

FAHRENHEIT 5651

THE SCORCHING EFFECT OF CENSORSHIP



ENGELLİWEB 2020
YAMAN AKDENİZ - OZAN GÜVEN

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Prepared by: YAMAN AKDENİZ · OZAN GÜVEN

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EngelliWeb 2020

YAMAN AKDENİZ - OZAN GÜVEN

• RESEARCH •

Freedom of Expression Association and 2020 EngelliWeb Report

The Freedom of Expression Association (“İfade Özgürlüğü Derneği - İFÖD”), based in Istanbul, was established in August 2017. The Association focuses on the prevention and elimination of violations of the right to freedom of expression without any discrimination based on language, religion, race, gender, sexual orientation, gender identity, age, disability, political affiliation, and other grounds. In this respect, the association was founded with the purpose of providing legal assistance to those whose right to freedom of expression has been violated or is at risk of being violated; conducting projects including research, training, and national and international cooperation projects; and promoting solidarity for the purpose of safeguarding the right to freedom of expression of the people affected.

As a civil society initiative launched in 2008, EngelliWeb shared information and statistics on the blocked websites and the judicial and administrative decisions blocking these websites identified by the initiative in Turkey, until 2017. As a reference resource providing concrete data on its field for many domestic and foreign media organizations as well as academic articles and parliamentary questions, and as a statistical source used in every annual “Human Rights Report” of the US State Department, EngelliWeb was awarded the Honorary Freedom of Thought and Expression Award of the Turkish Publishers Association in 2015 and the BOBs – Best of Online Activism Turkish User Award of Germany’s international broadcaster Deutsche Welle in 2016.

Since the foundation of the Freedom of Expression Association, EngelliWeb has continued its activities under the roof of the Association. Within this framework, the 2018ⁱ and 2019ⁱⁱ EngelliWeb reports were published in June 2019 and July 2020, respectively, with regards to the ongoing Internet censorship practices in Turkey. In addition, as part of the EngelliWeb project, an advisory report was prepared for the United Nations’ 2020 Turkey Report in the context of its Universal Periodic Review (“UPR”) mechanism, and current statistical data as of that date was made available to the public in November 2019.ⁱⁱⁱ In particular, the 2018 and the 2019 EngelliWeb reports, published by the Freedom of Expression Association Turkey, had widespread nation-

i See Freedom of Expression Association Turkey, EngelliWeb 2018; An Assessment Report on Blocked Websites, News Articles and Social Media Content from Turkey, June 2019; https://ifade.org.tr/reports/EngelliWeb_2018_Eng.pdf

ii Freedom of Expression Association Turkey, EngelliWeb 2019: An Iceberg of Unseen Internet Censorship in Turkey, July 2020, https://ifade.org.tr/reports/EngelliWeb_2019_Eng.pdf

iii See https://ifade.org.tr/reports/IFOD_UPR_Recomm_2019.pdf

al and international media coverage. In July 2019, 20 HDP MPs submitted a written request to initiate a Parliamentary investigation in accordance with Article 98 of the Constitution and Articles 104 and 105 of the Internal Regulation of the Turkish Grand National Assembly, referring to the EngelliWeb 2018 Report.^{iv} Similarly, in August 2019, 22 CHP MPs submitted a written request to initiate a Parliamentary Investigation on the issues of Internet access, freedom of expression, and freedom of the press based on the data provided by the EngelliWeb 2018 Report.^v At the time of writing this report, the Parliament had not yet responded to these requests, which are still on the agenda of the Assembly. During the amendments made to the Law No. 5651 in July 2020, MPs frequently referred to the 2019 EngelliWeb Report in the Assembly.^{vi}

The EngelliWeb 2020 Report, a continuation of the EngelliWeb 2018 and 2019 reports, is named *Fahrenheit 5651: The Scorching Effect of Censorship*, referring to Ray Bradbury's famous novel *Fahrenheit 451*, which was published in 1951, describing an oppressive, authoritarian, and dystopian society in which books are burned. This report focuses on the burning and destructive effect of the amendments made to the Law No. 5651 as a result of increasing pressure, especially in 2020 and during the COVID-19 pandemic and Internet censorship practices, which have been increasing gradually along with these amendments. Our purpose is to document the extent of censorship and to ensure that the scorching effect and damage of censorship are not completely erased from the collective memory as in previous reports.

As can be assessed in detail in the 2020 report, the practice to block widespread access to the Internet continued in Turkey as in previous years. Significant amendments were introduced to the Law No. 5651 in 2020, and as will be examined in detail in this report, the sanction of **“removal of content”** was added to the Law in addition to the measure of **access blocking**. Furthermore, the sanction of **non-association of search engines** with the websites subject to the violations of personal rights orders under article 9 of the Law was also added. Lastly, an amendment regarding social network providers with more than one million daily user access from Turkey was introduced to the Law No. 5651 requiring them to have legal representation in Turkey from October 2020.

As a result of all these amendments, as part of the EngelliWeb project, it was found that the number of domain names, websites, news articles, social media accounts, and social media content items that have been blocked from Turkey and/or have been subject to content removal orders significantly increased in this context, **the number of websites blocked from Turkey reached 467.011**. While the Constitutional Court has issued nearly **38 separate judgments** on Internet and access blocking practices, including its Wikipedia platform related judgment, the principle-based approach of the Constitutional Court had no positive effect on the access-blocking orders that continued to be issued by criminal judgeships of peace in 2020, as in previous years. Just like our 2019 report, our 2020 report provides and assessment of access-blocking orders issued in 2020, in the light of the judgment of the Constitutional Court on the **Ali Kidik Application**^{vii} and the **“prima facie violation”** approach that it required for the access-blocking orders to be in relation to claims of personal rights

iv See <https://www2.tbmm.gov.tr/d27/10/10-502125gen.pdf>

v See <https://www2.tbmm.gov.tr/d27/10/10-518552gen.pdf>

vi See Minutes of the Session of Justice Committee of the Turkish Grand National Assembly on 23.07.2020; Minutes of the Session of the Turkish Grand National Assembly on 28.07.2020.

vii Ali Kidik Application, No: 2014/5552, 26.10.2017.

violations subject to article 9 of Law No. 5651, as well as the judgment of the Constitutional Court on the **Birgün İletişim and Yayıncılık Ticaret A.Ş. Application**^{viii} and the “**prima facie violation**” approach that it required for the access-blocking orders to be issued for reasons such as national security and public order subject to article 8/A.

The methodology of this study includes the monthly scanning of approximately 207 million domain names; the weekly scanning of 11 million current news articles from 90 different news websites; the monthly scanning of approximately 33 million archived news articles; the real-time connectivity tracking and monitoring of whether 175 different domain names, including Wikipedia, YouTube, Twitter, Facebook, and certain news websites are blocked from Turkey; the identification of the blocked, removed, or country withheld content including videos, accounts, and social media content items from Turkey by using the YouTube and Twitter Application Programming Interface (“API”); the identification and analysis of access-blocking orders submitted to the Lumen database by using its Application Programming Interface and the tools developed by Lumen for researchers; as well as the analysis of the access-blocking orders sent by certain news websites to the İFÖD team.

The website of the Freedom of Expression Association^{ix} went finally live in 2020, and news articles and announcements involving the domain names, websites, news articles, social media accounts, and social media content items that have been blocked from Turkey and/or have been subject to content removal orders were shared on the EngelliWeb section of the website^x as well as through the Twitter account of EngelliWeb^{xi} since then. In fact, as will be discussed in the report, the Freedom of Expression Association has also become a target of requests and orders of blocking access and content removal due to these posts and announcements.

The 2020 EngelliWeb Report is written by Professor **Yaman Akdeniz** (Professor, Faculty of Law, İstanbul Bilgi University) and Expert Researcher **Ozan Güven**, as in previous years. We would like to express our gratitude to the Lumen database^{xii} for its indirect but significant contribution to the study. We would also like to thank Ms. **Di-lara Alpan**, a lawyer acting for İFÖD for her contribution to the analysis of the application of the Constitutional Court’s Ali Kızık decision in 2020.

viii Birgün İletişim and Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019.

ix <https://ifade.org.tr>

x <https://ifade.org.tr/engelliweb/>

xi @engelliweb - <https://twitter.com/engelliweb>

xii <https://www.lumendatabase.org/>

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The 2020 EngelliWeb Report of the Freedom of Expression Association (“İFÖD”) includes an overview of and considerations on increasing Internet censorship and access blocking practices in Turkey by the end of 2020. This assessment is predominantly conducted by reference to the application of Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications, which was enacted about 14 years ago, and also by reference to other subsequent regulations in Turkey.

As a matter of fact, no statistical data on websites blocked from Turkey was published either by the former Telecommunications Communication Presidency (“TIB”) or its successor, Information Technologies and Communication Board (“BTK”). Moreover, no statistical data on blocked websites, news articles (URL-based) and/or social media content **has ever been officially published** by the Association of Access Providers (“ESB”). Therefore, the EngelliWeb reports are the only resources for statistical data and have become a reference point in this field nationally as well as internationally.

As the practice of not sharing official statistical data on access blocking with the public has become a governmental policy, the Parliamentary questions regarding statistical data were responded negatively in previous years.¹ In the responses given by the Ministry of Transport and Infrastructure in previous years, the Ministry cited the fact that the disclosure of the number of blocked websites and statistical data “**can cause problems with the prevention of and fight against crime**, can especially lead to the deciphering of the content related to child pornography, and **can cause information pollution and create an unfair perception of our country** on the internation-

¹ See the written question no. 7/8292 and dated 04.02.2019 of Ömer Fethi Gürer (CHP Niğde MP) to Deputy President Fuat Oktay <https://www2.tbmm.gov.tr/d27/7/7-8292s.pdf>, and the written response dated 22.04.2019 <https://www2.tbmm.gov.tr/d27/7/7-8292sgc.pdf>.

al level **since other countries do not officially and collectively disclose such data**” as grounds for not disclosing such data.² On 25.04.2019, the Ministry of Transport and Infrastructure disclosed the proportional (percentages) breakdown of access-blocking orders issued subject to article 8 of Law No. 5651, but the Ministry did not disclose the total numbers.³ On the other hand, no similar official questions were asked within the Assembly during 2020.

The EngelliWeb 2020 Report, prepared by the Freedom of Expression Association, includes detailed statistical information both for the year of 2020 and also provides an overview of websites and domains, news articles (URL-based), social media accounts, and social media content items that have been blocked from Turkey and/or have been subject to blocking and content removal orders for the 2007-2020 period. It is the intention of İFÖD to continue to share such data and analysis with the general public on a regular basis.

ACCESS TO 467.011 WEBSITES WAS BLOCKED FROM TURKEY BY THE END OF 2020

In the EngelliWeb 2019 Report of the Freedom of Expression Association, it was stated that access to **a total of 347.445 domain names was blocked from Turkey by the end of 2018**, while this number reached **408.494** by the end of **2019**. As will be detailed below, as far as it could be determined by our efforts within the scope of the EngelliWeb project, **a total of 58.809 new domain names** were blocked from Turkey in 2020. Along with the **58.809 domain names and websites** blocked in **2020**, a total of **467.011** websites and domain names have been blocked from Turkey by a total of **408.808** separate orders issued by **764** separate institutions including criminal judgements of peace by the end of 2020 in accordance with the provisions and authorities to be explained in detail in this report.

When the number of blocked websites is analyzed by years, as can be seen in **Figure 1**, a decrease is observed in 2020 (**58.809**) compared to previous years (2019: **61.380**, 2018: **94.585**, and 2017: **90.044**). However, in 2020, the number of access-blocking practices remained above the average (**33.358 websites per year**) for the 14-year period (**2007-2020**) since the Law No. 5651 came into force and access-blocking practices have been deployed.

Moreover, it was found that **150.000** URLs, **7.500** Twitter accounts, **50.000** tweets, **12.000** YouTube videos, **8.000** Facebook content items, and **6.800** Instagram content items were also blocked subject to Law No. 5651 and other legal provisions by the end of 2020.

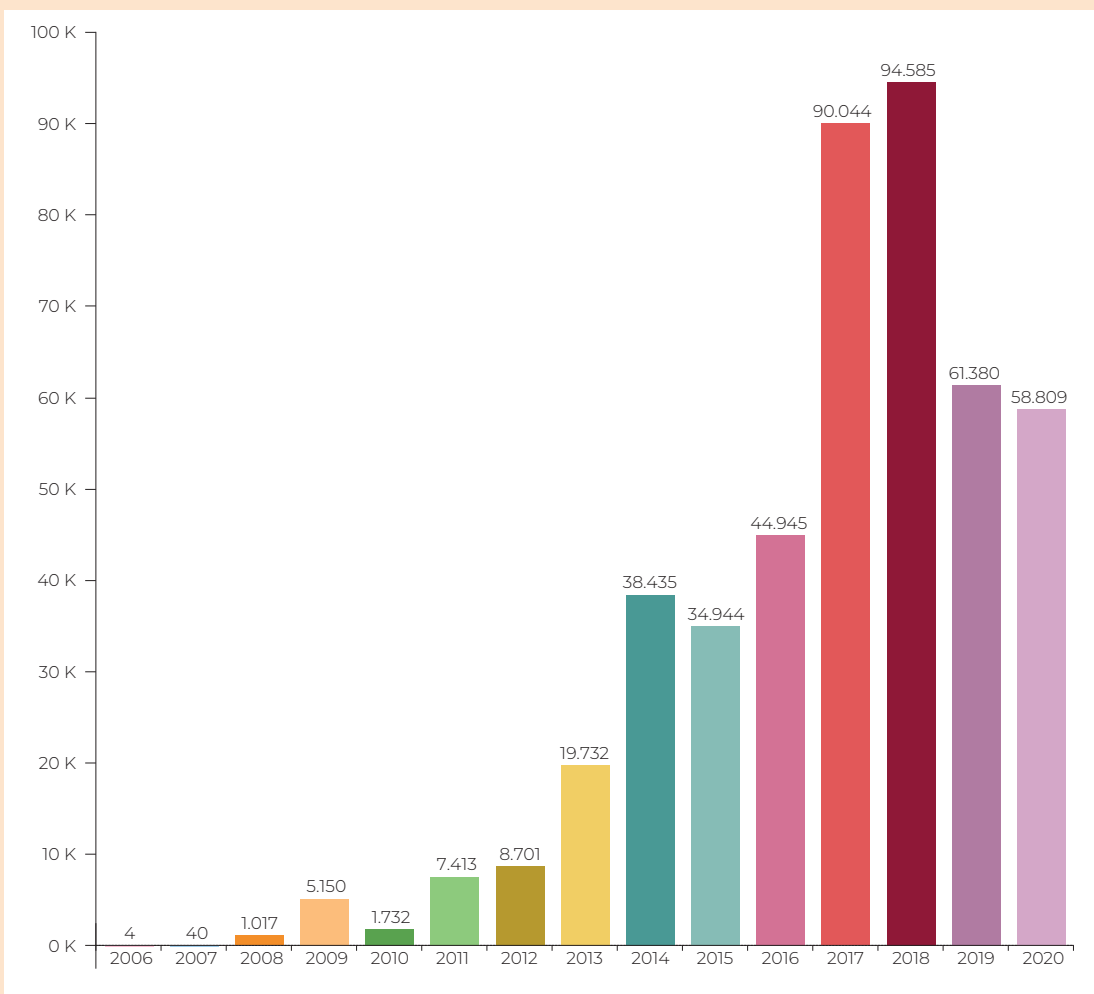
The **Wikipedia** platform, which had been blocked since **April 2017** and the news website **Sendika.Org**, which had been blocked since **September 2015**, became accessible from Turkey again as a result of the judgments of the Constitutional Court in 2020. The total access blocking of the **Wikipedia** platform, which began in April 2017 subject to the order of the Ankara 1st Criminal Judgeship of Peace,⁴ ended in January

² See <https://www2.tbmm.gov.tr/d27/7/7-8454c.pdf>

³ See <https://www2.tbmm.gov.tr/d27/7/7-8949sgc.pdf> and <https://www.guvenliweb.org.tr/dosya/brEi5.pdf>.

⁴ Access to the Wikipedia platform was blocked subject to the order of the Ankara 1st Criminal Judgeship of Peace, no. 2017/2956, 29.04.2017 due to the Turkey-related parts of two English articles titled “**Foreign involve-**

Figure 1: Total number of Blocked Websites from Turkey: 2006-2020



2020 subject to the judgment of the Constitutional Court dated 26.12.2019.⁵ The practice of **blocking access** to **Sendika.Org**, a well-known news website, which began in **2015, only ended in October 2020** subject to two separate judgments issued by the **Constitutional Court** in March and September 2020.⁶ Moreover, the practice of blocking access to **Imgur**, a popular image sharing platform, which began in October 2017 subject to an order of the Turkish Medicines and Medical Devices Agency (“TITCK”) of

ment in the Syrian Civil War” (https://en.wikipedia.org/wiki/Foreign_involvement_in_the_Syrian_Civil_War#Turkey) and **“State-sponsored terrorism”** (https://en.wikipedia.org/wiki/State-sponsored_terrorism#Turkey)

⁵ Wikimedia Foundation Inc. and Others Application, No: 2017/22355, 26.12.2019. The Constitutional Court ruled that the freedom of expression of the Wikimedia Foundation and Yaman Akdeniz and Kerem Altıparmak, whose user-based applications were accepted, was violated. The judgment also included significant observations that article 8/A of Law No. 5651 was applied in an arbitrary way.

⁶ Ali Ergin Demirhan Application, No: 2015/16368, 11.03.2020; Ali Ergin Demirhan (2) Application, No: 2017/35947, 09.09.2020.

the Ministry of Health,⁷ came also to an end in **March 2020**.⁸ While the practices of blocking access to Wikipedia, Sendika.org, and Imgur ended in 2020, news platforms **OdaTV, Independent Turkish**, and **JinNews** were blocked subject to consecutive blocking orders subject to article 8/A of Law No. 5651. These access-blocking practices continued as of end of 2020. This report includes assessment of these practices and the related judiciary process as of end of 2020.

THE POWER AND LEGAL AUTHORITY TO BLOCK ACCESS FROM TURKEY

As detailed in the EngelliWeb 2018 and 2019 reports, the authority to issue or request blocking orders is granted to **judicial organs** (courts, criminal judgeships of peace, and public prosecutors' offices) and **numerous administrative bodies** under various laws and regulations in Turkey. Although the access-blocking orders are mainly issued by criminal judgeships of peace subject to **articles 8, 8/A, 9, and 9/A** of Law No. 5651, public prosecutors may also issue access-blocking orders during the investigation phase subject to article 8. In addition, **public prosecutors** are vested with a blocking power under supplemental article 4(3) of Law No. 5846 on Intellectual and Artistic Works with regard to intellectual property infringements.

Administrative bodies are also authorized to issue access-blocking orders by various laws and regulations. In this context, the following institutions and organizations are authorized to issue or request access-blocking orders:

- **Office of the President and the relevant ministries**⁹
- **Telecommunications Communication Presidency** (“TIB”)¹⁰ until its closure¹¹

⁷ Blocking order of the Turkish Medicines and Medical Devices Agency (TITCK) of the Ministry of Health, no. 61762938-000-E.205963, 14.10.2017.

⁸ A “user-based” appeal against the blocking decision is still pending before the Ankara Regional Administrative Court. However, upon the application of Imgur and its statement that it removed the content causing the access-blocking, the Ankara 11th Administrative Court decided to end the practice of blocking access to the Imgur platform on 26.03.2020 with the decision no. 2019/2050 E., 2020/711 K. Bianet, “Mahkeme Erişim Yasağına İtirazı Ciddiye Almayan Kurumu Haksız Buldu” [The Court Rules That the Institution That Does Not Take the Objection to the Access-Blocking Seriously Is Guilty], 09.04.2020, <https://bianet.org/bianet/ifade-ozgurlugu/222707-mahkeme-erisim-yasagina-itirazi-ciddiye-almayan-kurumu-haksiz-buldu>.

⁹ Subject to subparagraph (1) of article 8/A, titled “Removal of the content and/or blocking access in circumstances where delay would entail risk,” of **Law No. 5651**, in circumstances where delay would entail risk, the President of BTK may issue an order to remove and/or block the relevant Internet content upon the request of the **Office of the President of Turkey** or the **ministries** related to national security, protection of public order, prevention of crime, or protection of public health. This order shall then immediately be notified to access providers and the relevant content and hosting providers by the President. Removal and/or blocking orders shall be executed immediately within a maximum of four hours as from the notification to execute the removal and/or blocking order. In accordance with sub-paragraph (2) of article 8/A, the President of BTK shall submit the removal and/or blocking order issued upon the request of the Office of the President of Turkey or the relevant Ministries to a criminal judge of peace for approval within twenty-four hours. The judge shall issue his/her decision within a maximum of forty-eight hours; otherwise, the order shall automatically be removed and cancelled.

¹⁰ It was authorized under articles 8, 8/A and 9/A of Law No. 5651 to block access with the provision of judicial approval in case of administrative blocking orders imposed in accordance with articles 8/A and 9/A.

¹¹ TIB was closed in accordance with the Emergency Decree-Law No. 671 on Measures to be Taken under the State of Emergency and Arrangements Made on Some Institutions and Organizations in August 2016.

