released after giving his statement. Why was I asked about a person who has been released [by the police]? I am a journalist. My contact information is available for journalistic purposes, both on my personal website and on various online platforms. Anyone can access my contact information from those platforms. So I would like to ask again: What connection could I have with this [person]? What's more, I have been going to

state institutions for years to cover news. This one time, I was invited to the Istanbul Police Department to testify in relation to a person whose wedding photos I had taken in 2015. If any suspicion was present back then, why was I not asked about it during that interrogation? I'll tell you why: because the [file against me] is not lawful. In fact, what's worse than this case not being lawful is that there is nothing [to be prosecuted]. As is clearly pointed out in the cell phone operator's report, the phone number in the said person's phonebook purported to be mine does not actually belong to me. This clearly displays the motivation behind the police record about me. Just because I refused to become a spy, I am facing accusations based on false evidence that are nothing but a mockery of law, and an insult to my career. I have been kept in prison for the past six months because of this police report. Is it really this easy to manipulate the law and to deprive people of their liberty?

The rest of the indictment is made up of [screenshots of] my personal website which I use for professional purposes, and my documentary work as well as the news stories I have shared on my social media accounts, all of which were used as "evidence" for the charge of "conducting propaganda for a criminal organization." My social media posts that are billed as "propaganda" are posts that feature my photographic work published by newspapers and other news outlets including The New York Times, the Guardian and the BBC. Police officers gave away their real intention as they were trying to create a negative impression about me: For many years, I have been photographing social events in Turkey for news agencies I have been working with. I took photographs of the democracy vigils [in the aftermath of the attempted coup] of July 15; of May Day protests; of rallies organized by Islamist groups; of rallies by nationalists. In addition, I have also been working on long-term documentary projects that focus on LGBTI, the Kurdish issue, ecological problems, sex workers, etc. both as fields of professional interest and because of a personal motivation to better understand the world.

However, sadly, only those photos that I took during rallies were cherry picked to be included in the indictment, making it seem as though I were only interested in "covering these kinds of topics alone." But either out of ignorance, or perhaps purposefully, almost all of my photographs included in the police report were taken out of their original context. All of the photos were included in the police report as evidence for "propaganda" without even clicking the hyperlinks to the specific news stories which those photos accompanied and without reading the captions. And sadly, they were all copied straight to the indictment, with no further review.

To give an example: Almost all of the photographs cited in pages 15, 16, 17, 22, 23, 24, 29 and 30 of the indictment are photos that I took during May Day demonstrations and Gezi Park protests. It is a widely known fact that the Gezi Park incident gave rise to numerous demonstrations nationwide, particularly in Istanbul. Many opposition segments took part in those demonstrations. As a journalist, I covered and photographed those events, just like many of my colleagues. The photographs that are cited [in the indictment] portray people from leftist groups who took part in those demonstrations. Those photos are accompanied by links to relevant news stories. But those photos of leftist groups have been billed in the police report as "PKK propaganda" so as to manipulate opinion, and subsequently they ended up in the indictment.

What's worse is that the photographs on pages 22, 23, 27 and 30 are from my documentary project titled *CONTROL*, which was about underground nightlife, and which have been compiled into a book. They are part of a series of photos that depict topics such as dogfights, drug dealing, or illegal betting. Those photos were made into a photobook published by the international

publisher Akina Books. Furthermore, they were also featured in the album “Press Photos of the Year -- 2016,” an annual selection published with funding from the Prime Ministry’s Promotion Fund. These photographs have been included in the police report as “PKK propaganda” and later in the indictment, defying all logic and reason.

Stripping those photographs of their original context, either on purpose or unknowingly, is aimed at misleading the court and that constitutes a crime. Furthermore, those photos have all been published in dozens of reputable newspapers and magazines such as *The New York Times*, *the Guardian* and the *British Journal of Photography*. However, right now they are being cited in the indictment as evidence for “criminal propaganda.” Which begs the question: Are these newspapers and news outlets regarded as terrorist organizations?

