

WHAT IS ByLOCK?

How a digital application become, a material of the Erdogan Regimes
justification for arresting more than 60.000 people in Turkey?

All the truth about ByLock...

INTRODUCTION



President Erdogan, who claimed to have learned the so-called coup attempt on 15th July 2016 (15/7) from his brother-in-law during the attempt, declared the supporters of Gülen movement as the perpetrators of the coup, whom he considered being responsible for the 17th /25th December 2013 Corruption and Bribery operations.

The "Erdogan Regime" dismissed approximately four thousand judges and prosecutors of their duties on 17th July 2016, right afterwards of the coup attempt, with the claim of being coup plotters and arrested many of them in order to establish his own judicial system. Later on, he had thousands of people arrested. Among them journalists, teachers, doctors, lawyers and businessmen. The common characteristic of these people was being opposed to the Erdogan Regime.

Those arrests are generally justified by reasons such as writing critical columns, depositing money to a legal bank, sending their children to the schools allegedly having ties to Gülen movement and being members to legal unions and foundations. Erdogan and his judiciary, who knew that these claims are not enough to justify the arrests, needed a new excuse to strengthen the claims why they have arrested the opposition. Within this need, they made the perception that the "ByLock" application have been used in 15th of July Coup Attempt only by Gülen supporters. They made people believe that the ByLock application is classified, incognito and only known by the members of Hizmet Movement, installed differently to the devices and encrypted. After they made this perception accepted by the society, the lists of names which were prepared by unknown people in unknown dates from the National Intelligence Agency (MIT), which has no authority and function as a law enforcement agency, were sent to the units of judiciary and then accepted as concrete evidence for the alleged crimes of being a member to a terrorist organization by judiciary without questioning.

ByLock application is not an application that is used in the so-called coup attempt as the Erdogan Regime and the media claims. Because this application was closed five months before the coup attempt, in March 2016.

ByLock application was not an application that only had been used by Hizmet Movement members secretly, because it was an application that was downloaded more than 600.000 times from Google Play Store and App Store worldwide. The Bylock application, which is presented as an enigmatic, encrypted application was even simpler than the applications such as WhatsApp, Viber, Line and Tango.

But as a result of this perception, approximately 17.000 women along with their 668 babies were arrested in Turkey with the accusations of using ByLock. The number of total arrests is around 60 thousand and it is increasing. The members of judiciary who questioned this process with suspicion are either expelled or dismissed from their duties.

Therefore, it was seen as a necessity to prepare this Report, aiming to show that all the announcements and procedure of judiciary and National Intelligence Agency, under the control of the Erdogan Regime, regarding ByLock are in fact to create a groundless perception.

ByLock application was not being used in the so-called coup attempt on 15/7.

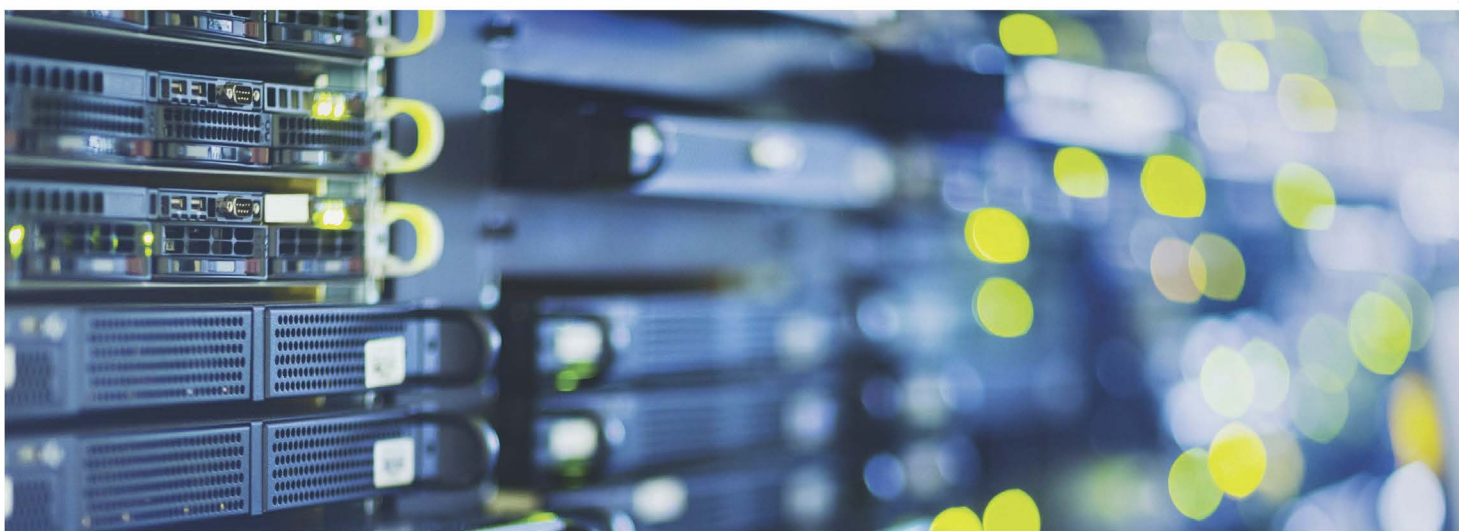
ByLock application was not being used in the so-called coup attempt, as the Erdogan Regime and its media offshoots claims, because this application had been closed 5 months before the coup attempt, in March 2016

