



## Keskinoğlu: Chicken censorship

Chicken producer Keskinoğlu was able to use a SLAPP suit to deplete the resources of civil society when its production methods were criticised.

### Problem Analysis

This case shows how a large agricultural company has succeeded in its attempted Strategic Lawsuit Against Public Participation (SLAPP). Although the company lost the SLAPP suit itself, it managed to slow the campaign with the result that campaigners lost momentum in their campaign for more sustainable meat production.

SLAPPING is not discussed as such in the public sphere in Turkey; hence no discussion of “anti-SLAPP” laws has entered the public discourse yet. Therefore the industry can go ahead with these procedures and tactics. The case illustrates firm government support of the industry with negative impacts for citizens and the environment and a lack of home-state accountability.

### Company

**Main Company:** Keskinoğlu Tavukçuluk ve Damızlık İşl. San Tic. A.Ş.

**Head office:** Turkey

### Company background

**Privately owned company**

**Shareholders:** Fevzi Keskinoğlu (50%) - Mehmet Keskinoğlu (50%)

**President & CEO:** Fevzi Keskinoğlu

**Non-Executive Chairman & Director:**

**Annual profit:** Unknown

**Annual turnover:** 1,041,666,084 TRY / US\$ 382,241,742 (2015)<sup>1</sup>

**Presence:** Turkey

**Number of employees:** +/- 3,600<sup>2</sup>

### Company activity

Keskinoğlu Group is a major producer and exporter of chicken, eggs and chicken related products in Turkey.<sup>3,4</sup>

### Country and location in which the violation occurred

Turkey

### Summary of the case

In May 2016 Greenpeace Mediterranean launched its livestock campaign in Turkey. It asked the top seven poultry companies to adopt sustainable production methods by complying with a list of demands by 2020, including announcing a roadmap for their transition, which they would be held accountable for.<sup>5</sup> These seven companies are each represented by one member in the seven-member board of the poultry industry association (BESD-BİR). Five of the seven companies, immediately and separately, went to court to block public access to the campaign’s petition site, as well as Greenpeace Mediterranean’s websites and Facebook pages which linked to the petition site, claiming that the use of the names and logos of their companies on the petition site was in breach of the companies’ personal rights.

As a result, a court order was issued that blocked access to the campaign’s petition site. Greenpeace Med immediately launched a new petition site, this time without the names and logos of the companies.<sup>6</sup> On May 23rd, 2016, Keskinoğlu Tavukçuluk ve Damızlık İşl. San Tic. A.Ş. (Keskinoğlu) filed a criminal lawsuit against legal representatives of Greenpeace Med (registered in Turkey as Greenpeace Akdeniz) alleging a breach of the anti-competition articles of the Commerce Law.

Despite the fact that these articles of the Commerce Law are meant to regulate the terms of competition in a liberal economic system, Keskinoğlu used this law to launch a SLAPP suit to silence and censor the demands of civil society.<sup>7</sup> Two other companies tried to put pressure on the campaign. The company Besd-Bir contacted Greenpeace International and the company Beypiliç sent an official letter in which it threatened to sue Greenpeace Mediterranean and its campaigner.

The first hearing in the Keskinoğlu case was held in January 2017. After four hearings, on 29 September 2017, the Judge ruled against Keskinoğlu's allegations and cleared all four Greenpeace representatives of all charges, declaring that no crime was committed and the Commerce Law was not breached. Keskinoğlu is now appealing the verdict.<sup>8,9,10</sup>

The CEO of Beypiliç, which threatened to sue Greenpeace, is also the President of the poultry industry association BESD-BİR. And one of the attorneys that represented Keskinoğlu in their fourth and final hearing is the legal representative of both Beypiliç and BESD-BİR. So there is a de facto involvement of the remaining poultry companies as complainants in the criminal case and an apparent collective action on the part of the Industry.

Primary damage was done to the four current and past Greenpeace members who were registered at the time as legal representatives of Greenpeace Akdeniz, two of whom were no longer working for Greenpeace Akdeniz at the time of the incident. Secondly, the court case put strains on Greenpeace Mediterranean's and Greenpeace International's resources, in particular by occupying the legal team. This process created an additional burden as information and documents needed to be exchanged back and forth continuously in bilingual format, incurring translation headaches. Third, the case diverted campaign resources as the campaigner and the campaign project team had to focus on the court case rather than the overall campaign strategy for over a year. Finally, and most importantly, the campaign for more sustainable meat production in Turkey was stalled by the need to address the court case.

The SLAPP suit did create some opportunities for the campaign. It made it possible for Greenpeace to target Keskinoğlu and mention Keskinoğlu by its name – an act which is otherwise barred by the commercial law in the context of campaign activity. The case also brought significant attention to the underlying issue.<sup>11</sup>

Despite a long history of using strategic lawsuit against public participation (SLAPPING) in Turkey, both on behalf of public authorities and of companies, this practice is not discussed and crystallized as “SLAPP” in the public sphere; hence no discussion of “anti-SLAPP” laws has entered the public discourse. Recently BESD-BİR filed similar cases in criminal court, using the same allegations about breach of anti-competition articles of the Commerce Law, against a prominent medical doctor who was advocating for healthy food and criticizing the industrial agro-food business. Even though BESD-BİR has lost most or all of these cases, with

the courts declaring their allegations unfounded, this has not prevented the industry from filing new complaints.<sup>12</sup>

The government did not play any role in the Greenpeace case and the proceedings did not raise any concerns about a fair trial in this respect. However, whenever the industrial model of poultry production is criticised in the public sphere, the Ministry of Agriculture intervenes in support of it.