I would also like to point to another peculiarity in the indictment: The photograph on page 16, in which children are seen collecting various supplies among piles of rubble. That photograph was the cover photo for my exhibition themed around the concepts of destruction and migration, which was part of the 2016 edition of Istanbul Photography Days, a festival put together by the Istanbul Amateur Photography and Cinema Society (IFSAK), with support from the Turkish Ministry of Culture and Tourism. So, an exhibition organized under the auspices of the Culture Ministry was cited in the indictment among the grounds for the accusations. Which begs the question: Are the Ministry of Culture and the Ministry of Justice two institutions under two different governments? Furthermore, what constitutes the criminal element in these photographs?

Sadly, these are not the only “errors” in the indictment, which was produced in a “copy-and-paste” manner. The screenshots from a video, on page 15, are actually from a newsletter issued by the art center Salt Galata. This newsletter too was billed in the indictment as “propaganda.” Salt Galata is a cultural center that puts together and hosts art events in various disciplines, both on a national and an international level. As for the content of the video: Each year, Galata Fotoğrafhanesi (Galata photography studio) puts together a documentary photography event at Salt Galata. This festival annually hosts photographers and photojournalists from across the world and displays a selection from their work. Being a photographer and photojournalist myself, I have been attending this series as a viewer. In fact, my work was exhibited in the 2015 and 2016 editions. But the police record includes a screenshot from the promotional video for that exhibition, showing the part of the screen featuring a photograph taken by a photographer with whom I am not familiar, and bills it as a “propaganda video.” Just like its caption says, the video is part of an art newsletter posted online by Salt Galata from their official account. I would like to particularly point out that Salt Galata is one of Turkey’s leading arts and culture centers, and Galata Fotoğrafhanesi is one of the most reputable organizations in the field of documentary photography. Which begs the question: What is the logic behind the inclusion of a newsletter about artistic events in the indictment? As a matter of fact, this example alone is enough to reveal the police officers’ motive for issuing this report.

I would like to point out another striking example from the indictment: The photographs on pages 23, 24, 29, 30 and 31. They were taken in their entirety from my photo book titled *CONTROL*. As for the book’s content; the entire project focuses on nightlife in Istanbul. It documents scenes from Istanbul’s diverse nightlife -- all the way from drug use through to political clashes, and from dogfights to orgies. A close inspection of the book would reveal that the police picked out only those photographs that depict political demonstrations so as to create a

negative impression. This example too is enough to clearly reveal the motive behind the indictment.

I could present other similar examples, which all prove that this indictment, in its entirety, scrutinizes nothing but my journalistic work. What really needs to be scrutinized here is not journalism or journalists, but the unfairness of defining a journalist through his field of work.

Then, from the viewpoint of the indictment, one could come to the conclusion that because I photographed the July 15 democracy vigils, I am a member of the [ruling Justice and Development Party] AKP; a leftist organization member for photographing May Day protests; a member of a criminal ring for photographing the mob; a drug dealer for my photographs about drug use. The only problem is that I cannot figure out what kind of a criminal organization would I be allegedly involved with in relation to my photos of group sex parties. I leave that to the imagination of the police officers who drafted the police report about me.

As can be seen, the indictment, in its entirety, constitutes a messy and nonsensical picture. This very picture is quite like a condensed version of the mind-boggling pressures exerted following the declaration of state of emergency. While we are at it, I'd like to point out that I am a journalist who has sided firmly against the July 15 coup attempt and who kept track of democracy vigils to tell the world what had occurred. Because I know it deep down that had the coup attempt succeeded, journalists, artists, and politicians would be the first to be silenced, and put to jail. Fortunately, the attempt failed. And yet, as an anti-coup journalist, I am in prison. And not just me, at least 170 journalists, and hundreds of activists, and politicians are currently behind bars. I'd like to ask the court now; what is the difference between these oppressive practices and what the putschists would have wanted to do? Did we stand up against the military tanks just to guard the current government? Do you realize, how anybody and everybody except for the current government and its supporters are regarded as potential criminals? Hundreds of people are put into prison, or else discharged from their jobs with state of emergency decrees without a shred of concrete evidence. Such pressures have recently reached a peak with the recent cause célèbre concerning the proposed institution of a homogenous prison uniform, a practice which would be at the expense of human dignity itself.