- **President of the Information Technologies and Communication Board**¹² after the closure of TIB
- **Association of Access Providers** (“ESB”)¹³
- **Turkish Medicines and Medical Devices Agency** (“TITCK”) of the Ministry of Health¹⁴
- **Capital Markets Board**¹⁵
- **Directorate of Tobacco and Alcohol** of the Ministry of Agriculture and Forestry¹⁶
- Department of Games of Chance of the **Directorate General of National Lottery Administration**¹⁷

¹² The President of BTK is authorized under articles 8, 8/A and 9/A of Law No. 5651 to block access with the provision of judicial approval in case of administrative blocking orders imposed in accordance with articles 8/A and 9/A.

¹³ This Association is also vested under **article 9(9)** with a power to issue administrative blocking decisions under certain circumstances. The Association can issue blocking decisions only when an interested person makes an application to the Association of Access Providers with a request to block access to the exactly same content that has been previously subject to a blocking decision issued by a criminal judgship of peace with regard to article 9 personal rights violation claim.

¹⁴ The Ministry of Health is authorized to immediately block access to the infringing websites under article 18 of the **Law No. 1262 on Pharmaceutical and Medicinal Preparations** in case of online promotion and sales of “off-label or counterfeit drugs or similar medicinal preparations.” This power is exercised by the **Turkish Medicine and Medical Devices Agency**, established under the Ministry of Health. The decisions taken by this Agency is notified to the Information Technologies and Communication Board to be implemented subject to Law No. 1262.

¹⁵ The **Capital Markets Board** is authorized to request access blocking under article 99 of the **Capital Markets Law** No. 6362, regulating “precautionary measures applicable in unauthorized capital markets activities.” Under paragraph 3 of the referred article, the Board may apply to court subject to applicable laws related to access blocking if and when it is determined that unauthorized capital market activities are carried out via the Internet and that the content and hosting providers are located in Turkey. If content and hosting providers are located abroad, access may be blocked by the Information Technologies and Communication Board upon the request of the Capital Markets Board. Additionally, subject to paragraph 4 of article 99 (Added by: 17.03.2017 – Decree-Law No. 690/Article 67; Enacted by Amendment: 01.02.2018 – Law No. 7077/Article 57), in case it is found that an amount of money was collected from people through crowdfunding platforms without the permission of the Capital Markets Board or any leveraged transactions, or derivative transactions that are subject to the same provisions as leveraged ones, were offered through the Internet to residents of Turkey, the Information Technologies and Communication Board may block access to the relevant websites upon the request of the Capital Markets Board.

¹⁶ Under sub-paragraph (k) of the second paragraph of article 8, titled “Penal Provisions,” of the Law No. 4733 on Regulation of Tobacco, Tobacco Products, and Alcohol Market, the **Ministry of Agriculture and Forestry** is authorized to block access in accordance with the procedures prescribed by Law No. 5651, in case of online sales of tobacco products or alcoholic beverages; **ethanol; methanol; cigarette tubes; rolling tobacco; and rolling papers** (added by article 13 of the Law No. 7255, 28.10.2020) to consumers. The referred legal provisions shall be applied with regard to the relevant orders. This power is also included in article 26(1) of the Regulation on Procedures and Principles of Sales and Presentations of Tobacco Products and Alcoholic Beverages (published in the Official Gazette, 07.11.2011, no. 27.808). However, in practice, it is observed that this power is used by the **Directorate of Tobacco and Alcohol**, established under the Ministry of Agriculture and Forestry. In this context, it is also observed that blocking access is executed by the Association of Access Providers rather than the Information Technologies and Communication Board.

¹⁷ Subject to article 7, titled “**Application to Administrative and Judicial Authorities**,” of the Regulation on Online Games of Chance (Official Gazette, 14.03.2006, no. 26108), the **Department of Games of Chance** of the **Directorate General of National Lottery Administration** may submit “immediate requests that services and broadcasts of service providers providing services to virtual platforms and/or websites related to the games of chance activities be suspended with respect to the relevant websites and/or virtual platforms and that the prohibited actions be punished” to the relevant judicial authorities. In accordance with Article 8 of the same Regulation, in case of any suspension decision given by the relevant judicial authorities with respect to the said virtual platforms, the **Directorate General of National Lottery Administration** shall immediately notify the Information Technologies and Communication Board for further action of access blocking.

- **Jockey Club of Turkey**¹⁸
- **Directorate of Spor Toto Organization**¹⁹
- The **High Board of Religious Affairs** of the Directorate of Religious Affairs²⁰
- **Board of Inspection and Recitation of the Quran** of the Directorate of Religious Affairs²¹
- **Radio and Television Supreme Council**²²

18 Under the Law No. 6132 on Horseracing, the Ministry of Agriculture and Forestry is authorized to organize horse-racing within the borders of Turkey and to take bets from Turkey and abroad in relation to races organized domestically and/or abroad. The Ministry of Agriculture and Forestry transferred the right and power to organize pari-mutuel horse racing betting to the **Jockey Club of Turkey**. In practice, it is observed that blocking orders issued by the Jockey Club of Turkey are executed by the **Information Technologies and Communication Board**.

19 The **Directorate of Spor Toto Organization** is also authorized to apply the legal provisions related to access blocking under the Law No. 5651 with respect to the crimes and offences falling under article 5 of the Law No. 7258 (Amended: 12.07.2013 – Law No. 6495/article 3) on Regulation of Betting and Chance Games in Football and Other Sports Competitions. The authorization of the Directorate of Spor Toto Organization is governed by the Regulation on Duties, Authorizations, and Obligations of the Directorate of Spor Toto Organization (Official Gazette, 21.12.2008, no. 27.087).

20 The **High Board of Religious Affairs of the Directorate of Religious Affairs** is also authorized to block access with respect to certain content published on the Internet. Subject to a paragraph (Added paragraph: 02.07.2018 – Decree-Law No. 703/article 141) added in 2018 to article 5, defining the function of the **High Board of Religious Affairs**, of the Law No. 633 (Amended: 1 July 2010 – Law No. 6002/article 4) on the Establishment and Duties of the Directorate of Religious Affairs; upon the request of the Directorate submitted to the authorized body, it shall be ordered to suspend the printing and publication of, and/or confiscate and destroy the already published Quran translations, which are found prejudicial by the High Board in terms of the main features of Islam. In the event of online publications, upon the request of the Directorate, the authorized body may block access to those publications. These orders shall be submitted to the **Information Technologies and Communication Board** for execution (By article 141 of the Decree-Law No. 703, 02.07.2018, the phrases of “civil court of peace” and “Telecommunications Communication Presidency” included in this paragraph were replaced with “the authorized body” and “Information Technologies and Communication Board” respectively).

21 In addition, no Qurans, fascicles, translated Qurans as well as audiovisual Qurans and Qurans prepared in electronic environment can be published or broadcast without the approval and seal of the **Board of Inspection and Recitation of the Quran** of the **Directorate of Religious Affairs**. Upon the request of the Directorate submitted to the authorized body, an order shall be issued to suspend the printing and publication of the Qurans and fascicles, and audiovisual Qurans and Qurans that were prepared in electronic environment and published or broadcast without approval or seal, and/or to confiscate and destroy the already distributed ones. In the event of online publications, upon the request of the Directorate, the authorized body may block access to those publications. These orders shall be submitted to the **Information Technologies and Communication Board** for execution.

22 By article 29/A (Added: 21.03.2018 – Law No. 7103/article 82), the Law No. 6112 on the Establishment of Radio and Television Enterprises and Their Media Services, the **Radio and Television Supreme Council** is authorized to request **blocking access in case of online broadcasting services presented without a broadcasting license**. Within this context, the media service providers that have obtained temporary broadcast right and/or broadcasting license from the Supreme Council may present their media services via the Internet in accordance with the provisions of the referred Law and the Law No. 5651. Media service providers requesting to present radio and television broadcasting services and on-demand media services exclusively via the Internet must obtain broadcasting license from the Supreme Council while the platform operators requesting to transmit those broadcasting services via the Internet must obtain authorization for the transmission of media services from the Supreme Council. In case it is found by the Supreme Council that the broadcasting services of the natural and legal persons who does not have any temporary broadcast right and/or broadcasting license obtained from the Supreme Council, or whose right and/or license was revoked are being transmitted via the Internet, upon the request of the Supreme Council, criminal judgeships of peace may decide to remove the content and/or deny access in respect of the relevant broadcasting service on the Internet. These orders shall be notified to the Information Technologies and Communication Board for further action. The orders given subject to the abovementioned article on removing content and/or blocking access shall be governed by the third and fifth paragraphs of article 8/A of Law No. 5651. Notwithstanding that content or hosting provider is located abroad, the sanction of access blocking may also apply to the transmission of the broadcasting services of the media service providers and platform operators via the

- **Supreme Election Council**²³
- The **Directorate General of Consumer Protection and Market Surveillance** of the Ministry of Trade²⁴
- **Ministry of Treasury and Finance**²⁵
- All “**authorized bodies**” under the Law on Product Safety and Technical Regulations²⁶

Internet that are under the jurisdiction of another country via the Internet and are determined by the Supreme Council to be broadcasting in violation of the international treaties signed and ratified by the Republic of Turkey in relation to the scope of duty of the Supreme Council as well as the provisions of the referred Law, and to the broadcasting services offered in Turkish by the broadcasting enterprises addressing the audience in Turkey via the Internet or featuring commercial communication broadcasts addressing the audience in Turkey even though the broadcast language is not Turkish. The preparation of the related regulation on the implementation of article 29/A was completed in 2019, and the Regulation on the Presentation of Radio, Television, and Optional Broadcasts on the Internet was published in the Official Gazette (Official Gazette, 01.08.2019, no. 30.849).

- 23** The **Supreme Election Council** may also request that certain content be blocked subject to article 55(B) of the Law No. 298 on Basic Provisions on Elections and Voter Registers, regulating “Media, communication tools, and propaganda on the Internet” based on the provision stating that during the elections, “[i]n the ten days period before the voting date, it is forbidden by any means to make or distribute publications or broadcasts which include information that may positively or negatively affect the opinions of voters in favor or against a political party or candidate via printed, audio, or visual media and/or under any names such as polls, public inquiry, estimations, or mini referendums.” In practice, it is observed that blocking orders based upon this authorization, which is in fact required to be applied “temporarily,” is implemented for an indefinite period of time by the Association of Access Providers.
- 24** Under article 80 of the Law No. 6502 on Consumer Protection, the **Directorate General of Consumer Protection and Market Surveillance** of the Ministry of Trade has started to issue access blocking orders regarding pyramid selling schemes. The third paragraph of the referred article provides that “The Ministry shall be authorized to make the necessary inspections related to pyramid selling schemes and to take the necessary measures in cooperation with its relevant public institutions and corporations, including ceasing access to the relevant electronic system” from Turkey. These orders are also notified to the Association of Access Providers for execution, despite lack of any such authorization prescribed by law.
- 25** Subject to the first paragraph of article 7, titled “Tax security,” of the **Law** (Official Gazette, 07.12.2019, no. 30.971) **on the Digital Service Tax and the Amendment of Certain Laws and the Law Decree No. 375**, the tax office authorized to impose digital service tax may give a notice to digital service providers or their authorized representatives in Turkey that fail to fulfill their obligations to submit declarations regarding the taxes within the scope of the Tax Procedure Law No. 213 dated 4 04.01.1961 or to pay these taxes in a timely manner. The notices in question are communicated via the notification methods listed in the Law No. 213, e-mail, or any other means of communication by using the means of communication on the websites, domain names, IP addresses, and information obtained through other similar sources. This notice is declared on the website of the Revenue Administration. Subject to paragraph 2 of article 7, in case such obligations are not fulfilled within thirty days from the declaration of the Revenue Administration, the **Ministry of Treasury and Finance** shall issue an order to **block access to the services provided by these digital service providers** until these obligations are fulfilled. These orders shall be submitted to the Information Technologies and Communication Board to be notified to access providers. Blocking orders shall be executed by access providers immediately within a maximum of four hours as from the notification to execute the blocking order.
- 26** Subject to paragraph 2 of article 17, titled “**Other powers of the authorized body regarding audits,**” of the **Law No. 7223 on Product Safety and Technical Regulations** (Official Gazette, 12.03.2020, no. 31.066), in case of online promotion or sale of an unsuitable product newly or previously introduced to the market, the authorized body shall give a notice to the intermediary service provider to remove the content, via e-mail or other means of communication by using the means of communication on the websites, domain names, IP addresses, and information obtained through other similar sources. In the event that the intermediary service provider fails to remove the content within twenty-four hours, **the authorized body shall issue an order to block access to the content related to the unsuitable product** and submit this order to the Information Technologies and Communication Board for execution. In case the website directly belongs to the owner of the commercial enterprise, the same procedure is followed. The access-blocking orders under this paragraph shall be issued by **blocking access to the content** (in the form of URL, etc.). Subject to article 3, titled “Definitions,” of this Law, the definition of “**authorized body**” covers public institutions that “prepare and execute technical regulations related to products, or inspect products.” This authority shall be exercised as of 12.03.2021.

- **Governorships and the Ministry of the Interior**²⁷
- **Banking Regulation and Supervision Agency**²⁸

In addition to the above listed administrative bodies, all “**authorized bodies**” under the Law on Product Safety and Technical Regulations, which was published in the Official Gazette in 2020, as well as governorships and the Ministry of the Interior, regarding those who engage in unauthorized fundraising activities under the **Fundraising Law** No. 2860, were also authorized to block access to websites and Internet content.

As can be seen, more than 15 institutions and organizations are authorized to issue or request access-blocking orders under various regulations, and most of these powers are exercised by submitting “**administrative blocking**” orders to the Information Technologies and Communication Board or to the Association of Access Providers without the provision of judicial approval.

DOMAIN NAMES, URL'S, NEWS ARTICLES, AND SOCIAL MEDIA CONTENT BLOCKED IN 2020

GENERAL ASSESSMENT OF DOMAIN NAME BLOCKING PRACTICES

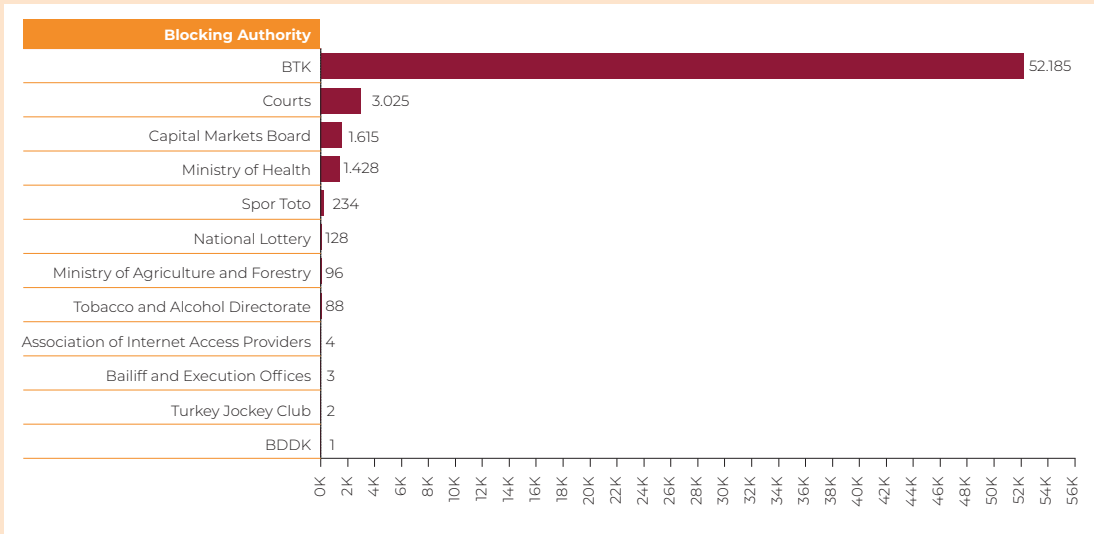
During 2020, as far as it could be determined by our efforts within the scope of the EngelliWeb project, access to a total of **58.809 domain names** was blocked in Turkey. The vast majority of the blocking orders, orders regarding **52.185 domain names (89**

²⁷ Under paragraph 3 added to article 6, entitled “Obligation to Obtain Permission,” of the **Fundraising Law No. 2860** by article 7 of the Law No. 7262, dated 27.12.2020, **in the event that it is found that the unauthorized fundraising activity was carried out online**, the relevant governorship or the Ministry of the Interior shall give a notice to the content and/or hosting provider to remove the content related to the fundraising activity, via email or other means of communication by using the means of communication on the websites, domain names, IP addresses, and information obtained through other similar sources. In the event that the content is not removed by the content and/or hosting provided within twenty-four hours at the latest, that the necessary information about the content and hosting providers could not be obtained, or that no notice could be given due to technical reasons, the relevant governorship or the Ministry of the Interior shall submit a request to the **criminal judgeship of peace to block access to the relevant content**. The judge shall issue a decision on the request within twenty-four hours at the latest without any hearing and send the decision directly to the **Information Technologies and Communication Board** for the necessary action. This decision can be appealed against subject to the Code of Criminal Procedure No. 5271. The access-blocking orders under this paragraph shall be issued by blocking access to the content (in the form of URL, etc.).

²⁸ Subject to paragraph 3 of article 150, entitled “Operating without receiving related permissions,” in the second section of the **Banking Law** No. 5411 related to the offenses; upon the application of the **Banking Regulation and Supervision Agency** to the relevant Chief Public Prosecutor’s Office involving natural persons and legal entities that act as if they were banks or collect deposits or participation funds without obtaining the required permissions, the criminal judgeships of peace or the relevant court, if and when a lawsuit is initiated, shall temporarily suspend the activities and advertisements of the enterprise and issue an order for the collection of its announcements. In the event that these violations take place on the Internet, the relevant websites **shall be blocked**, in case the content and hosting providers are in Turkey. These measures shall remain in effect until they are lifted by a judgment. These judgments may be appealed against (Paragraph amended by article 17 of Law No. 7222 on 20.02.2020). Paragraph 4, which has recently been added to article 150, provides that “[i]n the event that paragraphs 1 and 2 were violated via websites the content and hosting providers of which are located abroad, the **Information Technologies and Communication Board** shall **block these websites** upon the application of the **Banking Regulation and Supervision Agency**” (Supplementary paragraph added by article 17 of Law No. 7222 on 20.02.2020).

per cent), were issued by the President of the Information Technologies and Communication Board subject to article 8 of Law No. 5651. It is determined that **3.025** domain names were blocked with orders issued by the criminal judgeships of peace, public prosecutors' offices and by the courts **1.615** domain names were blocked by the Capital Markets Board, **1.428** domain names were blocked by the Ministry of Health and the Turkish Medicines and Medical Devices Agency, **234** domain names were blocked by the Directorate of Spor Toto Organization, **128** domain names were blocked by the Directorate General of National Lottery Administration, **96** domain names were blocked by the Ministry of Agriculture and Forestry, **88** domain names were blocked by the Directorate of Tobacco and Alcohol, **4** domain names were blocked by the Association of Access Providers, **3** domain names were blocked by execution offices, **2** domain names were blocked by the Jockey Club of Turkey ("TJK") and **1** domain name was blocked by the Banking Regulation and Supervision Agency ("BDDK").

Figure 2: Number of Blocked Websites by the Blocking Authority: 2020



Together with these figures, by **the end of 2020, access to a total of 467.011 domain names** was blocked from Turkey. As can be seen in figures 3 and 4 below, a total of **418.528 websites** were blocked from Turkey by **administrative blocking orders subject to article 8 of Law No. 5651**, including **129.160** domain names blocked by TIB until its closure and **289.368** domain names blocked by the President of BTK following the closure of TIB. During 2020, access to **35.008 domain names and websites** was blocked by the **judicial organs** (criminal judgeships of peace, public prosecutors' offices, and by the courts). In the figures below (**figures 3 and 4**), it can be seen that a total of **9.042** websites were blocked by the Ministry of Health, **2.112** were blocked by the Capital Markets Board, **846** were blocked by the Directorate of Spor Toto Organization, **615** were blocked by the Directorate General of National Lottery Administration, **306** were blocked by the Ministry of Agriculture and Forestry, **220** were blocked

by the Ministry of Customs and Trade, **125** were blocked by the Directorate of Tobacco and Alcohol, **99** were blocked by the Jockey Club of Turkey, **67** were blocked by execution offices, **32** were blocked by the Association of Access Providers, **5** were blocked by the Supreme Election Council (“YSK”), **5** were blocked by the Ministry of Finance and one website was blocked by the BDDK.