WHAT IS BYLOCK?

It is claimed by the Erdogan Regime controlled media -which unfortunately became the mainstream media in Turkey with time- that the ByLock application was used exclusively by the members of the Gülen Movement. However, many technical reports written afterwards have proven this claim as false.

It was a free communication application just like WhatsApp, Viber, Tango, Line etc. which had been bidden on App Store between April 2014-September 2014 and downloaded more than 100.000 times, and on Google Play Store between 11 April 2014-3 April 2016 and downloaded approximately 500.000 times. (<https://www.appannie.com/apps/ios/app/bylock/app-ranking/#type=best-ranks>, <http://www.appbrain.com/app/bylock%3A-secure-chat-talk/net.client.by.lock>, <https://m.downloadatoz.com/bylock-secure-chat-talk/net.client.by.lock/>)

THE MYSTERY OF “MIT” (NATIONAL INTELLIGENCE AGENCY) ON OBTAINING BYLOCK SERVERS



There is no concrete and clear information regarding how the ByLock data was acquired. The “MIT” which is claimed to have acquired the ByLock records, the courts, Erdogan and his media and the relevant institutions of Lithuania in which the servers of the application was located, made all different declarations.

In the “MIT” report of Turkey, it is said that “...is obtained through using the methods, tools and techniques of technical intelligence that are unique to the Agency” (MIT report, 3.1. Base and Method, page 12)

In the decisions made by the Supreme Court and Courts of First Instance, it is said that “by using the methods, tools and techniques of technical intelligence that are unique to the National Intelligence Agency, the data on the servers of ByLock application and the server of the application along with the IP addresses are bought and different data, notably the content of e-mail addresses are obtained”. <http://selihandiclesimsek.av.tr/tag/yargitay-16-ceza-dairesi-bylock-karar>, <http://www.adaletbiz.com/m/ceza-hukuku/mit-bylock-server-ini-satin-almis-h168456.html> html

In the news on media, it is indicated that “the IP addresses used by the persons are requested or detected from service providers (Avea, Turkcell, Vodafone, Ttnet) by Department of Cybercrime of Department of Security”. <https://ozguruz.org/tr/2017/06/05/emniyet-miti-yalanladi/>



How did “MIT” acquire the personal data of ByLock users from Lithuania?

News were published about a team which fled to Lithuania with a private jet and then infiltrated to the company that owned the main server of ByLock data in Vilnius and stole the data from there.“<https://www.sabah.com.tr/gundem/2017/01/30/son-dakika-haberi-bylockun-ana-serveri-ele-gecirildi>.”