Thus, it is inevitable that such pressures bring to mind several shameful moments in recent history such as Guantanamo, Nazi concentration camps, and Abu Ghraib. I'd like to briefly talk about Robert Capa to reiterate the similarity of then and now, and to throw light on the times in which we live.

Robert Capa was a Jewish journalist. He was the founder of Magnum Photos and widely hailed as the greatest war correspondent in history. He was barely in his 20s when he was put in prison by the Nazis for insemminating "communist propaganda" with his photos documenting war and rights violations. After he was released, he was forced to flee his country for fear of oppression and further torture. With the passing years, thanks in no small part to the war photographs taken by Robert Capa, there were anti-war protests in much of the world, and his photos were cited as evidence in European Court of Human Rights. Now, I'd like to ask the court; what is the difference between that, and the injustice suffered by me and 170 journalist friends of mine?

John Berger was once quoted as saying something to the effect that it was only the criminals who were uncomfortable when a crime was documented. I, therefore, would like to ask the court now,

whether it is this sort of a strong feeling of guilt that provokes such discomfort with my photographs? Please bear in mind how Robert Capa and the Nazis are sealed to our consciousness today; Capa is widely regarded as the greatest war photographer ever, and the Nazis as the greatest war criminals.

As you may appreciate, the documents we journalists produce are cited as evidence. They carry a lot of weight in shedding light on rights violations. And in this sense, we the journalists sustain you the judiciary. Thus, it is only the wrongdoers who have troubles with a journalist's work.

I was stripped of my freedom on a warm festive morning, and six months have passed thus. The only reason for this can be the fear and guilty conscience aggravated by the increasing visibility of the LGBTIs, various belief systems, cultures and identities, and above all, the dirty war in this land.

The indictment cites as propaganda a number of social media posts where I draw on the struggle against ISIS in Syria, and the vitality of the peace process in our country. That, in itself, reveals the true nature of this 3. Have in mind the fact that I was merely exercising my most basic right to freedom of expression as guaranteed in the Turkish Constitution, and I'd like to ask the court; Why such discomfort with me expressing my views against an organization so shady its barbaric practices are beyond all questioning? I'd like to ask you; how quickly we've forgotten about the bombings in Suruç, Ankara Railway Station, Sultanahmet, and Taksim, and the two Turkish soldiers who were burned to death in Jarabulus? I'd like to ask members of the police force who've presented the court with proceedings in particular; how could you forget so quickly the police officer who was slaughtered by an ISIS suspect in Vatan Police Headquarters?

On another note, since when is it a crime to defend peace?

I am a young man who lives in this part of the world who worries about what happens to it. You simply cannot expect me to turn a blind eye to what's happening when so many rights violations take place in this country day after day. Should I have a child one day, and when she asks me, "so dad, what were you doing as a journalist when Cerattepe was destroyed by a mining project, when people were slaughtered for their sexual orientation, when pitmen were killed in explosions, when the dead body of Mother Taybet lay in the middle of the street for seven days and seven nights," I should be able to have an answer.

To me, this is a personal as well as a professional liability. I shouldn't be here on trial for feeling that responsibility; to the contrary, those who destroy our ecological resources, those who discriminate against people for their identities and differences, those warlords who feed on the blood of very young bodies should.

As the court can attest to by my statement and for the reasons I given above, this indictment is made up of fabricated evidence and throws into question nothing other than my work as a journalist. I stand here in your presence because of my work accepted for publication by the most respected organizations in the world. I deny the unreasonable accusations of "membership of a terrorist organization" and "inseminating terrorist propaganda." I know in my heart that I will be acquitted of all charges under a fair trial; at this stage, I respectfully request my release from prison.

Çağdaş Erdoğan