This is best exemplified by the TV ads produced by the Ministry of Agriculture, with taxpayers' money, which national TV channels are obliged to air free of charge under the guise of “Public Service Adverts”. These ran from 2014–2016, before and during Greenpeace-Mediterranean's poultry campaign, telling the public how safe and healthy chickens produced by industrial poultry companies are.<sup>13</sup>

In Turkey, recourse to SLAPP cases is not limited to the poultry industry. Labour unions are frequently targeted on the same “unjust competition” grounds, and addressing these cases constitutes an important element of civil society's struggle in the country. There is also a trend toward companies asking for a court order to block certain websites. This is happening in the context of the shrinking democratic space in Turkey.<sup>14,15,16,17,18,19</sup> Because of this the positive outcome of the criminal proceedings must not be viewed as solely legal gains. We expect the Keskinoğlu decision to form a favourable precedent.

## Endnotes

1 Calculation based on 2015 annual average USD / TRY exchange rate of 2,72515. In 2016 the Company chose not to publicly disclose its turnover. However, based on its ranking, its 2016 turnover stands between 805–820M TRY / US\$ 266–271M; reflecting approximately a 30% drop.

2 See Keskinoğlu's company website: <http://www.keskinoglu.com.tr>

3 See Keskinoğlu's LinkedIn page: <https://es.linkedin.com/company/keskino-lu>

4 See Keskinoğlu's company website: <http://www.keskinoglu.com.tr>

5 The report on which the sustainable livestock campaign is based can be found on Greenpeace Mediterranean's website: “Consuming the World – Industrial livestock sector in the poultry industry,” Greenpeace Akdeniz (Mediterranean), 11 May 2016 at <http://www.greenpeace.org/turkey/tr/news/o-tavugu-yutmayiz> – in Turkish

6 Two news articles on the ban of the campaign site: <http://www.sivilsayfalar.org/greenpeace-antibiyotik-gdo-var-beypilic-bilgiler-kulaktan-dolma> and <https://bianet.org/bianet/toplum/174904-tavuk-sirketlerinden-greenpeace-e-ihhtarname> – in Turkish

7 “There is an answer from Keskinoğlu,” Greenpeace Mediterranean, 25 January 2017 at <http://www.greenpeace.org/turkey/tr/news/keskinoglundan-cevap-var-170125> – in Turkish

8 “Keskinoğlu'na law course Chicken acquitted,” Greenpeace Mediterranean, 29 September 2017 at <http://www.greenpeace.org/turkey/tr/news/keskinogluna-hukuk-dersi-170929> – in Turkish

9 “Second hearing in the case of “swallowing” Keskinoğlu's censorship,”

Greenpeace Mediterranean, 18 April 2017 at <http://www.greenpeace.org/turkey/tr/news/yutmayiz-davasinda-ikinci-durusma-170418> - in Turkish

10 "First hearing in the case of 'swallow'," Greenpeace Mediterranean, 26 January 2017 at <http://www.greenpeace.org/turkey/tr/news/yutmayiz-davasinda-ilk-durusma-170126> - in Turkish

11 In the days leading to the first hearing public pressure against Keskinoğlu, particularly through online media, was so effective that the company had to issue a press release addressing the controversy, as well as answers to the questions Greenpeace and its supporters directed at them. A few days after the hearing, the company posted a group photo of their management team with the caption "standing strong", which later was deleted. The documents can be found here:

[https://pbs.twimg.com/media/C3BPfYQXcAAPP\\_t.jpg](https://pbs.twimg.com/media/C3BPfYQXcAAPP_t.jpg)

<http://www.keskinoglu.com.tr/aciklama>

<http://www.instadetails.com/p/BP-ZiqVBJVH>

12 Case dates and numbers can be found in Doctor Yavuz Dizdar's blog:

"TAVUK' DAVASI: "İlk suda 20 dakikada" kaybedilmiş bir itibar öyküsü," ("CHICK' CASE: A lost reputation story in "20 minutes in warm water"), Yavuz Dizdar, 28 March 2017 at

<http://yavuzdizdar.com/tavuk-davasi-ilk-suda-20-dakikada-kaybedilmis-bir- itibar-oykusu>

13 "Chicken Breastfeeding Public Spot," 20 Mar 2014 at <https://www.youtube.com/watch?v=T8f83E2MXg4>

14 For reports of internet mass-censorship in Turkey see Turkey Blocks at <https://turkeyblocks.org/reports>

15 Can Sezer and David Dolan, "Turkey blocks access to Wikipedia," Reuters, 29 April 2017 at <https://www.reuters.com/article/us-turkey-security-internet-wikipedia/turkey-blocks-access-to-wikipedia-idUSKBN17V06Q>

16 "Freedom on the Net 2016. Turkey Country Profile," Freedom House at <https://freedomhouse.org/report/freedom-net/2016/turkey>

17 "Turkey blocks Wikipedia under law designed to protect national security," Reuters, 30 April 2017 at <https://www.theguardian.com/world/2017/apr/29/turkey-blocks-wikipedia-under-law-designed-to-protect-national-security>

18 Cara McGoogan, "Turkey blocks access to Facebook, Twitter and WhatsApp following ambassador's assassination," The Telegraph, 20 December 2016 at <http://www.telegraph.co.uk/technology/2016/12/20/turkey-blocks-access-facebook-twitter-whatsapp-following-ambassadors>

19 "Turkey blocks Wikipedia without court order or explanation," Independent, 29 April 2017 at <http://www.independent.co.uk/news/world/europe/turkey-blocks-wikipedia-internet-erdogan-online-wiki-is-it-down-a7708941.html>