As a response to the such claims of Turkish media and intelligence, the Cherry Server, the service provider of to ByLock, declared that “they did not, by any means, share the ByLock data with anyone, nor sold the data and neither there was a request of the Lithuanian judiciary towards the server service provider.” After the issue was discussed in a closed session in the Law and Order of Law Committee of the Lithuanian Assembly, in the wake of Human Rights Watch Committee applied to the parliament because of the mass arrests and victimizations in Turkey on the accusation of using ByLock; the Head of the Committee (Julius Sabatauskas) declared that “There is no information about Turkey obtaining the data legally and lawfully and the Lithuanian State authorities (Ministry of Justice, Ministry of Foreign Affairs, Intelligence Agency, Police Department) declared that Turkish authorities did not officially request anything from them relevant to this issue.” www.15min.lt/naujiena/aktualu/lietuva/seimo-komitetas-aiskinasi-ar-lietuva-galejo-turkijai-perduoti-bylock-vartotoju-duomenis-56-868536)

An international IT company, FOX-IT, which examined the ByLock report of MIT and prepared its own report about the issue indicated and declared that “...as it is summarized in the part 3.1. of this report, the MIT examination that is described in the MIT report is not bound by just principles and therefore, shall not be considered as judicial review...”, “The MIT investigation is null because of contradicting and unfounded evaluations and being away from objectivity and transparency. This situation made the results of the investigation suspicious.” <https://blog.fox-it.com/2017/09/13/fox-it-debunks-report-on-bylock-app-that-landed-7-5000-people-in-jail-in-turkey>

BYLOCK - INTERVENTION TO THE FREEDOMS - INTERNATIONAL CONVENTIONS AND INTERNATIONAL REPORTS

ByLock, a communication Application used in 41 countries and considered as one of the most popular 500 applications around the world, is used in Turkey to claim that its users are members of a terrorist organization. But by acquiring the data of the people that are claimed to be the users by intelligence agencies that have no authority and violating the norms of international law and domestic law and using this data as evidence in administrative and judicial investigations, the European Convention on Human Rights, along with the Data Protection Legislation of European Union and Council of Europe are violated.

<http://www.bylockreality.com/index.php/technical-reports/an-independent-technical-report-by-daniel-walter-about-bylock-application>, <http://www.un.org/en/universal-declaration-human-rights>



The Erdogan Regime arrested tens of thousands of people according to an intelligence report which is neither scientific nor lawful, written by anonymous agents

Turkey and Lithuania are both members of Council of Europe (CoE). Lithuania is also a member of the European Union. Both Turkey and Lithuania have obligations to protect private data and information within the international law and relevant international conventions/agreements.

In the legal opinion prepared by the experts William Clegg and Simon Baker on the validity of the accepted evidence and investigations made by judicial authorities in Turkey regarding to the illegal access to the personal data and private information after 15th July, it is indicated that the Fair Trial Principle and Right of Privacy which are protected under the articles of the ECHR are violated. Furthermore, based on the reasons that these intelligence data are being raw information, the process and protection of it being secret, no possibility of objection and correction, no possibility of appealing to the judge as a warrant of freedoms, there are many decisions indicating that intelligence information cannot be used as evidence by any means, such as:

- ECHR, BN: 9248/81, KT: 26/03/1987, Leander/Sweden, par: 48,59
- ECHR, BN: 27798/95, KT: 16/02/2000, Amann/Switzerland, par: 65, 69,70
- ECHR, BN: 28341/95, KT: 02/05/2000, Rotaru/Romania, par: 43, 44;

In addition, obtaining personal information illegally is against the International Conventions and Regulations that Turkey is part of, such as Convention no.108 of Private Data of the Council of Europe, Guideline no. 95/46 in EU regulations that regulates the protection of personal data and OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data. The illegal acquiring of private personal data violating the right of privacy and communication by this means is confirmed by many international reports. In the APC letter which has 56 Associations that defend the right to communicate and freedom of expression under its umbrella and which sent a letter to 36 meeting of the UN Council of Human Rights, these points are criticized.

<http://conventions.coe.int/Treaty/en/Treaties/Html/108.html>) (<http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=108&CM=8&DF=10/03/2015&CL=ENG> <http://www.tbmm.gov.tr/d24/1/1-0966.pdf>)
<http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:31995L0046>) <http://www.oecd.org/sti/economy/oecdguidelinesonthe protectionofprivacyandtransborderflowsofpersonaldata.htm> <https://www.apc.org/en/pubs/hrc-36-secure-digital-communications-turkey-are-essential-human-rights>

ByLock is a digital application and it is not a crime to use it.