Figure 3: Number of Blocked Websites by the Blocking Authority: 2006-2020

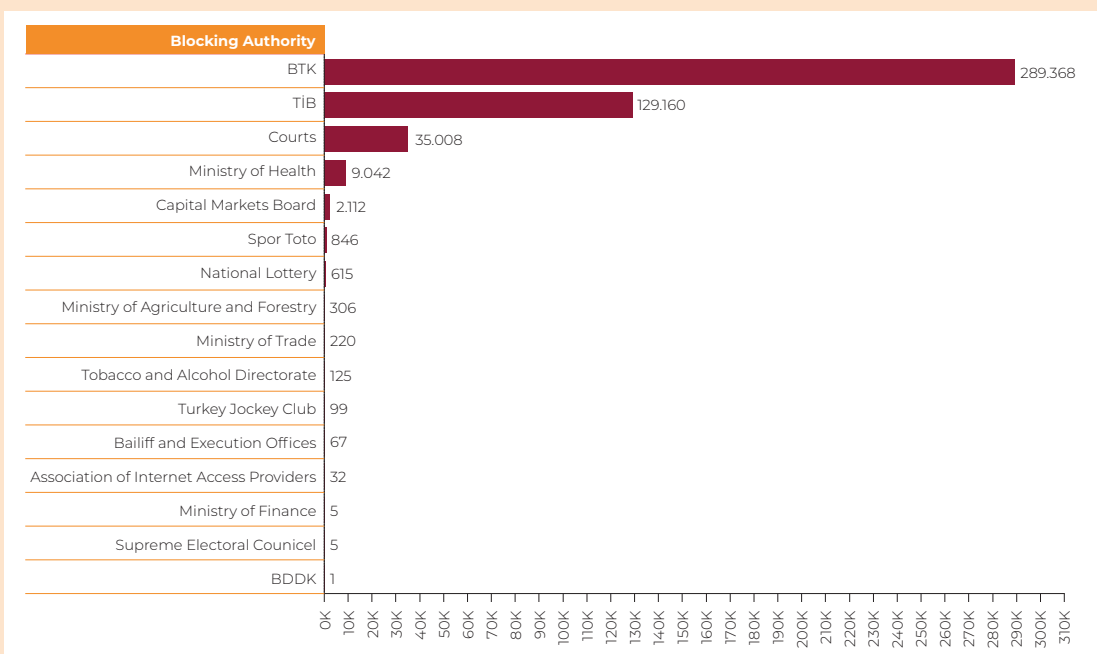
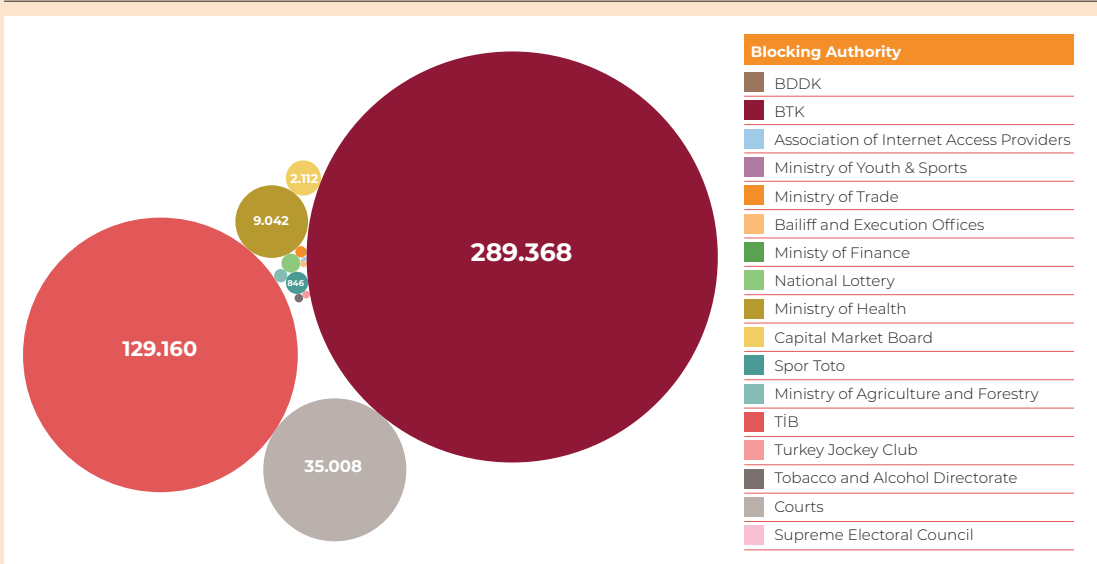


Figure 4: Number of Blocked Websites Based on Blocking Authority (Total)



DOMAIN NAMES BLOCKED SUBJECT TO ARTICLE 8 OF LAW NO. 5651

The Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications was enacted on 4 May 2007. Amendments made to article 8 of Law No. 5651 in July 2020²⁹ introduced the sanction of “removal of content,” in addition to the existing sanction of access blocking. In its amended version, article 8 provides that “[i]t shall be decided to **remove the online content and/or block access to it** if there is sufficient suspicion that the content constitutes any of the crimes and offences” as defined under the Turkish Criminal Code: encouragement and incitement of suicide;³⁰ sexual exploitation and abuse of children;³¹ facilitation of the use of drugs;³² provision of substances dangerous for health;³³ obscenity;³⁴ prostitution;³⁵ gambling;³⁶ crimes committed against Atatürk as provided under the Law No. 5816; and offenses specified in the Law No. 7258 on the Regulation of Betting and Lottery Games in Football and Other Sports.³⁷

While orders of removal of content and/or access blocking are issued through two different methods for the crimes listed under article 8, “**Precautionary Injunction Orders**” for removal of content and/or access blocking may be issued by the judges during the investigation phase of a criminal investigation and by the courts during the prosecution/trial phase. Nevertheless, orders of removal of content and/or access blocking under article 8 were mainly issued as “**Administrative Blocking Orders**” by TIB, until its closure, and since then by the President of BTK, based on the provision stating that measures may be ex officio ordered by the latter if the content or hosting provider of the websites that carry content in breach of article 8 is located abroad, or even if the content or hosting provider is domestically located, when content contains sexual abuse of children, obscenity, prostitution, or providing a place and opportunity for gambling.³⁸

The blocking power of the President of BTK with regard to foreign-hosted websites containing **obscene content** was annulled by the Constitutional Court with a judgment published in the Official Gazette on 07.02.2018. As examined in our Engelli-Web 2018 and 2019 reports, subject to a constitutionality review application made through the 13th Chamber of the Council of State, the Constitutional Court found by a majority vote that **the power to block access to “obscene” websites hosted outside Turkey (article 8(1)(5)) vested with the President of BTK subject to article 8(4) of Law No. 5651 was incompatible with the Constitution. Therefore, it annulled the relevant measure.**³⁹ The Constitutional Court stated that the annulled power enabled the

²⁹ With the amendments made to article 8 by article 4 of the Law No. 7253 on 29.07.2020, the title of the article was changed to “**Orders of removal of content or access blocking and their implementation.**”

³⁰ Article 84 of the Turkish Penal Code.

³¹ Article 103(1) of the Turkish Penal Code.

³² Article 190 of the Turkish Penal Code.

³³ Article 194 of the Turkish Penal Code.

³⁴ Article 226 of the Turkish Penal Code.

³⁵ Article 227 of the Turkish Penal Code.

³⁶ Article 228 of the Turkish Penal Code.

³⁷ Offenses specified in the Law No. 7258 on the Regulation of Betting and Lottery Games in Football and Other Sports dated 29.04.1959 were added to the Law No. 5651 by article 32 of the Law No. 7226, 25.03.2020.

³⁸ See article 8(4) of Law No. 5651.

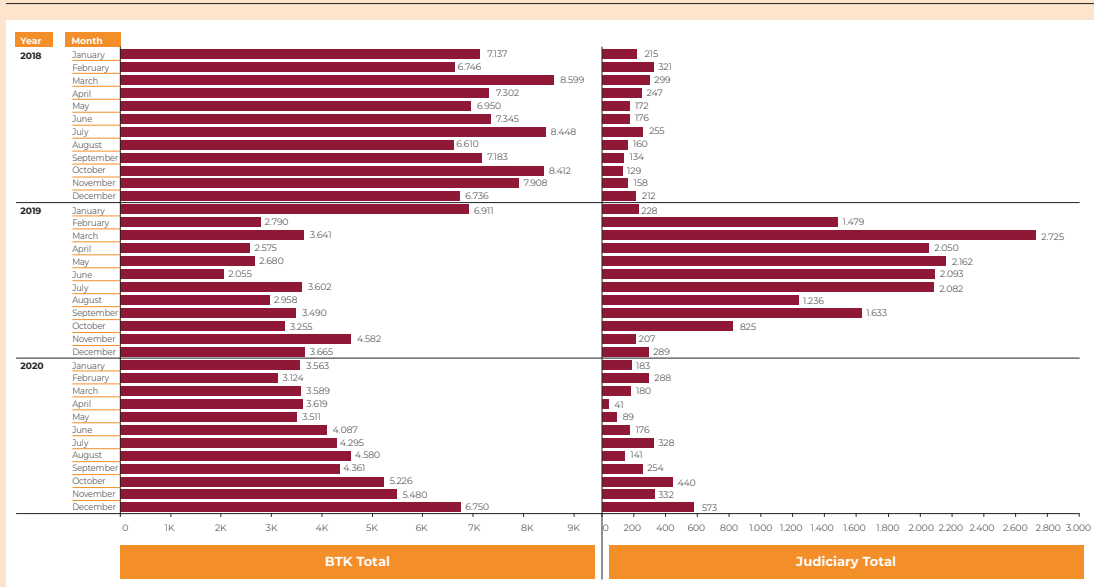
³⁹ Constitutional Court Judgment, E. 2015/76., K. 2017/153, 15.11.2017, Official Gazette, 07.02.2018, no. 30.325.

“administration to block access to websites *ex officio* and **without need of judicial approval** in case a publication constituting an offence is published in mass communication websites with consent with the intention of not committing an offence or facilitating the commission of an offence”. The Court emphasized the problem with this kind of *ex officio* orders issued by the President of BTK without any judicial approval by finding it in violation of the principle of “**legal certainty**” which constitutes one of the fundamental principles of the rule of law. This principle entails that any legal regulation must be clear, precise, comprehensible, applicable, and objective beyond any doubt both for the public and for the administration and that it must prevent arbitrary use of state power by public authorities.

The Constitutional Court decided that the judgment shall enter into force one year after its publication in the Official Gazette on **07.02.2018**; which made the effective date of annulment as **07.02.2019**. Since no amendments were introduced to the Law No. 5651 by 07.02.2019, the authority granted to the President of BTK by the Law **to block access to obscene websites hosted outside Turkey *ex officio* and by way of administrative order has expired on that date**. Blocking orders based on the offence of obscenity can therefore only be issued by the criminal judgeships of peace as of that date. However, in practice, it is observed that **the President of BTK continued to block access to obscene websites *ex officio*** by way of administrative orders in 2019 as was stated in our 2019 report. The President of BTK continued to issue unlawful administrative orders without judicial approval in 2020 by continuing to disregard the annulment judgment of the Constitutional Court.

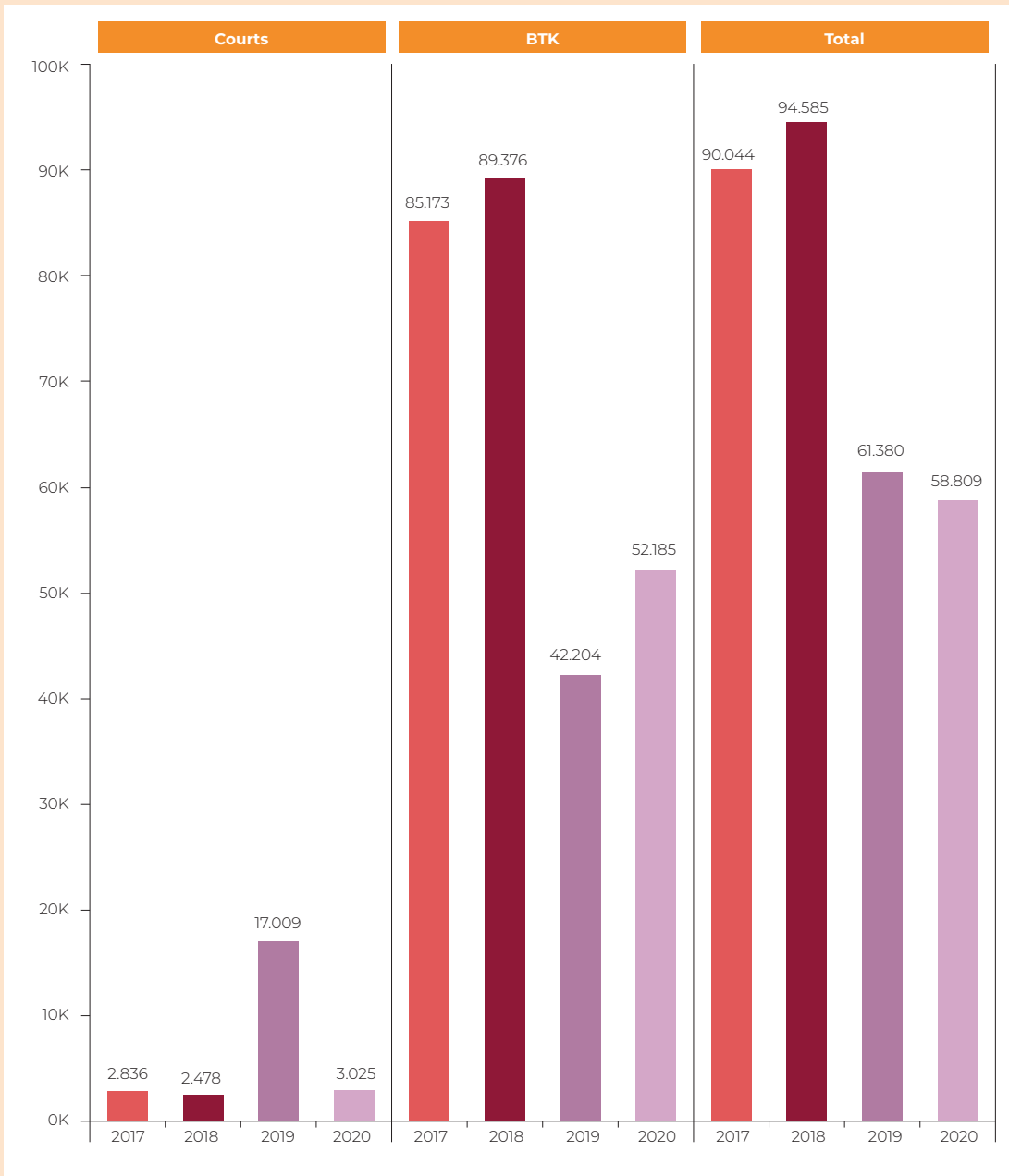
As can be seen in figures 5-7, when the statistical data on access-blocking orders issued subject to article 8 of Law No. 5651 was evaluated focusing on the authorities that issued these orders, even though the annulment judgment of the Constitutional Court was complied with from February to October 2019, and the President of BTK re-

Figure 5: 2018-2020: BTK vs. Judgeships: Blocking Decisions Subject to Article 8 (Law No. 5651)



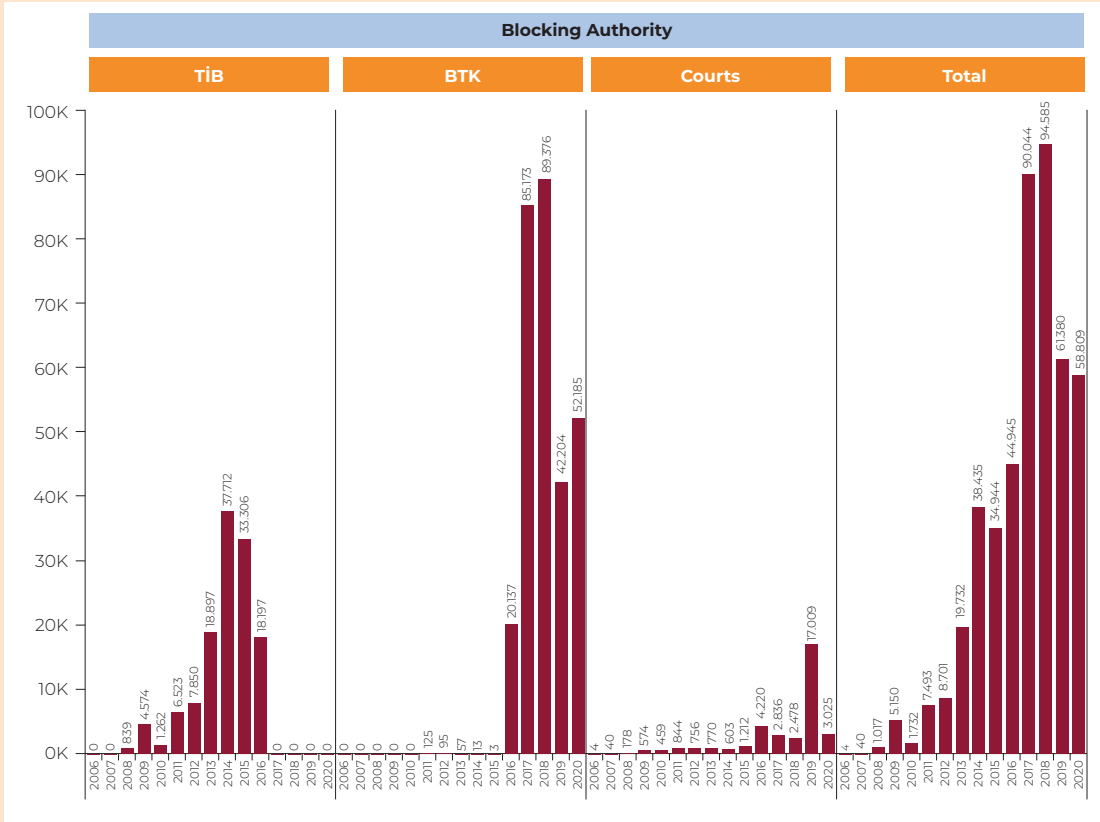
ceived judicial approval from criminal judgeships of peace for administrative orders during this period, a significant increase was observed in the domain names blocked by the President of BTK from November 2019 until the end of 2020, while the number of domain names blocked by the judiciary decreased significantly during the same period. Considering that obscene websites made up the majority of the websites blocked by the President of BTK, it is believed that the President of BTK continued to

Figure 6: Comparison of Judgeships vs. BTK Blocking Decisions (2017-2020)



issue orders unlawfully, disregarding the annulment decision of the Constitutional Court. In other words, administrative orders issued for websites considered to be obscene by the President of BTK are unlawful in the absence of judicial approval.

Figure 7: 2006-2020: Comparison of Blocking Decisions issued by TİB, BTK and the Judiciary



During 2020, as far as it could be determined by our efforts, access to **52.185 domain names and websites** was blocked subject to **52.064** administrative blocking orders issued by the President of BTK. Of those blocked in 2020, **28.989** domain names (approximately **49 per cent**) were related to gambling and betting sites.

CONTENT BLOCKED SUBJECT TO ARTICLE 8/A OF LAW NO. 5651

The Constitutional Court annulled⁴⁰ article 8(16), which was added to article 8 of Law No. 5651 and which provided further blocking powers to TİB with respect to national security and protection of public order. However, subsequently, on 27.03.2015; article 8/A, entitled “*Removing content and/or blocking access in circumstances where delay would entail risk,*” was added to the Law No. 5651. By virtue of article 8/A, the power to re-

⁴⁰ Constitutional Court Judgment E. 2014/149, K. 2014/151, 02.10.2014.

move content and/or block access to a website in order to protect the right to life or security of life and property, ensure national security, protect public order, prevent crimes, or protect public health is vested primarily with **judges**.

Additionally, subject to article 8/A, in circumstances **where delay would entail risk**, in order to protect the right to life or security of life and property, ensure national security, protect public order, prevent crimes, or protect public health; removal or blocking and/or removal of such Internet content could also be requested from the President of BTK **by the Office of the Prime Minister** between the dates of 27.03.2015 and 02.07.2018, and then by the **Office of the President of Turkey** as the Prime Ministry has been closed down after the June 2018 General Elections. Also, the executive organs referred as **“the relevant ministries”** are authorized to request from the President of BTK to remove Internet content or block access to it for the purposes of national security and protection of public order, prevention of crimes, or protection of public health.

Subsequent to a request as described above, the President of BTK may issue an order removing content and/or blocking access to the relevant Internet site upon its assessment. This order shall then immediately be notified to access providers and the relevant content and hosting providers by the President. Removal and/or blocking orders shall be executed immediately within a maximum of **four hours** as from the notification to execute the removal and/or blocking order.

