



Law Proposal Amending Turkish Internet Law

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A new law proposal amending certain provisions of Law No. 5651 on Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcast and Turkish Criminal Code is submitted before the relevant commissions of Grand National Assembly of Turkey (“TBMM”) and has been published on TBMM’s website on February 3, 2022.

According to its preamble, the Proposal, amongst others, aims to target fake and anonymous social media accounts and handling of user complaints regarding online content through the establishment of a Social Media Complaints Evaluation Commission.

Once the Law Proposal Amending the Law No. 5651 and Further Laws (Proposal)¹ is discussed and accepted by the TBMM, it will be sent to the President for review. Unless the President objects to the publication of the law and returns it to the TBMM, the President will then publish the law in the Official Gazette within fifteen (15) days. According to the current version of the Proposal, the proposed provisions will be effective immediately as of their publication date.

Significant Amendments Introduced by the Proposal

- *Obligations of Access Providers.* Law No. 5651 obliges the access providers to take measures for blocking alternative access channels regarding the broadcasts that were decided to be access banned. The proposal now requires access providers to take these measures “regularly” and notify such measures to ICTA at least on a 7 days period basis.

- *Establishment of Social Media Complaints Evaluation Commission.* According to the Proposal, a commission titled “Social Media Complaints Evaluation Commission” will be established in 81 cities

¹ <https://www2.tbmm.gov.tr/d27/2/2-4130.pdf>

to evaluate and decide on the applications to be made by the citizens within the scope of Article 8/1 of Law No. 5651 on social media and other additional commissions will also be established for the cities wherein the population exceeds 1 million per each additional one million population. The commission will be conducted through a president who is the governor or who is an official appointed by the governor. The commission consists of five members; (i) the president of the commission, (ii) a member who will be appointed by the provincial police chief among the officials who are expert on the matter, (iii) a member who will be appointed by the public prosecutor's office, (iv) a member who will be appointed by the bar association among its members and (v) a member representing ICTA.

Furthermore, the applications to be made by real persons and legal entities will be made through an automation system that the procedures and principles will be determined by ICTA. The commission will render its decision regarding the application within 24 hours following the receipt of the application; notify the removal of content/access ban decision to ICTA to be enforced within four hours.

The commission shall file a criminal complaint in case it determines that the content constitutes a crime. If there is a decision of non-prosecution or acquittal, Article 8/7 and 8/8 (both are currently in force) will be applicable.

The applicant, content provider and social network provider might object to the commission decisions under the Law on Administrative Judicial Procedure No. 2577.

- *Administrative sanctions.* Social network provider might be imposed an administrative fine ranging from 300,000 Turkish Liras up to 1,500,000 Turkish liras by the president of ICTA if the commission decision is regarding a content of the social network provider and the mentioned social network provider does not enforce the commission decisions within 24 hours following the notification. Real persons and legal entities that are tax residents in Turkey are banned from placing new advertisements on the relevant social network provider, if the decision is not enforced within 48 hours following the imposition of the administrative fine, in this respect, new contracts cannot be executed and money transfer cannot be made regarding such. The president of ICTA might apply to the criminal judgeship of peace in order to reduce the internet traffic bandwidth of the social network provider by fifty percent, if the obligation is not fulfilled within 7 days following the advertisement ban decision.

- *Catalogue crimes.* The Proposal extends the scope of the catalogue crimes by additionally including the crimes of sexual harassment, threat, blackmailing, hate and discrimination, crimes against public peace and crimes regarding economy, industry and commerce to the list of catalogue crimes under Article 8 of Law No. 5651.

- *Other provisions.* Sending obscene messages and contents with fake accounts is added to the crime of “sexual harassment” regulated in Turkish Criminal Code and a new clause regarding the case of committing the crime of “threat” with fake accounts is also introduced to the same law. Furthermore, an imprisonment sentence is regulated in terms of the parties who maintain and use software and applications which conceal or prevent determination of the identity of the perpetrator on internet for the purposes of committing crimes on internet against private life and private area of life, public peace, public trust, public health and disclosure of duty secrets and a new article titled “Use of Fake Identity on Social Content Networks and Internet” is introduced to Turkish Criminal Code.

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