ByLock data was stolen by MIT by violating international conventions and cannot be used as evidence

BYLOCK DATA DOES NOT FIT TO THE INTERNATIONAL PROCEDURE THAT SHOULD BE FOLLOWED IN PROCEDURAL ACTS WITHIN LAW. BYLOCK DATA IS OBTAINED ILLEGALLY



Although both Turkey and Lithuania are the parties in the European Convention on Mutual Assistance in Criminal Matters (CİKAYAS) and Additional Protocol No. 1 to this convention and therefore it is necessary to request necessary data in accordance to this protocol, Turkish investigation authorities preferred hacking / purchasing / stealing methods instead of requesting them in the foreseen proper ways. Thus, violating the international as well as domestic law. It is also not possible for MIT to purchase the ByLock data via bargaining, on the legal base of its classified nature due to being personal communication. Therefore, it is not possible to be sold publicly.

OBTAINING BYLOCK DATA AND USING IT AS EVIDENCE IS ILLEGAL

The way of obtaining of the claimed ByLock data is described in the file with merit no. 2017/13 and decree no. 2017/21 of Ankara 15th Heavy Penal Court as following: " It is seen that the National Intelligence Agency used its authority and purchased the data on ByLock servers and the server and IP addresses through using the methods, tools and techniques of technical intelligence that are unique to the Agency, obtained different data, notably the contents of e-mail addresses and the technical analysis report prepared by MIT and digital materials are sent to the Chief Public Prosecutor in Ankara and General Directorate of Security." Downloading and using ByLock itself does not constitute a crime. There is no such legal arrangement indicating that it is a crime in Turkish Penal Code.

If the evidence is acquired by illegal means, it is rejected (art. 206/2-a). The verdict being based on evidence that is acquired illegally is a clear contradiction to law (art. 289). As Lawyer Hüsnü Yıldırım remarked in his article titled "BYLOCK CAN NEVER BE USED AS EVIDENCE IN ACCORDANCE WITH ART. 217/2 OF CODE OF CRIMINAL PROCEDURE", "It is clear that the MIT's way of obtaining evidence violates the articles 20, 22 and 38/6 of the Constitution and art. 134 of Code of Criminal Procedure. It is clear that MIT's way of obtaining ByLock evidence is illegal according to the Constitution and Law. The judges who thought that ByLock is not evidence suffered from oppression, as it can be seen below.

MIT tarafından oluşturulan listelerin ve iddia edilen içeriklerin bilimsel olmadığı bağımsız kişi ve kurumlarca yazılan bir çok teknik raporla ispatlanmıştır.

Chief Judge and members of the court of Hatay 2nd Heavy Penal Court who hesitated about the ByLock and decided that the MIT report is not sufficient, Şenol Demir, who is Head of the 2nd Penal Chamber of Antalya Regional Court of Justice, the Chief Judge and Members of 3rd Penal Chamber of Gaziantep Regional Courts of Justice are among the examples. Fatih Mehmet Aksoy, who took 39 judges and prosecutors into custody and then arrested them without any evidence before said once that "I cannot stand this anymore, I will release all of them". The prosecutor of the case then threatened him and said that "I will arrest you for ByLock within 2 hours if you do that". Within less than 2 hours, Aksoy is arrested. www.ntv.eom.tr/turkiye/feto-iddianamesini-iade-eden-hakin/ere-inceleme,vvGCbLy6YE6qg14QwaGCXQ <https://www.yeniasir.com.tr/surmanset/2017/05/13/bylocku-delil-saymayan-hakime-tenzil-i-rutbe> <http://www.kronos.news/tr/bylock-cezalarini-bozan-hakim-gorevden-alindi/>, <http://www.platformpj.org/report-non-independence-non-impartiality-turkish-judiciary/>