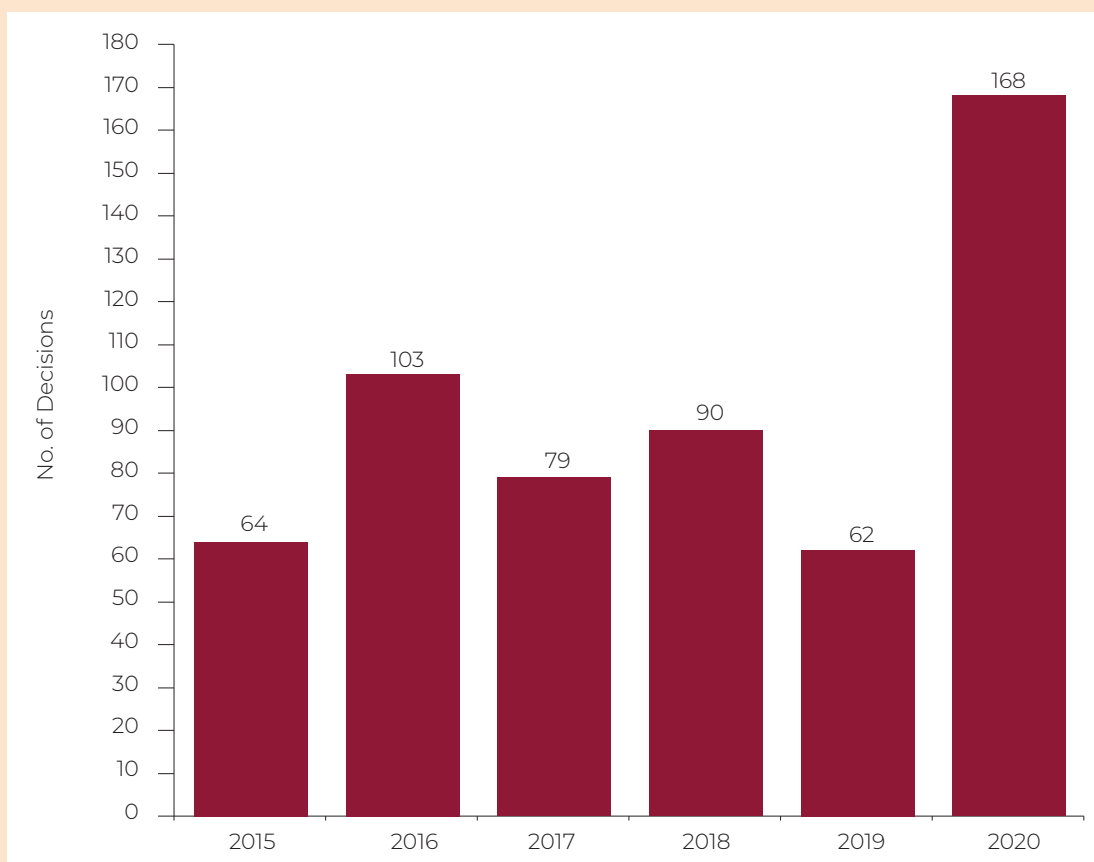
According to article 8/A, when a blocking order is issued upon request, the President of BTK shall submit this administrative order to a criminal judgeship of peace for approval **within 24 hours**, and the judge shall review this submission and issue his/her decision within **48 hours**. The blocking orders subject to this article shall be issued by way of blocking of a specific publication/section (in the form of URL, etc.). However, when it is not possible for technical reasons or the violation cannot be prevented by way of blocking the relevant content, the judge may be decided to block access to the entire website.

Article 8/A started to be used as a politically silencing tool especially after the general elections of **7 June 2015**. Between **22.07.2015** and **12.12.2016**, **153** access-blocking orders were issued regarding the websites that were blocked by TIB upon the request of the Office of the Prime Minister and were submitted to the approval of the Gölbaşı Criminal Judgeship of Peace.⁴¹ As of **13.12.2016**, the administrative blocking orders issued upon the request of the Office of Prime Minister and the relevant min-

⁴¹ See the decisions of the Gölbaşı Criminal Judgeship of Peace nos. 2015/609, 2015/631, 2015/645, 2015/646, 2015/647, 2015/648, 2015/650, 2015/662, 2015/672, 2015/682, 2015/691, 2015/705, 2015/710, 2015/713, 2015/720, 2015/723, 2015/728, 2015/751, 2015/759, 2015/763, 2015/765, 2015/769, 2015/771, 2015/774, 2015/778, 2015/779, 2015/790, 2015/792, 2015/810, 2015/828, 2015/829, 2015/837, 2015/839, 2015/840, 2015/845, 2015/860, 2015/861, 2015/871, 2015/878, 2015/887, 2015/891, 2015/897, 2015/898, 2015/899, 2015/902, 2015/903, 2015/915, 2015/930, 2015/931, 2015/937, 2015/947, 2015/955, 2015/958, 2015/960, 2015/972, 2015/1003, 2015/1012, 2015/1015, 2015/1021, 2015/1107, 2015/1169, 2015/1197, 2016/01, 2016/02, 2016/28, 2016/53, 2016/57, 2016/65, 2016/74, 2016/129, 2016/205, 2016/219, 2016/293, 2016/311, 2016/320, 2016/328, 2016/329, 2016/354, 2016/374, 2016/442, 2016/444, 2016/445, 2016/474, 2016/492, 2016/539, 2016/553, 2016/574, 2016/574, 2016/588, 2016/614, 2016/615, 2016/693, 2016/696, 2016/701, 2016/722, 2016/726, 2016/753, 2016/775, 2016/776, 2016/781, 2016/809, 2016/826, 2016/834, 2016/846, 2016/847, 2016/849, 2016/869, 2016/875, 2016/880, 2016/896, 2016/905, 2016/908, 2016/949, 2016/957, 2016/959, 2016/972, 2016/975, 2016/987, 2016/995, 2016/1002, 2016/1036, 2016/1040, 2016/1047, 2016/1076, 2016/1084, 2016/1093, 2016/1108, 2016/1113, 2016/1127, 2016/1145, 2016/1187, 2016/1195, 2016/1223, 2016/1239, 2016/1248, 2016/1260, 2016/1286, 2016/1346, 2016/1415, 2016/1469, and 2016/1500.

istries started to be assessed by Ankara criminal judgeships of peace, and until **02.07.2018**, **nine separate criminal judgeships of peace** in Ankara issued **151 blocking orders** based on article 8/A.

Figure 8: Number of 8/A Orders Issued Subject to Law No. 5651 by Year



A total of **64 8/A orders** were issued in 2015, while this figure was **103** in 2016, **79** in 2017, **90** in 2018, and **62** in 2019. A total of **168 8/A orders** were issued in **2020**. In total, it was found that **a total of 566 separate orders involving content removal** and/or access blocking were issued by the criminal judgeships of peace subject to article 8/A by the end of 2020. 2020 was also the year during which the highest number of article 8/A orders (**168 orders**) were issued. As will be explained below in detail, **approximately 23.000 Internet addresses**⁴² were blocked subject to these orders.

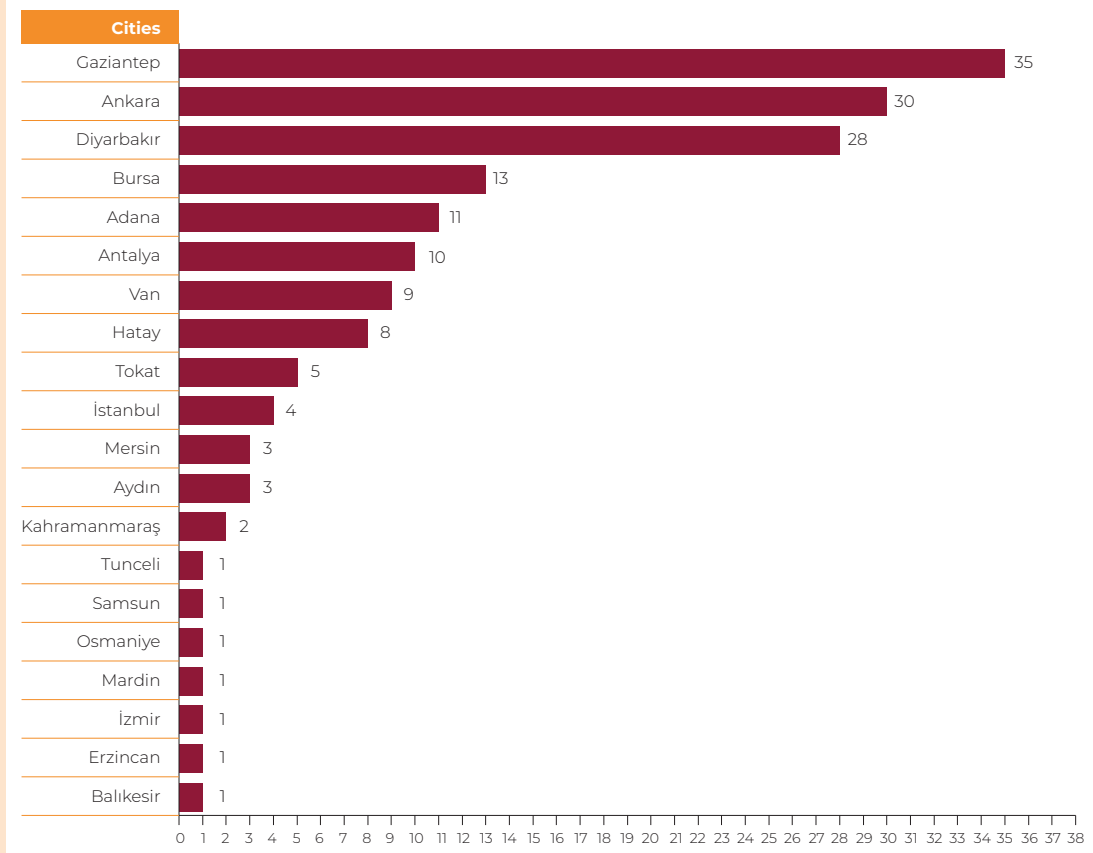
⁴² Domain names, news articles, news websites, and social media content.

EVALUATION OF 8/A ORDERS BASED ON CRIMINAL JUDGESHIPS OF PEACE

When 8/A orders are evaluated on the basis of the criminal judgements of peace issuing such orders, it is observed that a total of **566 orders** were issued by the end of 2020, including **153** consecutive orders issued by the **Gölbaşı Criminal Judgement of Peace** between 13.07.2015 and 07.12.2016 due to the fact that the Telecommunications Communication Presidency was located at the Gölbaşı facilities prior to its closure. The majority of the requests were submitted by the Office of the Prime Minister during this period. After the closure of the Telecommunications Communication Presidency, the majority of 8/A orders were issued by the criminal judgements of peace in Ankara. As a result, the President of BTK started to submit requests to criminal judgements of peace in Ankara in December 2016, and criminal judgements of peace in Ankara issued a total of **233 8/A orders** by the end of **2019**.

While **38** of the **233 8/A blocking orders** issued by Ankara criminal judgements of peace **by the end of 2019** were issued by the Ankara 1st Criminal Judgement of Peace; **35** were issued by the Ankara 5th Criminal Judgement of Peace, **34** were issued by the Ankara 3rd Criminal Judgement of Peace, **34** were issued by the Ankara 6th Criminal Judgement of Peace, **30** were issued by the Ankara 7th Criminal Judgement of Peace, **28**

Figure 9: 2020 8/A Orders By Issuing City

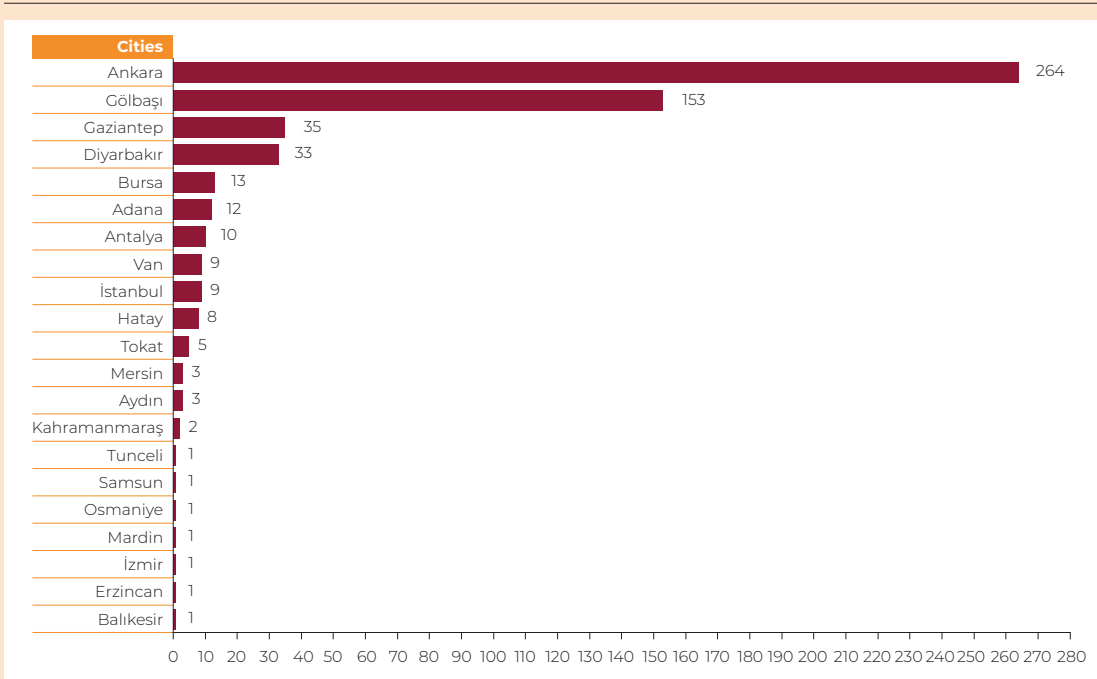


were issued by the Ankara 2nd Criminal Judgeship of Peace, **25** were issued by the Ankara 4th Criminal Judgeship of Peace, **8** were issued by the Ankara 8th Criminal Judgeship of Peace, and **1** was issued by the Ankara 9th Criminal Judgeship of Peace. Furthermore, it was found that **11 8/A orders** were issued by courts other than the Ankara criminal judgeships of peace by the end of 2019.⁴³

As mentioned above, a total of **168 8/A orders** were issued in **2020**. However, a difference was observed in the breakdown of these orders and it was found that a large number of 8/A orders were issued by the criminal judgeships of peace outside of Ankara compared to previous years. As can be seen in the table below, the **highest number of 8/A orders** were issued by the criminal judgeships of peace in **Gaziantep (35 orders)** in 2020, while criminal judgeships of peace in **Ankara** ranked second (**30 orders**), and criminal judgeships of peace in **Diyarbakır** ranked third (**28 orders**).

Overall, criminal judgeships of peace based in **Ankara** ranked first with **264 8/A orders**, which were then followed by the **Gölbaşı Criminal Judgeship of Peace**, which ranked second with **153 8/A orders**, criminal judgeships of peace based in **Gaziantep**, ranked third with **35 8/A orders** and criminal judgeships of peace based in **Diyarbakır**, ranked fourth with **33 8/A orders**. The majority of the **566 8/A orders** issued from 2015 to 2020 were issued by the Gölbaşı Criminal Judgeship of Peace with **417 8/A orders (74%)** and other criminal judgeships of peace in Ankara upon the requests submitted by the Office of the Prime Minister, and subsequently, by the Presidency.

Figure 10: 2015-2020 8/A Orders By Issuing City



⁴³ These decisions were issued by the Adana 4th Criminal Judgeship of Peace; the Diyarbakır 2nd, 4th, and 5th Criminal Judgeships of Peace; the İstanbul Anatolia 8th Criminal Judgeship of Peace; the İstanbul 10th Criminal Judgeship of Peace; and the İstanbul 8th Criminal Judgeship of Peace.

As can be seen in figure 10, it was found that several criminal judgeships of peace outside Ankara issued 8/A orders for the first time during 2020. In this context, criminal judgeships of peace in Gaziantep, Bursa, Adana, Antalya, Van, Hatay, Tokat, Mersin, Aydın, Kahramanmaraş, Tunceli, Samsun, Osmaniye, Mardin, Izmir, and Balıkesir started to issue 8/A orders for the first time in 2020. As will be explained below, these blocking orders were issued upon the requests submitted within the scope of the activities and operations carried out by the provincial gendarmerie commands regarding the Internet.

8/A ORDERS ISSUED IN 2020 AND THE ROLE OF THE GENDARMERIE

While **only 10 8/A orders** had been issued outside Ankara before 2020, **138 8/A orders** were issued by criminal judgeships of peace outside Ankara in 2020. While only 11 of these orders were issued in the first 6 months of 2020, 132 orders were issued in the second half of 2020. During the second half of 2020, provincial gendarmerie commands rose to prominence with their requests to block access to foreign-based betting websites that were found to violate the Law No. 7258 on the Regulation of Betting and Lottery Games in Soccer and Other Sports. Several news articles reported that the gendarmerie carried out operations against not only betting websites, but also obscene websites,⁴⁴ websites selling narcotic substances and stimulants and websites **“making propaganda for a terrorist organization”** and that access to such websites was blocked.⁴⁵ It was found that the **127 orders** were issued upon the requests of various provincial gendarmerie commands subject to article 8/A.

Confusion of **demand, evaluation, and judgment** was observed in part of these decisions, which were requested by the Gendarmerie General Command and provincial gendarmerie commands and issued in particular by criminal judgeships of peace outside Ankara. Within the scope of the EngelliWeb research, it was found out that **70 orders** that were **considered to be flawed** were issued by criminal judgeships of peace upon the requests of the gendarmerie within the framework of the activities carried out by various provincial gendarmerie commands regarding the Internet. These **70 orders** were examined in detail. Only **12** of the 70 orders were issued upon requests subject to **article 8/A**. In **32** of these decisions, criminal judgeships of peace **referred to article 8/A** and took it into consideration during their review. However, **none** of these 70 orders were issued **with reference to article 8/A**. **Regardless of the requests of the gendarmerie**, criminal judgeships of peace issued **69** of the 70 orders subject to **article 9**, in relation to the **violation of personal rights**, and one order under **article 8**, involving **content considered to be harmful for children**.

No. of Requests	Article 8/A Requests	Reference to Article 8/A	Article 8/A Orders	Article 8 Orders	Article 9 Orders
70	12	32	0	1	69

⁴⁴ Sabah, “Müstehcen yayın yapan 88 siteye erişim engellendi” [88 obscene websites were blocked], 19.12.2020, <https://www.sabah.com.tr/yasam/2020/12/19/mustehcen-yayin-yapan-88-siteye-erisim-engellendi>; Sabah, “Jandarmadan siber operasyon: 204 siteye erişim engeli” [Cyber operation by the gendarmerie Access to: 204 websites was blocked], 31.12.2020, <https://www.sabah.com.tr/yasam/2020/12/31/jandarmadan-siber-operasyon-204-siteye-erisim-engeli>

⁴⁵ Diken, “Yasa dışı yayın yapan 137 internet sitesine erişim engeli” [Access to 137 websites that broadcast illegally was blocked], 01.12.2020, <http://www.diken.com.tr/yasa-disi-yayin-yapan-137-internet-sitesine-erisim-engeli/>

Within the scope of this study, it was found that **43 of these orders should have been issued subject to article 8/A**, 13 of them should have been issued subject to article 8, and 14 of them should have been issued subject to article 9. This different evaluation is based on the examination of the websites and content requested to be blocked subject to the 70 separate blocking orders.

İFÖD Evaluation	70 Orders
Article 8	13
Article 8/A	43
Article 9	14

By way of example, 20 access-blocking orders were issued by criminal judgeships of peace in Ankara with regards to the domain name *mezopotamyaaajansi.com* and other domain names subsequently registered by **Mezopotamya News Agency** in 2018 and 2019 subject to article 8/A of Law No. 5651. Inconsistencies in this practice began with the involvement of provincial gendarmerie commands. During 2020, domain names *mezopotamyaaajansi25.com* and *mezopotamyaaajansi26.com* were blocked by the Antalya 3rd⁴⁶ and 6th⁴⁷ Criminal Judgeships of Peace upon the requests of the Antalya Provincial Gendarmerie Command. In its order, the Antalya 3rd Criminal Judgeship of Peace found a violation of personal rights subject to article 9 of Law No. 5651, by stating that “*when the content of the website in question was examined, content aiming to spread the ideology of an armed terrorist organization and propaganda for it was found.*” The order was sent to the Association of Access Providers (“ESB”) for execution. The order did not include any reference to article 8/A or any review of violation of anybody’s personal rights. In its order, the Antalya 6th Criminal Judgeship of Peace referred to article 8/A and found a violation of personal rights subject to article 9 of Law No. 5651, by stating that “*when the content of the website in question was examined, it was understood that the content involved propaganda for the PKK terrorist organization and its leaders.*” The order was sent to the Association of Access Providers (“ESB”) for execution. None of the decisions stated whose personal rights were violated or which personal rights were violated or by whom they were violated.

More examples can be provided; however, it can be seen that the number of requests for access-blocking or content removal submitted by the Presidency and the relevant ministries in “circumstances where delay would entail risk,” or subject to article 8/A started to decrease as a result of the involvement of provincial gendarmerie commands, especially in the second half of 2020. Thus, these orders started to be issued by criminal judgeships of peace outside Ankara. Criminal judgeships of peace outside Ankara, which had no experience with article 8/A, tried to fit the requests that should have been reviewed under article 8/A of Law No. 5651 to their article 9 order templates. As a result, flawed orders started to be issued as explained with the examples above, and these orders were sent to ESB for execution, rather than to BTK as required by article 8/A.