"MIT" DID NOT DELIVER THE DATA IT CLAIMED TO OBTAIN TO THE JUDICIARY AUTHORITIES

According to the MIT law no. 2937, MIT can only use the authority of judicial police in the crimes of espionage. MIT does not have the authority of judicial police except the espionage crimes. MIT kept those data for 6 months and worked on them although it wasn't its duty and it wasn't also tasked to do this. MIT also prepared a technical report afterwards, whereas there is no such task assigned to them according to the art. 63 of Code of Criminal Procedure. MIT's ByLock lists and technical analysis report has no legal meaning according to art. 73 and 134 of Code of Criminal Procedure of Turkey and therefore, is forbidden evidence. It is not possible for ByLock to be legal evidence because the legal chain was not followed. Therefore, ByLock list and analysis report is legally null and void.

VPN AND CGNAT PARADOX

VPN

In the legal opinion prepared by the legal experts William Clegg and Simon Baker on the validity before the International Law of the accepted evidence and investigations made by judicial authorities after 15th July, this issue is as well mentioned. In the aforementioned legal opinion's part titled as "There are many contradicting claims in the MIT report", "In the MIT report from paragraph 3.5.1. to 3.5.5. it is claimed that the users had to use a VPN to access to the ByLock app because of the IP restriction. Despite this, it is said in 3.6. that the IP addresses are used to determine ByLock users. If VPN is used to connect to the app, the IP addresses cannot be used to determine the users, so those two claims are contradicting with each other." <https://www.2bedfordrow.co.uk/opinion-on-the-legality-of-the-actions-of-the-turkish-state>, <https://www.2bedfordrow.co.uk/opinion-on-the-legality-of-the-actions-of-the-turkish-state>

Even MIT and Erdogan media accepted that there were erroneous parts in ByLock lists. The lists were updated many times and number of people in the lists were decreased to 91 thousand from 265 thousand. The updates continue.

CGNAT PROBLEM

CGNAT: Carrier Grade Network Address Translation

IP address are the identification of every user on the internet, just like GSM mobile phone numbers. All the devices, computers, smartphones, tablets, TV's, sensors that connect to internet, security cameras etc. use IP addresses. Right now, in the IPv4, there are 4.294.967.296 IP addresses. IANA is responsible for assigning IP's. Every single IP belongs to someone which is known. As there are no IP's left in IPv4, the IPv6 is invented but it is very costly to transfer to IPv6 for service operators. In the IPv6 there are 340.282.366.920.938.463.463.374.607.431.768.211.456 addresses. The operators, instead of transferring to the IPv6, use CGNAT which is less costly.

Internet cannot be reached by virtual IP's. In the places in which CGNAT is used, the devices that connect to internet require real IP's. Real IP can be likened to real phones whereas Virtual IP can be likened to payphones. While there is a standard for real IP's to register and report, there is no standards in Virtual IP's. In the operators that use CGNAT, it is technically very difficult to find who uses the real IP and nearly all the operators in Turkey use CGNAT. The Director of EUROPOL, Rob Wainwright indicates that because of CGNAT, it is not possible to determine the real user in 90% of the cases. In a situation where CGNAT is used and where it is said that ten percent of the CGNAT users can be determined at most, the claim that ByLock users are determined on IP in Turkey where CGNAT is used is not realistic. <https://twitter.com/bylockgercegi/status/939917992330252288>

THE LIES REGARDING THE CONNECTION BETWEEN THE COUP ATTEMPT AND BYLOCK AND FAKE NEWS

Within the perception operations that is planned by the arrests of the opposition members based on ByLock accusations, the perception that the ByLock communication app was used during the coup attempt among the soldiers was created by government members and the media controlled by the Erdogan Regime. The media offshoot of the Erdogan Regime published headlines with soldiers using their mobile phones during the coup attempt which had ByLock images on their screens (prepared by photoshop) to strengthen this cognition. After this propaganda, although it is understood that the application was closed officially 5 months before the coup attempt, there was no content regarding the coup attempt and the photos on the media are fabricated via photoshop, Turkish society still thinks that it is used during the coup.

<https://www.turkishminute.com/2016/09/14/turkish-minister-indicates-purges-continue-bylock-users> <http://www.turkiyegazetesi.com.tr/gundem/397804.asp>, http://www.hsyk.gov.tr/DuyuruOku/930_basin-duyurusu.aspx, <http://www.wsj.com/articles/turkeys-powerful-spy-network-never-saw-coup-coming-1469823062>, <https://fetodarbeiddiasivegercekler.wordpress.com/2017/05/26/13-ugruna-onlarca-sahte-fotograf-ve-mesaj-icerigi-uretilen-ama-sonradan-cark-edilen-bir-yanlan-darbe-sirasinda-bylock-kullanildi/>

The AKP members who used ByLock are either removed from the lists or are forgiven. After they are removed, thousands of people who are opposed to the government are dismissed from their duties or even arrested with the claims of membership to a terrorist organization

EXAMPLES OF PEOPLE WHO ARE PROTECTED ALTHOUGH THERE ARE BYLOCK CLAIMS AGAINST THEM

As United Nations Human Rights rapporteur David Kaye indicated in his report, it is understood that while tens of thousands of public servants, college students and even mothers with new-born children are victimized by being on the ByLock user lists, especially people who enjoyed close ties with AKP (the ruling Justice and Development Party) are protected and no legal procedure is applied to them.

HDP's Mardin MP Mithat Sancar said that "During the talks among the Coup Investigation Commission in Parliament, we demanded that the lists of politicians who used ByLock should be requested from MIT but our demand was not accepted." Ahmet Şan, the Club Director of Konyaspor was detained for ByLock on 22 August 2017 but then released even without seeing the prosecutor. His name was then removed completely from the list. The former head of YARSAV and Judge's Union Ömer Faruk Eminağaoğlu shared a list of 66 people with the title "THE LIST OF AKP MEMBERS WHO USE BYLOCK". <https://twitter.com/eminagaoglu/status/914108825313189888> <http://odatv.com/samil-tayyar-kime-o.-cocugu-dedi-3009171200.html>

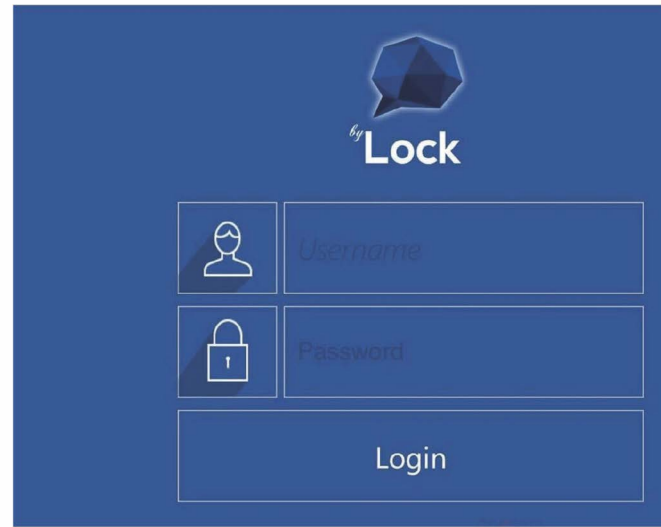
twitter.com/eminagaoglu/status/914108825313189888 <http://odatv.com/samil-tayyar-kime-o.-cocugu-dedi-3009171200.html>

UNITED NATIONS - EUROPEAN UNION AND BYLOCK

United Nations Freedom of Expression rapporteur David Kaye also indicated in his report about Turkey that the source of the lists obtained by MIT is cloudy. <https://t.co/yi0741iSoz?amp=1> (page 14). The Anti-terrorism chief of EU, Kerchove, expressed in his interview made by Reuter News Agency that the EU does not consider the Gülen Movement as a terrorist organization and he emphasized that Bylock cannot be accepted as an evidence of terrorism or coup plotting in the eyes of the EU and in order to consider them as terrorists, there should be concrete and clear evidence against them other than using an application such as ByLock. United Nations Unfair Arrest Committee, in its decision regarding the applicant Kürşat Çevik, emphasized that Turkey does not have any claims regarding using ByLock being a crime and the Bylock claims against Kürşat Çevik and his defense contradicts each other, so the evidences may be artificial. http://mobile.reuters.com/article/amp/idUSKBN1DU0DX?__twitter_impression=true, <https://medium.com/@privacyint/encryption-at-the-centre-of-mass-arrests-one-year-on-from-turkeys-failed-coup-e6ecd0ef77c9>