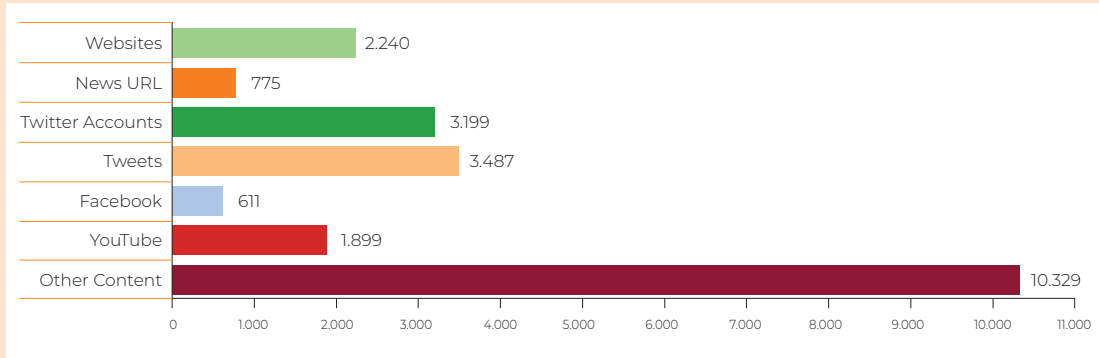
⁴⁶ Antalya 3rd Criminal Judgeship of Peace, 2020/3852, 06.11.2020.

⁴⁷ Antalya 6th Criminal Judgeship of Peace, 2020/4006, 25.11.2020.

ANALYSIS OF THE BLOCKED CONTENT SUBJECT TO ARTICLE 8/A ORDERS

From 29.05.2015 to the end of 2020; **access to more than 23.135 Internet addresses**, including approximately 2.200 news websites and domain names, more than 750 news articles, more than 3.150 Twitter accounts, more than 3.400 tweets, more than 600 Facebook content items, and more than 1.850 YouTube videos, was blocked subject to a total of **566 8/A orders** issued by 54 different criminal judgships of peace, as can be seen in detail in **Figure 11**.⁴⁸

Figure 11: Approximate Number of Internet Content Blocked by 8/A Orders: 2015-2020



Article 8/A based orders are politically motivated and usually target Kurdish and left-wing news websites as well as several social media accounts and content that are associated with Kurdish journalists, activists, and opponents who have thousands of followers and who disseminate vital news stories that do not receive coverage in the national media.

In addition to Sendika.org⁴⁹ and SiyasiHaber.org, regional news websites that publish articles in Kurdish and Turkish and are therefore very important for the Kurdish politics, such as Yüksekova Güncel, Dicle Haber Ajansı (“DİHA”), Azadiya Welat, Özgür Gündem, Yeni Özgür Politika, Rudaw, RojNews, ANF, Kaypakkaya Haber, Güneydoğu’nun Sesi İdil Haber, Kentin Özgün Sesi Bitlis Güncel, Besta Nuce, JINHA, Demokrasi.com, and JinNews had been regularly blocked from Turkey by 8/A orders before 2020. In addition, the **Wikipedia** platform had been blocked from Turkey for 2.5 years from 29.04.2017 upon the request of the Office of the Prime Minister on the grounds that two articles on the platform praised terrorism, incited violence and crime, and threatened public order and national security⁵⁰ and became available

⁴⁸ As part of the EngelliWeb project, the **classification of 10.329 of the 23.135 addresses** that were found to be blocked by the end of 2020 subject to article 8/A continue. Unlike orders issued subject to article 9 of Law No. 5651, 8/A orders are not implemented in a transparent manner; thus, it is not possible to access the details of all the decisions of the criminal judgships of peace involving access blocking to the impugned content and blocked URL addresses.

⁴⁹ Between 2015 and 2017, the news website Sendika.Org was blocked 63 times by 7 different Ankara criminal judgships of peace under Article 8/A.

⁵⁰ Ankara 1st Criminal Judgship of Peace, no. 2017/2956, 29.04.2017. The Ankara 1st Criminal Judgship of Peace rejected the objections with its decision no. 2017/3150, 04.05.2017 by stating that there was not any consideration requiring the decision no. 2017/2956, 29.04.2017 to be revised. The Ankara 2nd Criminal Judgship of

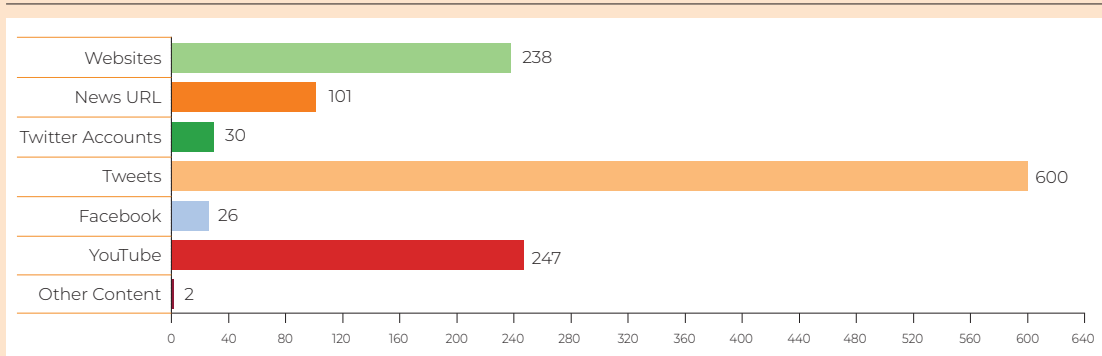
again only as a result of the judgment of the Constitutional Court, as explained in detail below.

Furthermore, subject to article 8/A, access to news articles and content with regards to the military operations of Turkey is regularly blocked. In addition, subject to article 8/A, access to **Sputnik**, a Russian news agency, was blocked in Turkey in April 2016, when the political relations between Turkey and Russia deteriorated. Similarly, access to the **Wikileaks** platform, a non-profit platform publishing sensitive documents from anonymous resources; a large number of **Blogspot** and **WordPress** pages; Jiyen.org;⁵¹ Dağ Medya, one of the first representatives of data journalism in Turkey; Halkın Sesi TV; the Twitter account of Dokuz8haber; news articles of press organs such as Cumhuriyet, Sözcü, Birgün, Evrensel, Diken, Sendika.org, T24, BBC, Artı Gerçek, Gazete Duvar, soL Haber, and OdaTV and the URL addresses where these articles were published is blocked frequently subject to article 8/A.

ANALYSIS OF THE BLOCKED CONTENT SUBJECT TO ARTICLE 8/A ORDERS ISSUED IN 2020

As can be seen in figure 12, it was found that **a total of 1.294 Internet addresses**, including **238** websites, most of which were news websites; **101** news articles; **30** Twitter accounts; **600** tweets; **26** Facebook content and **247** YouTube videos⁵² were blocked in 2020 by 165 8/A orders issued by criminal judgeships of peace.

Figure 12: Approximate Number of Internet Content Blocked by 8/A Orders: 2020



Five separate access-blocking orders issued involving the news website **OdaTV** stand out among the 8/A orders issued in **2020**. In February 2020, two members of the

Peace also rejected the objections with its decision no. 2017/3172, 07.05.2017. In this decision, it was merely stated that the objection was rejected “since nothing inaccurate was found to exist in the decision of the Ankara 1st Criminal Judgeship of Peace no. 20173150” without providing any reasoning.

⁵¹ Bianet, “Yazarı Gözaltına Alınan Jiyen.org engellendi” [Jiyen.org Was Blocked After Its Columnist Was Detained], 24.20.2015, <https://m.bianet.org/bianet/toplum/168617-yazari-gozaltina-alinan-jiyen-org-engellendi>

⁵² As part of the EngelliWeb project, the **classification of 529 of the 4.550 addresses** that were blocked subject to article 8/A continue.

Turkish Armed Forces (“TAF”) and the National Intelligence Organization (“MIT”) were killed during the cross-border military operations carried out by Turkey in Libya. Ümit Özdağ, MP for the İyi Parti (“Good Party”), held a press conference at the Turkish Grand National Assembly on 26.02.2020 and made statements about the names, duties, and activities of the two MIT officers killed in Libya. This was reported in the media. In line with contributing to a public debate on a matter of general interest, OdaTV published a news article involving the funeral of the killed officers entitled “Sessiz sedasız ve törensiz defnedilen Libya şehidi MİT mensubunun cenaze görüntülerine OdaTV ulaştı” [“OdaTV Obtains Funeral Footage of MIT Agent who was Martyred in Libya but Buried without Ceremony”] on 03.03.2020. This article was blocked subject to an order of the **Istanbul 3rd Criminal Judgeship of Peace**⁵³ and removed by OdaTV.

Subsequently, access to the news website **odatv.com** was blocked completely subject to an administrative order of BTK and the order of the Ankara 4th Criminal Judgeship of Peace⁵⁴ issued on 04.03.2020 upon the request of the Directorate General for Security of the Ministry of the Interior. Alternative domain names registered by the news website OdaTV were blocked subject to blocking orders issued consecutively.⁵⁵ As can

Screenshot 1: Request of the Directorate General for Security of the Ministry of the Interior Involving OdaTV

T.C.
İÇİŞLERİ BAKANLIĞI
Emniyet Genel Müdürlüğü

Sayı : 25984256-91263.(22119)-**425/427-93**
Konu : İçerik Çıkarılması;Erişimin Engellenmesi

İVEDİ
05/03/2020

BİLGİ TEKNOLOJİLERİ VE İLETİŞİM KURUMU BAŞKANLIĞINA
(Eskişehir Yolu 10. Km. No:276 Çankaya/ANKARA)

04/05/2007 tarihli ve 5651 sayılı İnternet Ortamında Yapılan Yayınların Düzenlenmesi ve Bu Yayınlar Yoluyla İşlenen Suçlarla Mücadele Edilmesi Hakkında Kanunun 8/A maddesinin 1.fikrasında hangi hallerde ilgili bakanlıkların talebi üzerine Bilgi Teknolojileri ve İletişim Kurumu Başkanı tarafından internet ortamında yer alan yayınlara ilişkin olarak içeriğin çıkarılması ve/veya erişimin engellenmesi kararı verilebileceği hüküm altına alınmıştır.

Odatv isimli internet sitesi üzerinden (<https://odatv.com>) genel yayım politikası olarak herhangi bir teyit ya da kaynak göstermeden halkı kin, nefret ve düşmanlığa tahrik ettiği, toplumda karışıklık çıkardığı, ülkenin huzur ve güvenliğini bozmaya çalıştığı değerlendirilen haber ve içerikler yayınladığı, millî güvenlik ve kamu düzeninin korunmasını ihlal ettiği değerlendirilen içerikleri ile ilgili içeriğin çıkarılması/erişimin engellenmesi tedbirlerinin uygulandığı bilinmektedir.

⁵³ Istanbul 3rd Criminal Judgeship of Peace, no. 2020/1183, 04.03.2020.

⁵⁴ The domain name odatv.com was blocked subject to the decision of the Ankara 4th Criminal Judgeship of Peace, no. 2020/2117, 07.03.2020.

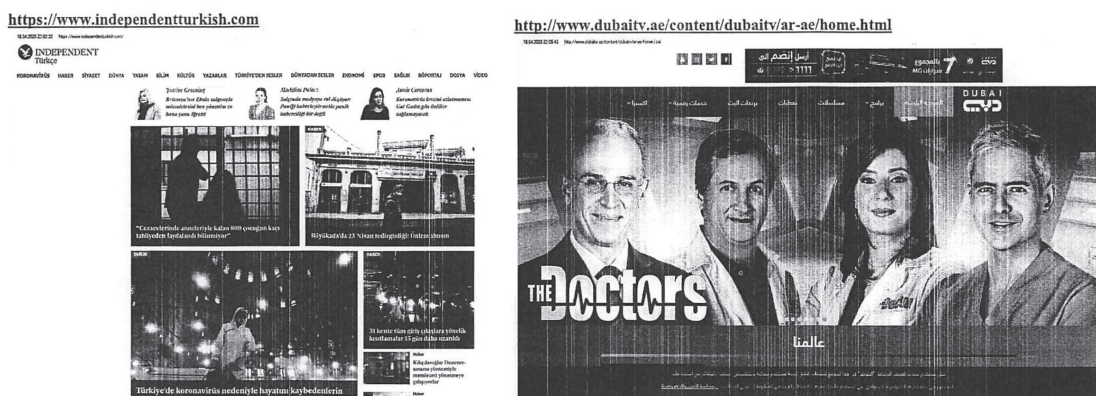
⁵⁵ Domain names www.odatv.com.tr and www.odatv.net were blocked subject to the decision of the Ankara 8th Criminal Judgeship of Peace, no. 2020/2407, 08.03.2020 while the domain name www.odatv.biz was blocked subject to the decision of the Ankara 7th Criminal Judgeship of Peace, no. 2020/2723, 20.03.2020 and the domain name www.odatv.co was blocked subject to the decision of the Ankara 7th Criminal Judgeship of Peace, no. 2020/2727, 20.03.2020.

be seen in the image below, the general publication policy of OdaTV was explained in requests for complete access blocking as follows: “It is known that it publishes news articles and content that incite hostility, hatred, and enmity in the society, cause chaos in the society, and tried to disrupt the peace and security of the country, without any confirmation or resource, and that its content violating national security and public order has been subjected to access-blocking/content removal measures.” Even though these requests stated that OdaTV did not remove its news article entitled “Sessiz sedasız ve törensiz defnedilen Libya şehidi MİT mensubunun cenaze görüntülerine OdaTV ulaştı” [“OdaTV Obtains Funeral Footage of MIT Agent who was Martyred in Libya but Buried without Ceremony”], access to OdaTV was blocked after the news website removed the news article.

When issuing consecutive orders, judgeships of peace took into consideration the provisions of the Law No. 2937 (“Law on State Intelligence Services and the National Intelligence Organization”) as well as the fact that “the access-blocking order issued by the Information Technologies and Communication Board in order to protect the right to life, security of life and property of individuals, as well as national security and public order, in circumstances where delay may entail risks, as regulated by article 8/A of Law No. 5651, was submitted for approval within 24 hours, and that the **website in question continued its publication activities through a different domain name before the request in question was reviewed.**” As objections against these orders were overruled on the grounds that “**there was no inaccuracy**” and that the order was “**in accordance with the procedure and the law,**” an individual application was made to the Constitutional Court. The proceedings at the Constitutional Court continue as of end of 2020. The established case-law of the Constitutional Court on article 8/A, which covers news websites, was not taken into consideration neither in access-blocking orders nor in the decisions regarding the rejections of the appeals lodged by OdaTV.

Similarly, three consecutive access-blocking orders were issued against the news website **Independent Turkish** in March and April 2020. Following the murder of Journalist Jamal Khashoggi, the criminal indictment issued by the Istanbul Chief Public Prosecutor’s Office on 11.04.2020, it was argued that the murder was committed up-

Screenshots 2-3: Screenshots from the access-blocking dossier for Independent Turkish



on the instructions of high-ranking bureaucrats close to Mohammed bin Salman, Crown prince of Saudi Arabia. The indictment was accepted by the Istanbul 11th Criminal Assize Court. The findings included in the indictment involving the murder of Khashoggi were published by TRT, Yeni Şafak, and especially the Arabic Service of Anadolu Agency (“AA”). Once the Khashoggi indictment was published, Saudi Arabia blocked access to the websites of AA and TRT Arabi on 13.04.2020 and to the website of Yeni Şafak on 17.04.2020. In response to these access-blocking orders, many news websites, including the domain name registered by **Independent Turkish** and the official news agencies of Saudi Arabia and the United Arab Emirates, were blocked upon the request of the Presidency.⁵⁶ For instance, the website of DubaiTV was blocked along with Independent Turkish. In the access-blocking orders, it was not explained how these websites violated article 8/A.

Appeals against these orders were rejected and individual applications were made to the Constitutional Court.

The practice of blocking access to both OdaTV and Independent Turkish websites continued as of end of 2020. Furthermore, in 2020, nine access-blocking orders were issued with regards to domain names registered by the news website **JinNews**, while five separate domain names registered by **Mezopotamya Agency** and 25 separate domain names registered by **Nuçe Ciwan**, one of the news sources alleged to be close to PKK, were also blocked. Despite the decisions of the Constitutional Court finding a violation, domain names registered by the news websites **Sendika.org** (sendika63.org) and **Siyasihaber.org** (siyasihaber4.org) were also blocked subject to article 8/A once again during 2020.

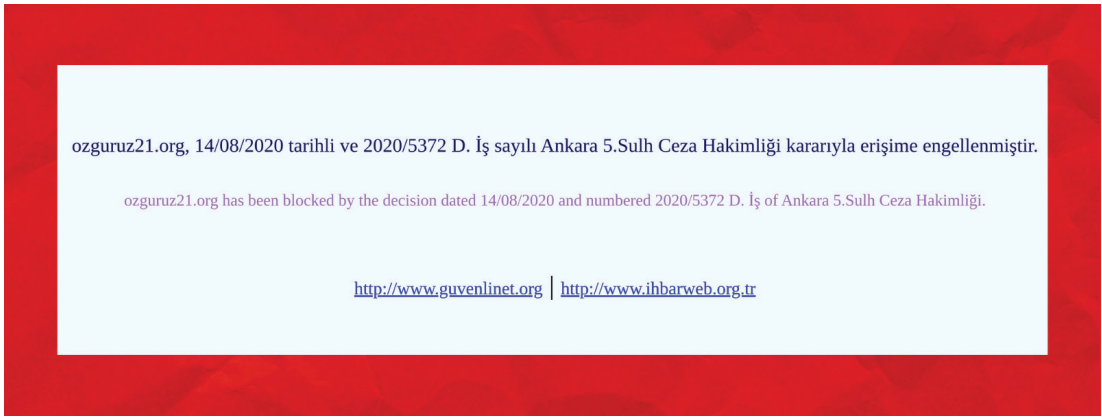
Screenshots 4-5: Sample access-blocking orders of JinNews



Similarly, the domain name **ozguruz21.org** registered by the news website **Ozgu-ruz.org** was blocked subject to article 8/A subject to first an order of BTK, then by an order of the Ankara 5th Criminal Judgeship of Peace, no. 2020/5372 on 14.08.2020.

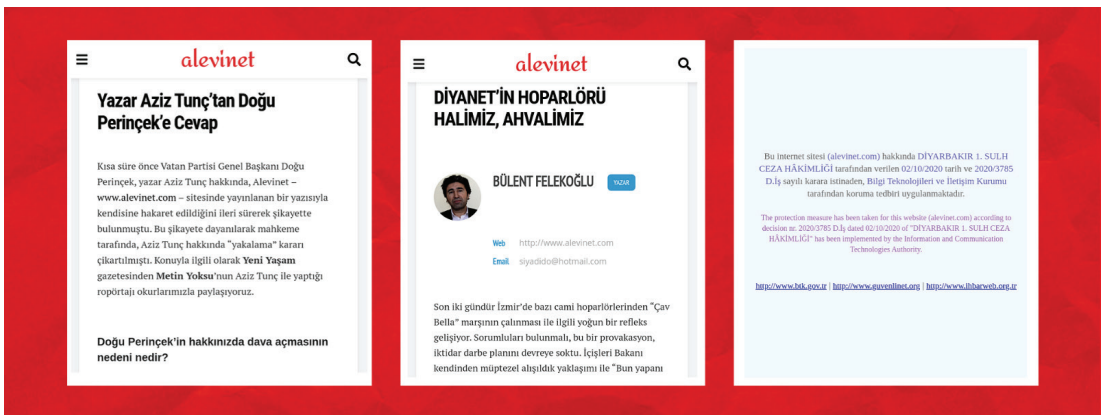
⁵⁶ www.independentturkish.com was blocked subject to an order of the Ankara 7th Criminal Judgeship of Peace, no. 2020/3042, 19.04.2020, while indyturky.com was blocked subject to an order of the Ankara 8th Criminal Judgeship of Peace, no. 2020/3120, 20.04.2020 and www.indyturkish.com was blocked subject to an order of the Ankara 1st Criminal Judgeship of Peace, no. 2020/3258, 03.05.2020.

Screenshot 6: Access-blocking order of news website Ozguruz.org



Moreover, the news website **Alevinet** was also among the news websites blocked subject to article 8/A in 2020. Immediately after two news articles published on the news website Alevinet were blocked subject to an order of the Istanbul 3rd Criminal Judgeship of Peace on **30.09.2020** (decision no. 2020/4031) and the news website was completely blocked subject to an order of the Diyarbakır 1st Criminal Judgeship of Peace, no. 2020/3785, on **02.10.2020**.

Screenshot 7: Access-blocking order of the news website Alevinet



Similarly, the news websites Siyasi Haber (**siyasihaber4.org**) and Yeni Yaşam Gazetesi (**yeniyasamgazetesi1.com**) were completely blocked subject to the orders of the Hatay 1st Criminal Judgeship of Peace on 25.09.2020 with the decisions nos. 2020/3403 and 2020/3406, respectively.⁵⁷

⁵⁷ **kizilbayrak45.net** (Bursa 2nd Criminal Judgeship of Peace, no. 2020/4803, 27.09.2020), **nuceciwan53.com** (Mersin 2nd Criminal Judgeship of Peace, no. 2020/4269, 30.09.2020), **yenidemokrasi7.net** (Gaziantep 2nd Criminal Judgeship of Peace, no. 2020/5398, 30.09.2020), **gazetepatika11.com** (Gaziantep 2nd Criminal Judgeship of Peace, no. 2020/5407, 30.09.2020), and **avrupahaber6.org** (Gaziantep 2nd Criminal Judgeship of Peace, no. 2020/5411, 30.09.2020) were completely blocked around the same time.

Therefore, all of the sources that oppose government policies, question them, express alternative views on the Kurdish issue, or publish news stories or share content that do not receive mainstream media coverage during clashes were considered as sources that disrupt public order, praise terrorism, and incite crime, and were blocked subject to article 8/A in 2020, as in previous years. In recent orders issued upon the requests of the gendarmerie, criminal judgements of peace stated that such websites “praised the organizations PKK-KCK and YPG-PYD, misled the public against the Republic of Turkey, and created an unfair and negative perception against it,” and that therefore, it was important to block them to protect national security and public order.

It was also found that in 2020, while 8/A orders were mainly issued to block complete access to news websites, **access to 101 individual news articles were also blocked**, including those of Cumhuriyet, Evrensel, Birgün, T24, HalkTV, OdaTV, and Sendika.Org. As can be seen in the examples below, one of the most striking 8/A orders issued was the order issued by the **Erzincan Criminal Judgement of Peace** subject to article 8/A upon the request of Erzincan Municipality to block access to the news articles of Cumhuriyet, Birgün, Evrensel, and Sendika.Org with regards to Yavuz Polat, a street vendor who set himself on fire after his corn cart was seized by the municipal police, who died later at the hospital and the fact that the ambulance taking Polat to the hospital ran out of fuel. In its reasoned order for the access blocking of 56 separate news articles, the Erzincan Criminal Judgement of Peace did not explain how the news articles involving this news reporting, which was undoubtedly of public interest, violated article 8/A.⁵⁸

Screenshot 8: Sample of blocked news articles

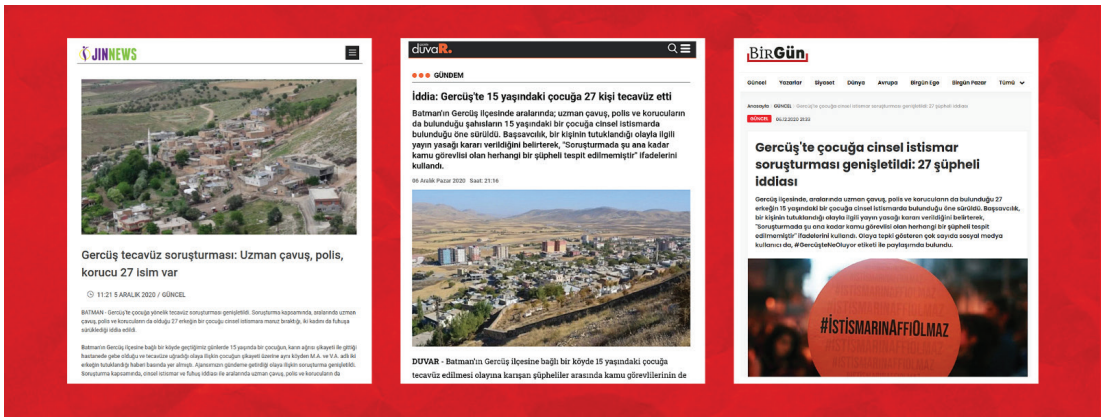


Moreover, news articles of JinNews, Gazete Duvar, Birgün, Haber soL and Evrensel involving the sexual abuse of a 15-year-old child in Gercüş, Batman, were blocked subject to two separate orders issued by the **Gercüş Criminal Judgement of Peace** on the

⁵⁸ News articles involving the fact that Yavuz Polat, who was selling corn with a cart at Ekşisu Picnic Area, poured gasoline and set himself on fire, and died as a result of the seizure of his cart by the municipal police of Erzincan Municipality were blocked on the grounds of protection of national security and public order subject to the **Erzincan Criminal Judgement of Peace**, no. 2020/1842, 01.09.2020.

grounds of protection of national security and public order.⁵⁹ Even though the order issued by the Gercüş Criminal Judgeship of Peace did not clearly specify how these news articles threatened national security or disrupted public order, objections filed by Gazete Duvar⁶⁰ and JinNews⁶¹ against the order of the Gercüş Criminal Judgeship of Peace were accepted by the Midyat Criminal Judgeship of Peace. In these rare judgments accepting the objections, the Midyat Criminal Judgeship of Peace did not review the objections in terms of freedom of expression and freedom of the press but accepted the objections on procedural grounds. In the reasonings of the judgments, it was noted that the public prosecutors were not granted the authority to request access-blocking under article 8/A of Law No. 5651 and that therefore, the Gercüş Criminal Judgeship of Peace “could not issue access-blocking orders subject to article 8/A.”

Screenshot 9: Sample of blocked and removed articles



Screenshot 10: Sample of blocked and removed articles



⁵⁹ Access to these news articles was blocked subject to the decisions of the Gercüş Criminal Judgeship of Peace, no. 2020/199, 05.12.2020 and no. 2020/202, 07.12.2020.

⁶⁰ Midyat Criminal Judgeship of Peace, no. 2020/1784, 31.12.2020. Subject to the decision of the Midyat Criminal Judgeship of Peace, the news article of Gazete Duvar entitled “İddia: Gercüş'te 15 yaşındaki çocuğa 27 kişi tecavüz etti” [Alleged: A 15-year-old was raped by 27 people in Gercüş] of 06.12.2020 became available again at <https://www.gazeteduvar.com.tr/iddia-gercuste-15-yasindaki-cocuga-27-kisi-tecavuz-etti-haber-1506569>.

⁶¹ Midyat Criminal Judgeship of Peace, no. 2020/1785, 31.12.2020.

THE ARTICLE 8/A JUDGMENTS AND THE PRINCIPLE-BASED APPROACH OF THE CONSTITUTIONAL COURT

The Constitutional Court issued its first judgments involving article 8/A of Law No. 5651 in **2019** and issued judgments in seven applications consecutively during that year. The Court also decided two applications involving Sendika.Org during **2020**. The first judgment of the General Assembly, of the Constitutional Court involving article 8/A was related to a news article by the newspaper Birgün. Birgün published the news article entitled “*Cansız bedeni zırhlı aracın arkasında sürüklenen H.B.’ye 28 kurşun sıkılmış*” [H. B., whose lifeless body was dragged by an armored car, was shot 28 times] on 05.10.2015. The article stated that the lifeless body of Hacı Lokman Birlik, who was shot 28 times and killed during the clashes in Şırnak on 03.10.2015, was tied to an armored police vehicle and dragged for meters and that according to the autopsy report, 17 of these 28 shots were fatal.⁶² Access to Birgün’s article as well as 110 other Internet addresses were blocked by a decision of the Gölbaşı Criminal Judgeship of Peace.⁶³ As Birgün’s appeal was rejected, Birgün applied to the Constitutional Court about the access-blocking orders of the Gölbaşı Criminal Judgeship of Peace⁶⁴ regarding the news article of Birgün and a total of 111 related addresses. The Constitutional Court considered article 8/A for the first time in May 2019 and at the General Assembly level in the Birgün application, specified the principles that must be followed to issue article 8/A orders and ruled that Birgün’s **freedom of expression and freedom of the press were violated**.⁶⁵ In this context, it was stated that taking access-blocking measures in circumstances where delay may entail risk is exceptional and that such measures shall be limited to exceptional cases when there is a “Prima Facie”⁶⁶ violation.

According to the Constitutional Court, the exceptional procedure prescribed by article 8/A of Law No. 5651 may be followed in circumstances where online publications that endanger the democratic social order by praising violence, inciting people to hatred, or encouraging and provoking them to adopt the methods of terrorist organizations, resort to violence, take revenge, or attempt armed resistance can be **recognized at first sight** without the need for further investigation. The Constitutional Court states that in such circumstances, the **principle of prima facie violation** will establish a fair balance between freedom of expression and the need to quickly protect the public interest against online publications.⁶⁷

In this context, the Constitutional Court argues that interferences with freedom of expression **without any justification** or **with a justification that does not meet the**

⁶² See <https://www.birgun.net/haber/cansiz-bedeni-zirhli-aracin-arkasinda-suruklenen-haci-birlik-e-28-kursun-sikilmis-91399>

⁶³ Gölbaşı Criminal Judgeship of Peace, no. 2015/902, 06.10.2015.

⁶⁴ *Ibid.*

⁶⁵ Birgün İletişim and Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019, §§ 70-75.

⁶⁶ Ali Kızık Application, No: 2014/5552, 26.10.2017. See also K. Gözler, “Kişilik Haklarını İhlal Eden İnternet Yayınlarının Kaldırılması Usûlü ve İfade Hürriyeti: 5651 Sayılı Kanunun 9’uncu Maddesinin İfade Hürriyeti Açısından Değerlendirilmesi” [Procedure of Removing the Internet Publications Violating Personal Rights and the Freedom of Expression: Evaluation of Article 9 of Law No.5651 in Terms of the Freedom of Expression], Rona Aybay’a Armağan (Legal Hukuk Journal, Special Issue, December 2014), Istanbul, Legal, 2014, Volume I, pp.1059-1120.

⁶⁷ Ali Kızık Application, No: 2014/5552, 26.10.2017, §§ 62-63.

criteria set by the Constitutional Court will violate Articles 26 and 28 of the Constitution. The Constitutional Court listed the elements that must be included in article 8/A related decisions in order for the justifications of the courts of first instances and other bodies exercising public power to be considered relevant and sufficient, and that may vary according to the conditions of similar applications as follows:⁶⁸

- i. For an order to be issued to block access to online content, the administrative and judicial bodies must assert the **existence of a circumstance where delay may entail risks**.
- ii. Considering that **circumstances where delay may entail risks** may arise due to one or more of the reasons such as the protection of the right to life, security of life, or property of individuals, as well as national security and public order; the prevention of crimes; or the protection of public health; the **relationship between the content of the publication and these reasons should be demonstrated fully**.
- iii. In the event that the publication is related to terrorist organizations or the justification of terrorist activities, balance must be struck between **freedom of expression and the legitimate right of democratic societies to protect themselves from the activities of terrorist organizations**, in order to make such an analysis.
- iv. To establish the balance in question, the content of the publication should be examined to see:
 - whether the publication as a whole targeted a natural person, public officials, a segment of the society, or the state or whether it incited violence against them,
 - whether the publication exposed individuals to the threat of physical violence or inflamed hatred against individuals,
 - whether the message of the publication asserted that resorting to violence is a necessary and justified measure,
 - whether violence is glorified or not, incites people to hatred, revenge or armed resistance,
 - whether it will cause more violence in some part or all of the country by making accusations or inciting hatred,
 - whether it contains lies or false information, threats and insulting statements that will cause panic among people or organizations,
 - whether the intensity of conflicts and high degree of tension in some part or all of the country at the time of the publication affected the access-blocking order,
 - whether the restrictive measure subject to the order aims to meet a pressing social need in a democratic society, and whether the measure is a last resort, and
 - Finally it should be evaluated together with the content of the publication whether the restriction is a proportionate measure that interferes with freedom of expression the least in order to achieve the purpose of public interest.

⁶⁸ Birgün İletişim and Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019, § 74.

Furthermore, the Constitutional Court notes that “statements praising, supporting, and justifying the acts of violence of terrorist organizations can be considered as incitement to armed resistance, glorification of violence, or incitement to hostility and enmity. However, blocking access to any Internet content only on the grounds that it contains the ideas and goals of a terrorist organization, severely criticizes official policies, or assesses the terrorist organization’s conflicts with official policies, **even in the absence of one or more of the reasons stated above** - does not justify an intervention.”⁶⁹

The Constitutional Court implemented these principles for the first time in its decision involving the **Baran Tursun** Worldwide Disarmament, Right to Life, Freedom, Democracy, Peace, and Solidarity Foundation application, in which the Twitter account of the foundation was blocked subject to an order of the Gölbaşı Criminal Judgeship of Peace, as well as in the joined up application of the news website **Diken** about the blocking of its news article involving Hacı Lokman Birlik subject to the same order. The Court, as in the Birgün case, ruled that freedom of expression and freedom of the press were violated in these cases.⁷⁰ Similarly, in **2019**, the Constitutional Court ruled that freedom of expression and freedom of the press were violated by the orders blocking the news website **Yüksekova Güncel**,⁷¹ the news websites **Siyasihaber.org** and **Siyasihaber1.org**, and the Twitter account of Siyasihaber.org.⁷² On the other hand, the Constitutional Court declared the user-based applications of Yaman Akdeniz and Kerem Altıparmak inadmissible.⁷³

In **2020**, the Constitutional Court first issued a judgment on the applications involving the **Wikipedia** platform,⁷⁴ then decided on two separate applications made on behalf of **Sendika.org**,⁷⁵ involving article 8/A.

In its judgment on the **Wikimedia Foundation and Others** application⁷⁶ involving complete access blocking to the Wikipedia platform, the Constitutional Court reviewed the applications of the Wikimedia Foundation and the **user-based applications** of academics Yaman Akdeniz and Kerem Altıparmak as well as the application lodged by the Punto24 Platform for Independent Journalism, a non-profit association. While the Constitutional Court unanimously declared the application of Punto24 inadmissible, found the applications of the academics admissible on the grounds that “the applicants, who were the users of the platform and stated that they had used Wikipedia for many years within the scope of their scientific studies and education and training activities, were victims due to the denial of access to such a resource.”⁷⁷ The Constitutional Court declared the application admissible and ruled with 10 to 6 votes that **freedom of expression** of the applicants, which was guaranteed by Article 26 of the Constitution, was **violated**.

⁶⁹ Birgün İletişim and Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019, § 75.

⁷⁰ Baransav and Keskin Kalem Yayıncılık and Ticaret A.Ş. Application, No: 2015/18581, 26.09.2019.

⁷¹ Cahit Yiğit Application, No: 2016/2736, 27.11.2019.

⁷² Tahsin Kandamar Application, No: 2016/213, 28.11.2019.

⁷³ Kerem Altıparmak and Yaman Akdeniz Application (2), No: 2015/15977, 12.06.2019; Kerem Altıparmak and Yaman Akdeniz Application (4), No: 2015/18876, 19.11.2019.

⁷⁴ Wikimedia Foundation and Others Application, No: 2017/22355, 26.12.2019.

⁷⁵ Ali Ergin Demirhan (Sendika.Org) Application, No: 2015/16368, 11.03.2020; Ali Ergin Demirhan (2) (Sendika.Org) Application, No: 2017/35947, 09.09.2020.

⁷⁶ Wikimedia Foundation and Others Application, No: 2017/22355, 26.12.2019.

⁷⁷ *Ibid*, § 55.

In the decision of the Constitutional Court, it was stated that “the interference with freedom of expression was based on article 8/A of Law No. 5651; however, it was not clearly specified **which of the reasons** that allow the interference and listed in paragraph (1) of the aforementioned rule is based and the ‘**reputation of the state,**’ was also used as a justification although this is not one of the specified reasons included in the article 8/A measure. Therefore, it is understood that the relevant rule of the Law was interpreted in a way that widens the scope of the article and creates the impression of arbitrariness.”⁷⁸ Moreover, the Constitutional Court noted that it was difficult to “**identify the purpose** of the order of blocking access to the website in question.”⁷⁹ In this context, in its judgment on the access-blocking order issued by the Ankara 1st Criminal Judgeship of Peace involving two different Wikipedia pages (URL addresses), the Court stated that “no concrete reason justifying interference with this right for the purposes of protecting national security and the protection of public order was presented.”⁸⁰ In conclusion, the Constitutional Court stated that as a result of this decision, the access-blocking measure has become permanent, and that “such indefinite restrictions will **clearly constitute a highly disproportionate interference with freedom of expression**, considering that the entire website is blocked.”⁸¹

After its decision on the Wikipedia platform, in March 2020, the Constitutional Court issued another judgment on the news website **Sendika.org**, which had been blocked since 25.07.2015 subject to an article 8/A blocking order.⁸² The Constitutional Court implemented the principles it set in its Birgün judgment and stated that access to 118 websites, including that of Sendika.org, was blocked subject to the order of the Gölbaşı Criminal Judgeship of Peace, but that “neither administrative bodies nor courts of first instance assessed the matters to be considered in case of interferences under the said article.”⁸³ According to the Constitutional Court, “when blocking access to the Sendika.org website, the relationship between the content of this website and the reason for the restriction was not clarified and no circumstance where delay may entail risks was presented.”⁸⁴ Therefore, it is not clear why Sendika.org and other news websites were blocked with reference to article 8/A. According to the Constitutional Court, the reasons for access blocking were not specified in the blocking order. As a result, according to the Constitutional Court “it is clear that the interference in the form of blocking access to the entire website constitutes a disproportionate interference with **freedom of expression and freedom of the press** considering that no justification has been provided for the violation to be prevented by blocking access to the entire website.”⁸⁵ Therefore, the Court ruled unanimously that freedom of expression, guaranteed by Article 26 of the Constitution, and freedom of the press, guaranteed by Article 28 of the Constitution, were violated.

⁷⁸ *Ibid*, § 61.

⁷⁹ *Ibid*, § 64.

⁸⁰ *Ibid*, § 88.

⁸¹ *Ibid*, § 96.

⁸² Ali Ergin Demirhan (Sendika.Org) Application, No: 2015/16368, 11.03.2020.

⁸³ *Ibid*, § 38.

⁸⁴ *Ibid*.

⁸⁵ Ali Ergin Demirhan (Sendika.Org) Application, No: 2015/16368, 11.03.2020, § 39.

The Gölbaşı Criminal Judgeship of Peace **did not implement the Constitutional Court's violation decision for nearly seven months** but only lifted the access blocking measure to Sendika.org with a decision issued on 27.10.2020⁸⁶ subsequent to an appeal by the representatives of Sendika.org for the enforcement of the decision of the Constitutional Court. With this decision, the Gölbaşı Criminal Judgeship of Peace also ended the practice of blocking access to the other 117 websites that were blocked along with Sendika.org with the initial decision. However, BTK objected and appealed against this decision and argued on 28.10.2020 that the decision of the Constitutional Court only found violation in relation to the application of Sendika.org and that the other 117 Internet addresses could not benefit from the decision of the Constitutional Court finding a violation. The Gölbaşı Criminal Judgeship of Peace accepted the appeal of BTK⁸⁷ ruling that websites other than Sendika.org were the “**websites of terrorist organizations**” and blocked access to these websites once again.

In September 2020, the Constitutional Court issued a consolidated judgment finding violation in 8 separate applications made by **Sendika.org**.⁸⁸ In its judgment, which was the continuation of its initial judgment, the Constitutional Court stated that a total of 61 access-blocking decisions had been issued involving the domain names used by Sendika.org which were created by adding consecutive numbers to its original domain name until the end of 2017, and the practice of blocking access to the websites “**sendika10.org, sendika18.org, sendika28.org, sendika46.org, sendika47.org, sendika55.org, sendika56.org, and sendika61.org**”,⁸⁹ which was the subject matter of the application, violated freedom of expression and freedom of the press. The Constitutional Court “did not deem it necessary to review other allegations of violation as it ruled that the applicant’s freedom of expression and freedom of the press were violated.”⁹⁰ Therefore, the Constitutional Court did not review the allegations of Sendika.org that the procedure for appealing against the blocking decisions was rendered impossible or delayed, as in the present case, since the decisions of the criminal judgeships of peace were not notified to them; that the right to an effective remedy was violated; and that article 8/A of Law No. 5651 did not meet the requirement of legality.

Only the Gölbaşı Criminal Judgeship of Peace (**sendika10.org**), the Ankara 2nd Criminal Judgeship of Peace (**sendika47.org**), and Ankara 4th Criminal Judgeship of Peace (**sendika59.org**) enforced the judgment finding violation and ended the access-blocking practice to these three domain names. The practice of blocking access to the domain names **sendika18.org**,⁹¹ **sendika28.org**,⁹² **sendika46.org**,⁹³ **sendika55.**

⁸⁶ Gölbaşı Criminal Judgeship of Peace, no. 2020/1454, 27.10.2020.

⁸⁷ Gölbaşı Criminal Judgeship of Peace, no. 2020/1495, 30.10.2020.

⁸⁸ Ali Ergin Demirhan (2) Application, No: 2017/35947, 09.09.2020, Official Gazette: 04.11.2020, No: 31294.

⁸⁹ Gölbaşı Criminal Judgeship of Peace, no. 2016/1239, 25.10.2016; Ankara 1st Criminal Judgeship of Peace, no. 2017/6008, 27.07.2017; Ankara 2nd Criminal Judgeship of Peace, no. 2017/4765, 17.06.2017; Ankara 3rd Criminal Judgeship of Peace, no. 2017/4951, 16.06.2017; Ankara 4th Criminal Judgeship of Peace, no. 2017/3785, 01.08.2017; Ankara 5th Criminal Judgeship of Peace, no. 2017/6570, 23.08.2017; Ankara 6th Criminal Judgeship of Peace, no. 2017/2516, 16.04.2017 and Ankara 7th Criminal Judgeship of Peace, no. 2017/2451, 05.04.2017.

⁹⁰ Ali Ergin Demirhan (2) Application, No: 2017/35947, 09.09.2020, § 41.

⁹¹ Ankara 7th Criminal Judgeship of Peace, no. 2017/2451, 05.04.2017.

⁹² Ankara 6th Criminal Judgeship of Peace, no. 2017/2516, 16.04.2017.