INTERNATIONAL SOCIETY AND OPINIONS ON BYLOCK

Many persons and institutions such as Denmark Liberal Party Member Michael Aastrup Jensen, writer in Bild Newspaper and Chairman of German Journalists' Union Prof. Dr. Frank Überall, Co-president of the European Parliament Rebecca Harms, Chairman of the Human Rights Watch, human rights defenders such as Amnesty, Informatics Rights activist Aral Balkan, indicated via media and social media that downloading or using a communication app which is similar to WhatsApp and via platforms such Google Play Store and Apple Store as evidence of being a member to a terrorist organization is unlawful, against human rights and ridiculous. <https://www.turkishminute.com/2017107103/opinion-erdogans-terrorists-in-turkey/amp/>, <http://lromanyahaber.com/2017/10/14/computer-bild-bylock-iddialarini-inceledi-sacma-suphel> <https://twitter.com/RebHarms/status/923574434404937729> <https://mobile.twitter.com/KenRoth/status/911076364618424320> Amnesty gibi Hak savunucusu Örgütleri, <https://t.co/joJgseAp3P> <https://twitter.com/larall/status/891727366409551873>



SOME OF THE CELEBRITIES WHO ARE ARRESTED BECAUSE OF BYLOCK

Erdogan, who uses ByLock as a tool to eliminate the opposition, added many people to the ByLock user lists who stand out in different institutions and criticize him.

Among them, Sefa Akay, a judge of the UN, who himself declared that he downloaded ByLock for free-masonic purposes, is punished with 7.5 years of imprisonment. Taner Kılıç, the Turkey coordinator of Amnesty, who prepared a report indicating that there are massive human rights violations in Turkey is arrested on the ground of ByLock. <http://www.platformpj.org/another-victim-turkeys-witch-hunt-un-judge>, <https://www.eff.org/tr/deeplinks/2017/07/global-condemnation-turkeys-detention-innocent-digital-security-trainers>

Hakan Şükür is a national football player and former MP of AKP. He is sought for being a member to a terrorist organization because he used ByLock. He lives abroad now.

Taner Kılıç, the chef of Amnesty Turkey Desk, arrested because of the claims of using ByLock.

Sefa Akay, UN judge. Arrested for using ByLock and punished with 7.5 years of imprisonment.

Ömer Çankı, national football player. Arrested for using ByLock.

Bekir İrtegin, national football player. Detained for using ByLock.

Sefa Akay



Taner Kılıç



Bekir İrtegün



Ömer Catkıcı



HAKAN ŞÜKÜR

CURRENT DEVELOPMENTS ON BYLOCK

-UN DECISION ON MESTAN YAYMAN (A/HRC/WGAD/2018/42)

Yayman, who was the Deputy Governor of Antalya, was detained on 1st of September 2016 while he was visiting his family in his hometown and punished with 7 years and 6 months of imprisonment after being alleged with "membership to FETÖ/PDY".

Upon the application, the United Nations Working Group on Arbitrary Detention analyzed the case. Within this context, it emphasized the following for the states and societies that are ruled by democracy and embraced the superiority of law: 1) Freedom of expression, 2) Right to assembly and demonstration, 3) Freedom of association. Therefore, they indicated that even it is accepted that he had used it, using ByLock cannot be accepted as a crime, otherwise it means clear violation to the aforementioned rights. As a result, the group decided that the arrest of Mestan YAYMAN is arbitrary.

- UN DECISION ON MUHARREM GENÇTÜRK (A/HRC/WGAD/2018/44)

There was an investigation against Muharrem Gençtürk who is an academician and got arrested. The WGAD concluded that the arrest is arbitrary, with the same reasons above. In other words, WGAD's opinion on ByLock became stabilized and res judicata

- UN HUMAN RIGHTS COUNCIL REPORT ON FREEDOM OF THOUGHT AND EXPRESSION IN TURKEY (A/HRC/35/22/Add.3)

- The NGO that is within UN Human Rights Council which has the status of General Advisor condemned the arrests of human rights defenders in Turkey by emphasizing the importance of anonymized and encrypted communication for the society and freedom of expression in its statement titled as "Turkey: Secured digital communication is very important for human rights". In the statement, the report of David Kaye in 2015, United Nations Freedom of Expression rapporteur is also mentioned.