⁹³ Ankara 3rd Criminal Judgeship of Peace, no. 2017/4951, 16.06.2017.

org,⁹⁴ and **sendika56.org**⁹⁵ continued throughout 2020, even though these domain names are no longer used by Sendika.org and the relevant criminal judgeships of peace have not yet enforced the judgment of the Constitutional Court.

However, despite all these judgments of the Constitutional Court, **none** of the 8/A decisions issued in 2019 or 2020, after 12.07.2019, when the Birgün judgment was published in the Official Gazette, included any reference to the established case-law of Constitutional Court with regards to article 8/A or any assessment of the principles developed by the Court with regards to the application of article 8/A. In other words, **none** of the 26 separate 8/A decisions issued by nine separate criminal judgeships of peace in 2019 after the Birgün judgment or 168 separate 8/A decisions issued by 55 separate criminal judgeships of peace in 2020 referred to the **Birgün** judgment or the aforementioned **Wikipedia** or **Sendika.org** judgments of the Constitutional Court or **made an assessment of “prima facie violation.”** Despite the judgments of the Constitutional Court finding gross violations, criminal judgeships of peace continue to issue access-blocking orders as if the judgments of the Constitutional Court did not exist at all. For instance, while Sendika.org had not been made accessible again yet despite the two separate judgments of the Constitutional Court, **sendika63.org** was blocked on 30.09.2020 by the Gaziantep 2nd Criminal Judgeship of Peace upon the request of the Gaziantep Provincial Gendarmerie Command.⁹⁶ The appeal against this order was dismissed by the Gaziantep 3rd Criminal Judgeship of Peace⁹⁷ and it has become necessary to re-apply to the Constitutional Court.

On the other hand, 8/A applications started to be reviewed primarily by the European Court of Human Rights. The Court announced the application of the Wikimedia Foundation⁹⁸ and the applications of Sendika.org⁹⁹ and applications of academics Yaman Akdeniz and Kerem Altıparmak to the Government in 2019 and 2020, respectively.¹⁰⁰

ACCESS-BLOCKING AND CONTENT REMOVAL PRACTICES SUBJECT TO ARTICLE 9 OF LAW NO. 5651

Immediately after the 17-25 December 2013 corruption investigations, several amendments to the Law No. 5651 were included in the Omnibus Amendment Legislative Proposal. This legislative proposal was sent to the Parliamentary Plan and Budget Committee, and in a very short time, the Committee merged 42 separate Law and Decree-Laws, including the amendments to the Law No. 5651, into a single legislation comprising of 125 articles, and submitted it to the General Assembly on 16.01.2014.

⁹⁴ Ankara 1st Criminal Judgeship of Peace, no. 2017/6008, 27.07.2017.

⁹⁵ Ankara 4th Criminal Judgeship of Peace, no. 2017/3785, 01.08.2017.

⁹⁶ Gaziantep 2nd Criminal Judgeship of Peace, no. 2020/5426, 30.09.2020.

⁹⁷ Gaziantep 3rd Criminal Judgeship of Peace, no. 2020/5777, 09.10.2020.

⁹⁸ *Wikimedia Foundation Inc. v. Turkey*, no. 25479/19. Date of Application: 29.04.2019. Date of Announcement: 02.07.2019.

⁹⁹ *Ali Ergin Demirhan (Sendika.org) v. Turkey*, no. 10509/20. Date of Application: 10.02.2020. Date of Announcement: 27.07.2020.

¹⁰⁰ *Akdeniz & Altıparmak v. Turkey*, no. 5568/20. Date of Application: 14.01.2020. Date of Announcement: 26.08.2020. Similarly, see *Akdeniz & Altıparmak v. Turkey*, no. 35278/20. Date of Application: 28.07.2020. Date of Announcement: 09.02.2021.

The Draft Law No. 6518 was enacted in February 2014. With the new amendments, two other access-blocking measures were included in the Law No. 5651.

Article 9, entitled “Removal of content from publication and blocking of access,” of Law No. 5651, amended by the Law No. 6518 on 06.02.2014, made it possible to block access to content to prevent “**violation of personal rights**,” while article 9/A added to the Law No. 5651 made it possible to block access to content “**to protect the privacy of life**.” These amendments also necessitated the establishment of the Association of Access Providers (“ESB”) subject to article 6/A. Article 6/A states that any access-blocking order issued with regard to “violation of personal rights” should be notified directly to the Association for further action and that notifications made to the Association in this context shall be deemed to be made to access providers as well.

Radical amendments were made to the Law No. 5651 in July 2020 with the Law No. 7253 dated 29.07.2020. A new “content removal” sanction was added to article 9 of this Law, which had already included the infamous access-blocking measure. Furthermore, the possibility for individuals to be able to request to “prevent the **association of their names with the websites** subject to judgments subject to article 9,” which is a **completely new sanction**, was added to paragraph 10 of article 9. Therefore, within the current scope of this article, those who allege that their personal rights are violated may request criminal judgeships of peace to ensure the removal and/or blocking of the relevant content and/or prevent the association of their names with the search engines subject to the decisions within the scope of this article.

DOMAIN NAMES, URL'S, NEWS ARTICLES, AND SOCIAL MEDIA CONTENT BLOCKED OR REMOVED WITHIN THE SCOPE OF ARTICLE 9 OF LAW NO. 5651

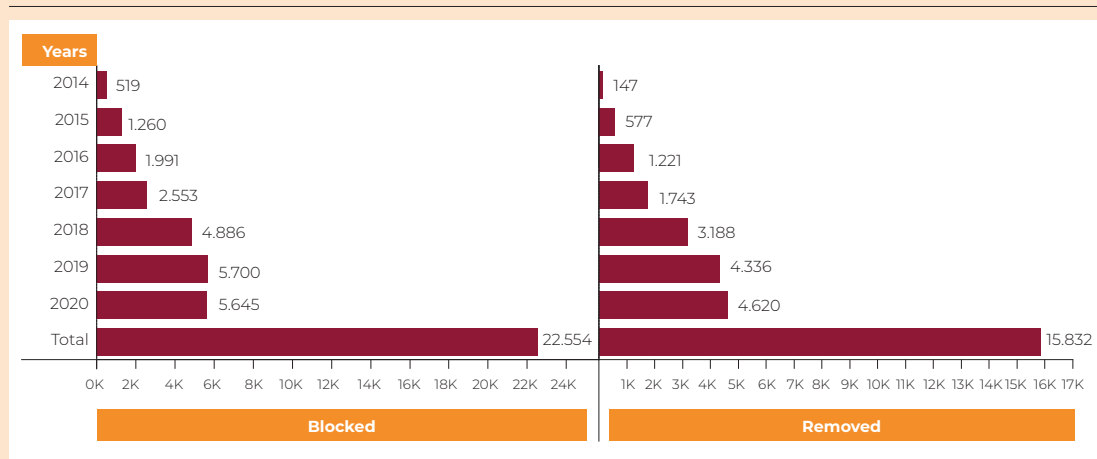
Subject to article 9 of Law No. 5651, real persons, legal entities, and institutions and organizations may apply for **content removal** and/or **access blocking** by asserting that their individual personal rights have been violated. These requests shall be reviewed within 24 hours by criminal judgeships of peace. The judges shall issue the orders under this provision mainly by **removing the content** and/or **blocking access** to a specific publication/section (in the form of URL, etc.) in relation to the alleged personal rights violation. In exceptional cases and when necessary, judges may also decide to issue a blocking order for the whole website if the URL based restriction is not sufficient to remedy the alleged individual violation. The **content removal** and/or **access-blocking** orders issued by criminal judgeships of peace subject to article 9 are directly notified to the Association of Access Providers for further action in accordance with article 9(5).

In 2015, the Association, established in August 2014 in order to perform the duties prescribed by article 6/A of Law No. 5651, was notified of a total of 12.000 access-blocking decisions, approximately 10.000 of which were issued by criminal judgeships of peace across Turkey subject to article 9. With these decisions, **as of the end of 2015, access to 35.000 separate web addresses (URL-based) was blocked**. In 2016, a total of 16.400 access-blocking decisions, approximately 14.000 of which were issued subject to article 9, were notified to the Association of Access Providers. **With these decisions, as of the end of 2016, access to 86.351 separate web addresses (URL-based)**

was blocked. In 2017, a total of 48.671 access-blocking decisions, approximately 21.000 of which were issued subject to article 9, were notified to the Association of Access Providers. **With these decisions, as of the end of 2017, access to 99.952 separate web addresses (URL-based) was blocked.** In terms of appeals against access-blocking orders, it is observed that criminal judgeships of peace revoked only **840** access-blocking orders in **2015**, while this number decreased to **489** in **2016**. In **2017**, only **582** blocking orders were revoked.¹⁰¹

As part of the **EngelliWeb** Project, it was determined that **22.554** news articles (URLs) were blocked and **15.832** news articles (URLs) were removed or deleted subject to **5.136 separate orders** issued by **468** separate judgeships subject to article 9 from 2014 to 2020. As can be seen in figure 13, it was found that the number of news articles (URLs) blocked was **519** in 2014, **1.260** in 2015, **1.991** in 2016, **2.553** in 2017, **4.886** in 2018, **5.700** in 2019, and **5.645** in 2020.¹⁰²

Figure 13: Blocked and Removed Articles (URL Based) on a Yearly Basis: 2014-2020



STATISTICAL INFORMATION ABOUT THE BLOCKED NEWS ARTICLES (URL-BASED) – 2020

During 2020, it was found that **5.645 news articles** (URL) were blocked subject to a total of **819 separate decisions** issued by **236 separate criminal judgeships of peace** subject to article 9 of Law No. 5651. **4.620** of those **5.645** articles (81%) were **removed from publication** by content providers (news websites) after they were blocked. After the amendments made to article 9 of Law No. 5651 on **29.07.2020**, **content removal decisions** also started to be sent to news websites, in addition to **access-blocking de-**

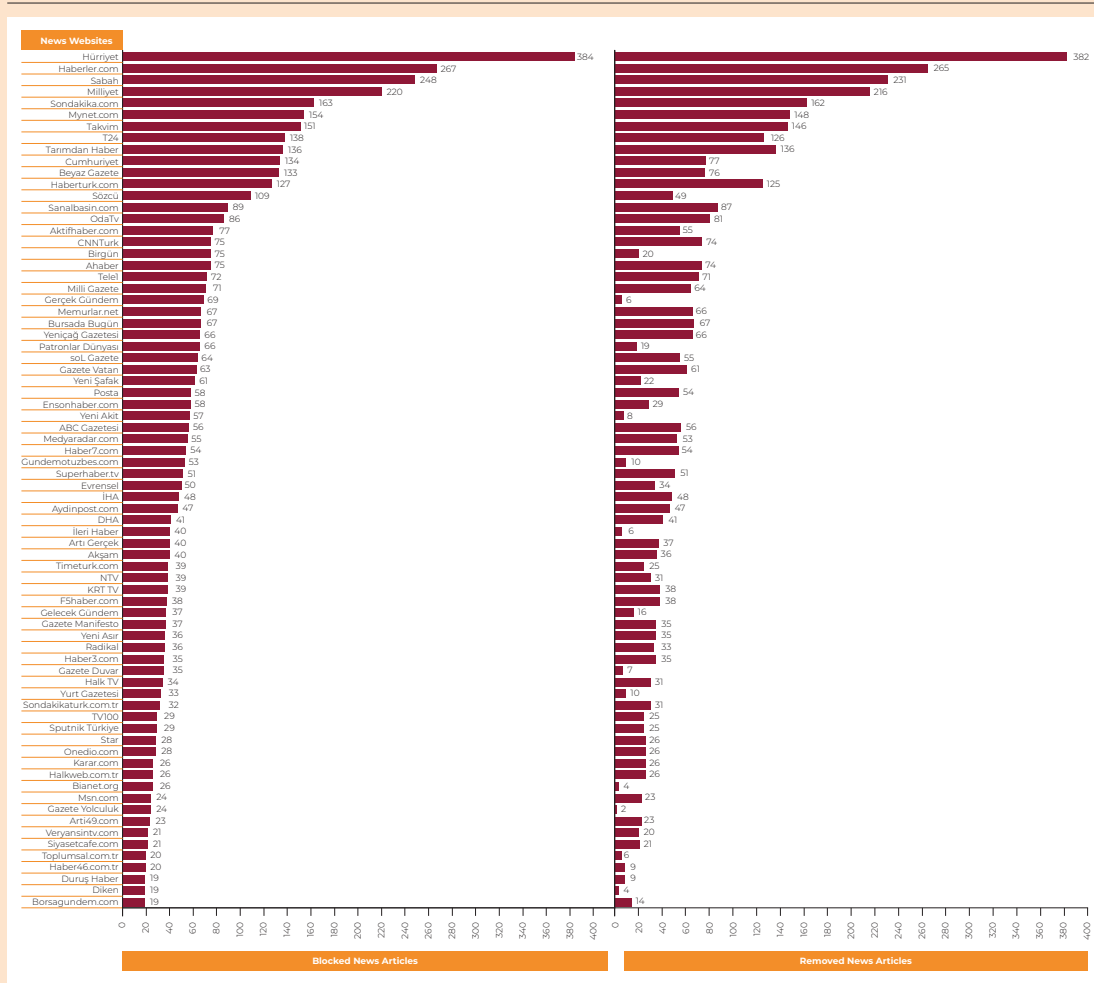
¹⁰¹ Statistics of 2018 to 2020 had not yet been available as of the date of this report.

¹⁰² As the URLs found retrospectively were included in the 2020 report, there have been differences from the numbers specified in the EngelliWeb 2018 and 2019 reports. Therefore, it was found that a total of 541 other URLs that were not included in the 2019 report were also blocked in 2019. These different numbers were updated and included in the 2020 report.

isions. From then on, **access-blocking** decisions continued to be issued mainly by judgeships, while some decisions included the **access-blocking** and **content removal** sanctions together. The number of orders including only the “content removal” sanction was quite low in 2020.

In 2020, the top four **news websites with the highest number of blocked news articles** remained the same as in 2019, and daily newspaper **Hürriyet** ranked first in this category with **384 news articles**. **Hürriyet** removed **382** (99%) of those blocked news articles from its website. **Hürriyet** was followed by the news website **Haberler.com** with **267 blocked news articles**. **Haberler.com** removed **265** (99%) of the **267** blocked news articles from its website. Daily newspaper **Sabah** ranked **third** with **248 blocked news articles**. **Sabah** removed **231** (93%) of those blocked news articles from its website. The website of daily newspaper **Milliyet** ranked fourth with **220 blocked news articles**. **Milliyet** removed **216** (98%) of those blocked news articles from its website. In this category, the fifth rank was occupied by the news website **Sondakika**.

Figure 14: Number of Blocked and Removed News Articles (URL Addresses): 2020



com with **163 blocked news articles**. Sondakika.com removed **162 (99%)** of those blocked news articles from its website. While the number of blocked news articles on news websites such as OdaTV, T24, Cumhuriyet, Yeni Akit, and Birgün decreased compared to 2019; the website **Tarımdan Haber**, which was not included on the list in 2019, made the list in 2020, ranking tenth with **136 blocked news articles**. The website removed all the blocked news articles from its website (**100%**).

The content removal rate increased following the amendments made to the Law No. 5651 in July 2020 and the **average content removal rate, which was around 76% in 2019, increased to 81% in 2020**. This rate is expected to increase further in 2021.

The names of 74 news websites the news articles of which were blocked in 2020, the number of news articles blocked on these websites, and the number of blocked news articles that were deleted or removed from the relevant websites are provided in figure 14.

Another category reviewed for the year of 2020 is “**removed and deleted news articles.**” In this category, as can be seen in figure 15, **Hürriyet** came out on top once again by removing or deleting **382 (99%) of its 384 blocked news articles**. Hürriyet was followed by **Haberler.com**, which removed or deleted **265 (99%) of its 267 blocked news articles**, and **Sabah**, which removed or deleted **231 (93%) of its 248 blocked news articles**. **Milliyet**, which removed or deleted **216 (98%) of its 220 blocked news articles**, ranked fourth, while **Sondakika.com**, which removed or deleted **162 (99%) of its 163 blocked news articles**, ranked fifth.

Other noteworthy websites during 2020 were **Tarımdan Haber**, which removed or deleted **all (100%) of its 136 blocked news articles**; **Yeniçağ Gazetesi**, which removed or deleted **all (100%) of its 66 blocked news articles**; **ABC Gazetesi**, which removed or deleted **all (100%) of its 56 blocked news articles**; **CNNTurk**, which removed or deleted **74 (99%) of its 75 blocked news articles**; and **Tele1**, which removed or deleted **71 (99%) of its 72 blocked news articles**. While **Diken** (19 blocked news articles) and **Bi-anet** (26 blocked news articles) removed only 4 blocked news articles each, **Sendika.org** removed 2 of its 9 blocked news articles and **Yeni Akit** removed only 8 of its 57 blocked news articles. BBC, DW, Alevinet, Euronews TR, and Independent Turkish were among the websites that did not remove any of their blocked news articles during 2020.¹⁰³ The names of 59 news websites that removed their news articles in 2020 and the number of news articles they removed are provided in figure 15.

¹⁰³ Some of the news articles that were not removed were blocked before 29.07.2020.

Figure 15: Number of Removed or Deleted News Articles (URL Addresses): 2020

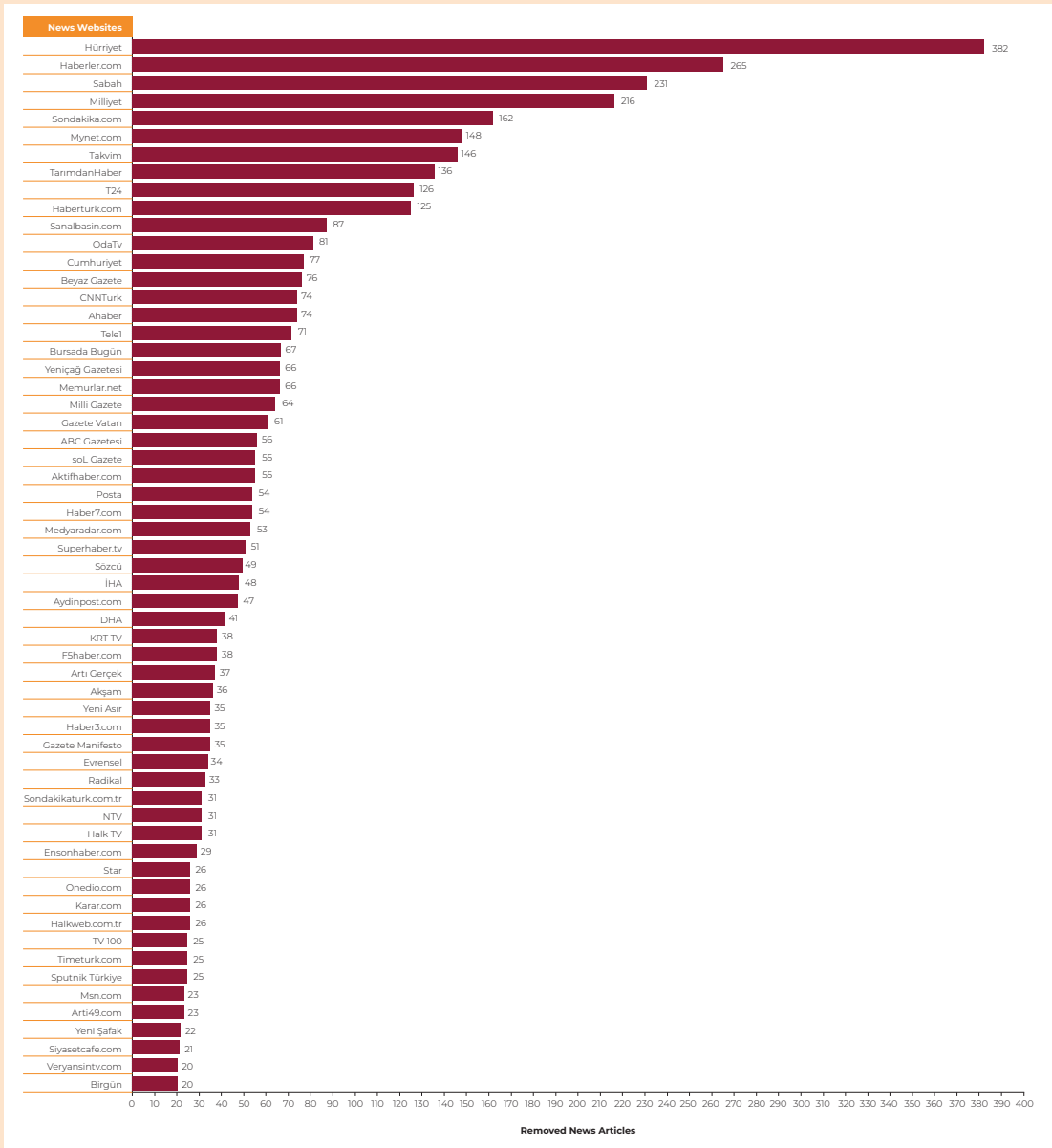


Table 1 below shows the top 25 news websites from Turkey in terms of blocked news articles in 2020; including how many URLs on these sites were blocked; how many of those blocked URLs have been deleted or removed from the websites; and the rate of deleted/removed URLs to blocked URLs.