- PRESS STATEMENT OF DAVID KAYE, UNITED NATIONS FREEDOM OF EXPRESSION RAPPORTEUR

David Kaye, United Nations Freedom of Expression rapporteur stated that "Turkey has proven that it is unable or unwilling to protect its own citizens against the violations on freedom of expression and thought caused by Turkish judiciary itself." and gave the example of Kadri GÜRSEL, journalist, being investigated because he was called by someone "who had ByLock installed".

UNITED KINGDOM - THE CASE OF AKIN IPEK AND BYLOCK

One of the most important documents regarding ByLock is the formal letter presented to the Westminster Royal Court regarding the case of the people including Akin İPEK made upon the extradition request made by Turkey to United Kingdom. This document is presented by Turkey, which requested the extradition.

Turkey, first claimed that this document was fake, and after it was understood that it was real, put forward that one of the officers in the Turkish Embassy in London prepared it himself without the knowledge of the ministry and therefore claimed that it does not reflect the truth and the responsible officer was ordered back and being subject to intern investigations. Then, it was reflected in the press that the officer who prepared that document was assigned to a Far East country and started his duty there.

The importance of the document regarding ByLock is clearly understood by its content. Because, it is indicated in the document that "this application (ByLock) which is used as a tool of communication between FETÖ members, cannot be used as evidence unless it is used to organize secret acts or the content of the correspondence consists of information which is crucial to accomplish the secret purposes of FETÖ." Indeed, these statements are in accordance with the opinions and practices of the international supreme courts and human rights organizations, such as the ECHR or the UN. Encrypted and/or anonymous communication is not a crime itself, the content must be examined first.

Thus, in the justification of the decision dated 28 November 2018 of Westminster Royal Court, it is indicated that although there are serious suspicions regarding the right of fair trial, it cannot be said that it is completely diminished, by mentioning that the file reflects the official opinion of the state and therefore cannot be ignored. But in Turkey, on the contrary of what is written on the document, more than 100.000 people are allegedly being "a member to a terrorist organization", investigated, judged and even imprisoned just because they downloaded ByLock application and connected to the server in Lithuania.

In this case, it comes to mind that Turkey prepared an official document which did not reflect the truth in order to make it possible for Akin İPEK and his friends to be extradited, and after the truth is revealed, landed the fault on personnel to clear themselves.

The Letter of the International Associations of Judges

One of the most important documents regarding ByLock is the call of International Associations of Judges, to end the arbitrary arrests and detentions and respect the right of fair trial in Turkey.

In the open letter signed by the Chairman of The Association of European Administrative Judges, Edith Zeller, the Chairman of European Association of Judges José Igreja Matos, the Chairman of "Magistrats Européens pour la Démocratie et les Libertés" Filipe César Marques, the important human rights violations are listed. Within this context, it is reminded that Murat Arslan, the Chairman of YARSAV is alleged of being a member to a terrorist organization with the claim using ByLock and indicated that "....Evidence on the concrete use of the communication system ByLock (similar to "whatsapp" or other communication apps) and its evidential value for the concrete accusations were neither carefully analyzed nor thoroughly investigated. A witness of the prosecution changed the testimony. Two more witnesses of the prosecution were heard by other courts without consultations of the defense and without giving notice of their identity. The trial is still not finished yet but due to have another hearing in January 2019. "

This clearly shows that ByLock application being accepted in Turkey as criminal evidence is unacceptable and unlawful according to all kinds of worldviews and opinions.

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www.humanrights-ev.com

<https://www.instagram.com/hrightsdefenders/>

<https://www.facebook.com/HRD-2099015710362489/>

https://www.youtube.com/channel/UCejHFejX7nh_Pr04IHmyN4w