Table 1: 2020 Access-Blocking League Table for the News Articles

Rank	News Website	Number of Blocked URL	Number of Deleted URL	The Rate of Removal
1	Hürriyet	384	382	99%
2	Haberler.com	267	265	99%
3	Sabah	248	231	93%
4	Milliyet	220	216	98%
5	Sondakika.com	163	162	99%
6	Mynet.com	154	148	96%
7	Takvim	151	146	97%
8	T24	138	126	91%
9	Tarımdan Haber	136	136	100%
10	Cumhuriyet	134	77	57%
11	Beyaz Gazete	133	76	57%
12	Haberturk.com	127	125	98%
13	Sözcü	109	49	45%
14	Sanalbasin.com	89	87	98%
15	Aktifhaber.com	77	55	71%
16	Ahaber	75	74	99%
17	Birgün	75	20	27%
18	CNNTurk	75	74	99%
19	Tele1	72	71	99%
20	Milli Gazete	71	64	90%
21	Gerçek Gündem	69	6	9%
22	Bursada Bugün	67	67	100%
23	Memurlar.net	67	66	99%
24	Patronlar Dünyası	66	19	29%
25	Hürriyet	384	382	99%

EXAMPLES OF ACCESS BLOCKING AND CONTENT REMOVAL PRACTICES IN 2020

An assessment of article 9 of Law No. 5651 decisions issued by the criminal judgeships of peace during 2020 show that a large number of news articles that were of public interest were blocked and removed from publication. Compared to previous years, there has been an increase in the number of politically-motivated access-blocking and as of the beginning of August 2020, content removal orders. Among the countless examples, some of the striking ones will be assessed in this part of the report.

First of all, as is known, President Erdoğan filed nearly 35 claims of violation of personal rights in 2020 subject to article 9, all of which were accepted by criminal

judgeships of peace. A large number of Ekşi Sözlük, Facebook, YouTube, and Twitter content items as well as news articles were blocked and/or removed upon these claims and related decisions. The website of the French magazine Charlie Hebdo, which had already been blocked since 2015, and the Twitter account of the magazine were blocked subject to the decision of the Ankara 6th Criminal Judgeship of Peace on 28.10.2020 (no. 2020/7094) on the grounds that the personal rights of President Erdoğan had been violated.

Screenshot 11: Access-blocking order for the Charlie Hebdo Twitter account



In addition, news articles published in Turkish about the news article of the German magazine Focus involving the wealth of President Erdoğan were blocked and removed from publication subject to the decision of the Istanbul 12th Criminal Judgeship of Peace on 14.12.2020 (no. 2020/5446) on the grounds that the personal rights of President Erdoğan had been violated.

Screenshot 12: Sample of blocked and removed articles



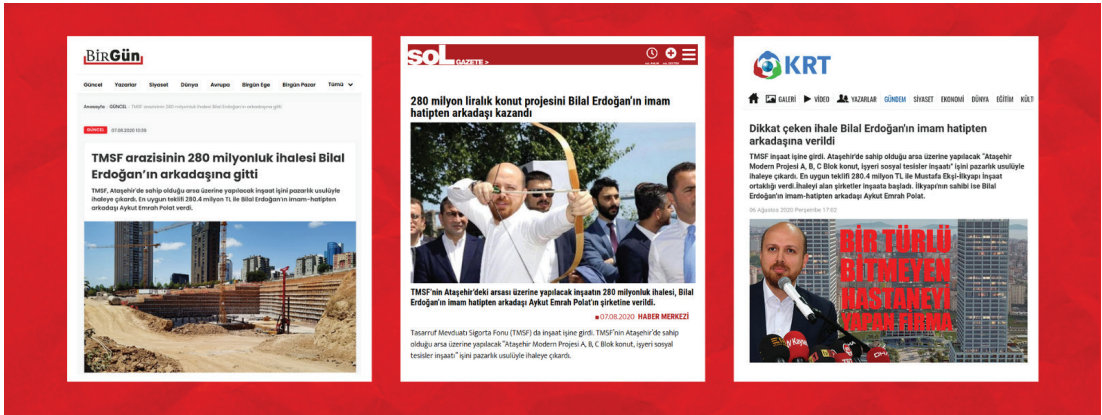
First Lady **Emine Erdoğan** also lodged requests for the access-blocking sanction in 2020. News articles and content involving the “**Handbag of Emine Erdoğan**” were blocked subject to the decisions of the Istanbul Anatolia 8th Criminal Judgeship of Peace on 09.09.2020 (no. 2020/5959 and no. 2020/5960) on the grounds that the personal rights of Emine Erdoğan had been violated.

Screenshot 13: Sample of blocked news articles



News articles involving a friend of President Erdoğan's son Bilal Erdoğan being awarded the winning tender for the construction to be built on the land of the Savings Deposit Insurance Fund (“TMSF”) were blocked subject to the decision of the Istanbul Anatolia 3rd Criminal Judgeship of Peace on 11.08.2020 (no. 2020/5071) on the grounds that the personal rights of Bilal Erdoğan had been violated.

Screenshot 14: Sample of blocked news articles



News articles involving the above mentioned access-blocking decision issued upon the request of Bilal Erdoğan were also blocked subject to the decision of the Istanbul Anatolia 7th Criminal Judgeship of Peace on 02.09.2020 (no. 2020/5273) on the grounds that the personal rights of Bilal Erdoğan had been violated.

Screenshot 15: Sample of blocked news articles



The chain of access-blocking decisions issued upon the request of Bilal Erdoğan also covered news articles involving the aforementioned access-blocking order issued on 02.09.2020. This time, the news articles reporting on the blocking decision of 02.09.2020 involving news articles about a friend of President Erdoğan's son Bilal Erdoğan being awarded the winning tender for the construction to be built on the land of the Savings Deposit Insurance Fund ("TMSF") were blocked subject to a decision of the Istanbul Anatolia 7th Criminal Judgeship of Peace on 31.12.2020 (no. 2020/7797) on the grounds that the personal rights of Bilal Erdoğan had been violated.¹⁰⁴

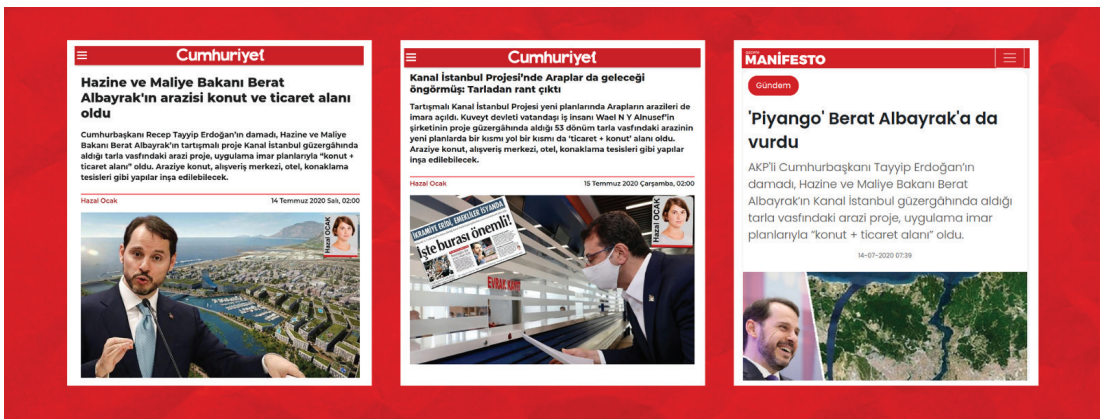
Screenshot 16: Sample of blocked news articles



¹⁰⁴ Bilal Erdoğan's fight against these news articles continued in 2021. This issue will be discussed in detail in our EngelliWeb 2021 report.

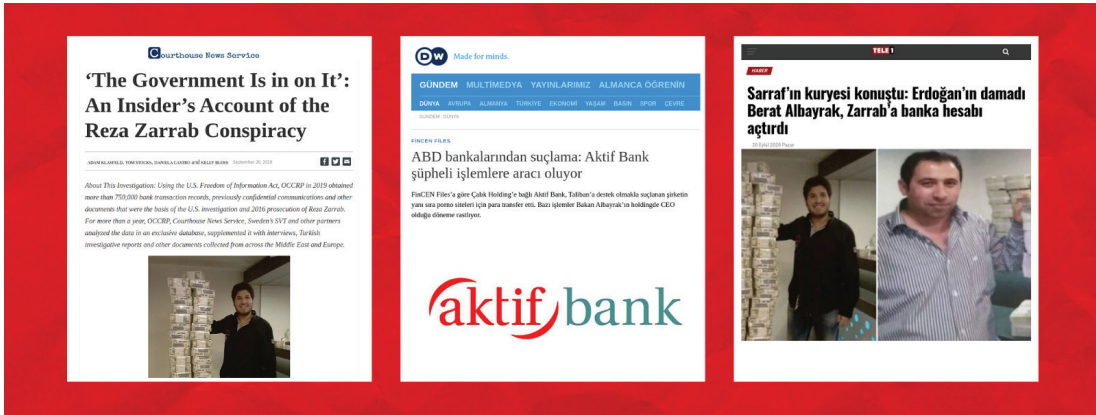
A politician who conspicuously resorted to access blocking in 2020 was the former Treasury and Finance Minister Berat Albayrak. As far as is known, Berat Albayrak submitted nearly 20 separate requests with the allegation that his personal rights were violated, and all these requests were granted by different criminal judgeships of peace located at the Istanbul Anatolian Courthouse. Examples include the decision of the Istanbul Anatolia 7th Criminal Judgeship of Peace which on 22.07.2020 (no. 2020/4532) blocked news articles involving allegations that Berat Albayrak bought land in the Istanbul Canal region during his term as the Minister of Treasury and Finance, on the grounds that Berat Albayrak's personal rights were violated. The Judgeship granted the request and issued an access-blocking order "on the grounds that the articles went beyond freedom of the press and Internet, had an arbitrary nature, were offensive to individuals, harmed their dignity and honor, and violated their personal rights."

Screenshot 17: Sample of blocked news articles

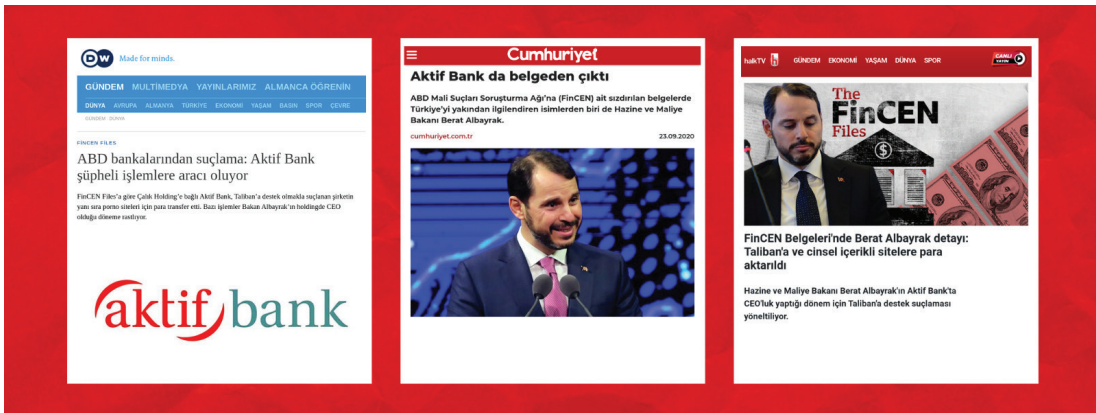


News articles about the fact that Reza Zarrab, Çalık Holding's Aktif Bank, and Berat Albayrak, the former Minister of Treasury and Finance who was the CEO of Çalık Holding at the time, were included in the Suspicious Activity Reports ("SAR") submitted to the Financial Crimes Enforcement Network ("FinCEN"), affiliated with the U.S. Treasury, were blocked in September and October 2020 subject to three separate orders issued on the grounds that Berat Albayrak's personal rights were violated.¹⁰⁵

Screenshot 18: Sample of blocked news articles



Screenshot 19: Sample of blocked news articles



¹⁰⁵ Decision of the Istanbul Anatolia 8th Criminal Judgeship of Peace, no. 2020/6329, 23.09.2020; decision of the Istanbul Anatolia 1st Criminal Judgeship of Peace, no. 2020/6052, 29.09.2020; and decision of the Istanbul Anatolia 1st Criminal Judgeship of Peace, no. 2020/6052, 02.10.2020. See further DW, "FinCEN Files: How Turkey's Aktif Bank helped Wirecard and the porn industry," 21.09.2020, at <https://www.dw.com/en/fincen-turkey-aktif-bank-wirecard/a-54991398>

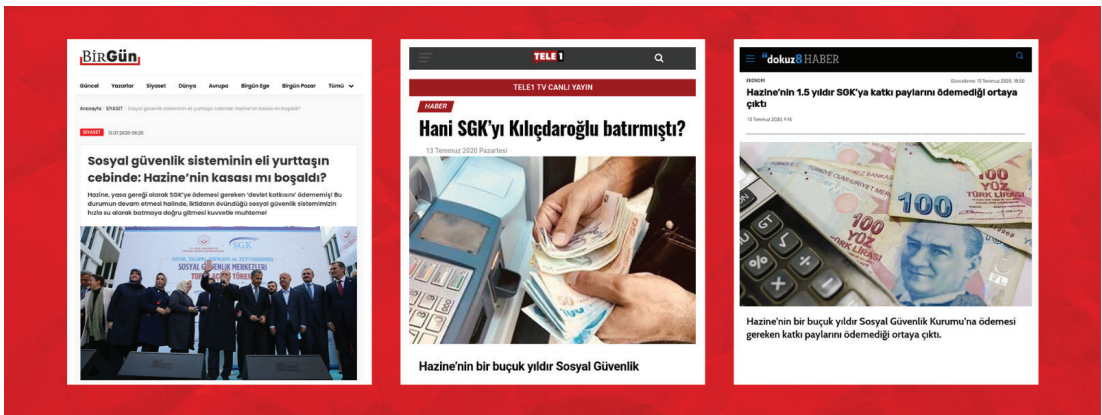
News articles about the response rate of Treasury and Finance Minister Berat Albayrak, to parliamentary questions, were blocked subject to a decision of the Ankara 8th Criminal Judgeship of Peace on 24.07.2020 (no. 2020/5188) on the grounds that the personal rights of the **Ministry of Treasury and Finance** (rather than Mr. Albayrak) were violated. The **Ministry** claimed that the “personal rights of the institution were violated by false and baseless publications,” while the Judgeship noted that the “personal rights of the requesting Ministry were violated through the use of its name.”¹⁰⁶

Screenshot 20: Sample of blocked news articles



Similarly, news articles about the failure of the Treasury to pay contributions to the Social Security Institution for 1.5 years were blocked subject to the decision of the Ankara 8th Criminal Judgeship of Peace on 04.07.2020 (no. 2020/4764) on the grounds that the personal rights of the Ministry of Treasury and Finance were violated.

Screenshot 21: Sample of blocked news articles



¹⁰⁶ Ankara 8th Criminal Judgeship of Peace, no. 2020/5188, 24.07.2020.

Ahmet Özel, who acts as the attorney for the President Erdoğan, the First Lady Emine Erdoğan, their son Bilal Erdoğan, and until the end of 2020, Berat Albayrak, also ensured that access-blocking orders were issued by criminal judgeships of peace upon his request during 2020. News articles involving FETÖ suspect businessperson Ufuk Cömertoğlu's allegation that Ahmet Özel threatened him were blocked subject to a decision of the Istanbul 5th Criminal Judgeship of Peace on 13.10.2020 (no. 2020/4613) on the grounds that the personal rights of Ahmet Özel were violated.

Screenshot 22: Sample of blocked news articles



Similarly, 125 tweets and 119 news articles involving information shared by CHP Mersin Deputy and Member of the Constitutional Commission of the Grand National Assembly of Turkey Atty. Ali Mahir Başarır, about the attorney's fees paid to Ahmet Özel, President Erdoğan's attorney in relation to the "insulting the President of Turkey" cases were blocked subject to a decision of the Istanbul Anatolia 5th Criminal Judgeship of Peace on 30.12.2020 (no. 2020/8190) on the grounds that the personal rights of Ahmet Özel were violated.

Screenshot 23: Sample of blocked news articles



Among the news articles blocked in 2020 were those regarding **Fatma Altınmakas**, who was sexually assaulted in Ağrı and killed by her husband after she filed a complaint. These articles were blocked subject to the decisions of the Malazgirt Criminal Judgeship of Peace on 24.07.2020 (nos. 2020/218 and 2020/220) on the grounds that the personal rights of the **Muş Provincial Directorate of Family, Labor, and Social Services** were violated.

Screenshot 24: Sample of blocked news articles



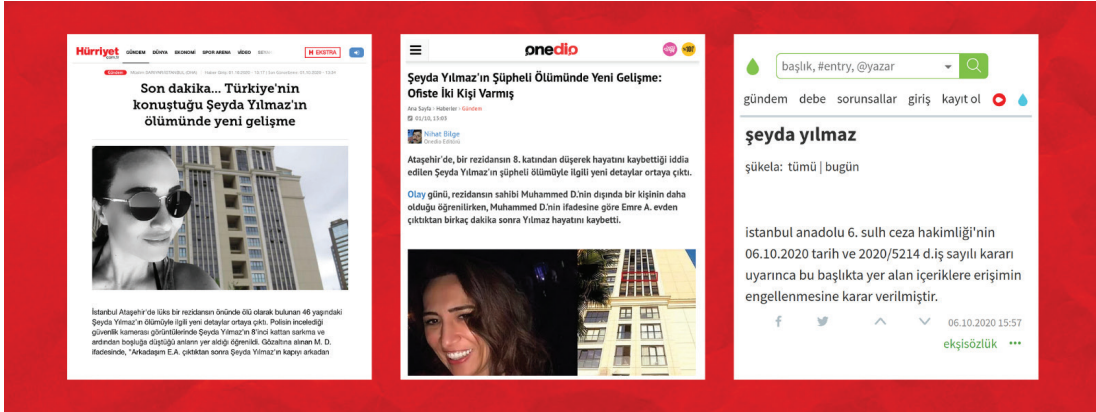
News articles involving Mehmet K. who was arrested as part of the investigation into the suspicious death of 17-year-old **Duygu Delen** in Gaziantep, were blocked subject to the decision of the Gaziantep 3rd Criminal Judgeship of Peace on 02.09. 2020 (no. 2020/4883) on the grounds that the personal rights of **Atlantik İplik ve Halı Sanayi Ticaret Anonim Şirketi**, owned by the family of Mehmet K. and located in Gaziantep, were violated. The decision stated that “there was no public interest in using the name of the company in the news article on the alleged events, but the article harmed the personal rights of the company.”

Screenshot 25: Sample of blocked news articles



News articles involving Muhammed D. and Emre A., who were detained as part of the investigation into the death of **Şeyda Yılmaz**, as well as the related Ekşi Sözlük entry “Şeyda Yılmaz” were blocked subject to the decision of the Istanbul Anatolia 6th Criminal Judgeship of Peace on 06.10.2020 (no. 2020/5214) on the grounds of the violation of personal rights.

Screenshot 26: Sample of blocked news articles



News articles involving **Recep Çakır**, a former national wrestler who is in prison on for sexual assault, were blocked subject to the decision of the Korkuteli Criminal Judgeship of Peace on 13.08.2020 (no. 2020/344) on the grounds that Recep Çakır's **right to be forgotten** and personal rights were violated.

Screenshot 27: Sample of blocked news articles



Google objected to this decision by stating that the three separate **Blogspot** pages owned by Google should be considered within the scope of freedom of expression and freedom of the press, that the pages “did not contain any insults or slander against the applicant or any other element that may cause a violation of personal rights damaging the reputation of the applicant” and that the pages specified in the decision could not be considered in the context of the right to be forgotten. Korkuteli Criminal Judgeship of Peace, with its decision on 19.08.2020 (no. 2020/357), accepted Google’s appeal and removed the access-blocking measure against all the Internet addresses specified in the in its initial decision. In its decision, the judgeship referred to the judgment of the Constitutional Court in the N.B.B Application with regards to the right to be forgotten¹⁰⁷ and stated that the “appeal should be accepted as the reporting that was covered by the news articles was in relation to a criminal act subject to a final court decision and such news reporting is in the public interest.”¹⁰⁸

News articles about the reversal of the judgment of non-prosecution regarding Canan Kaftancıoğlu, CHP’s Provincial Chair for Istanbul, concerning the photographing of the house of **Fahrettin Altun**, Presidency’s Director of Communications, were blocked subject to the decision of the Istanbul Anatolia 7th Criminal Judgeship of Peace on 24.12.2020 (no. 2020/7727) on the grounds that the personal rights of **Turgay Nas**, the Judge of the Istanbul Anatolia 8th Criminal Judgeship of Peace, who reversed the judgment of non-prosecution involving Canan Kaftancıoğlu, were violated. Canan Kaftancıoğlu, also filed a complaint to the Council of Judges and Prosecutors (“HSK”) about Judge Nas.¹⁰⁹

Screenshot 28: Sample of blocked news articles



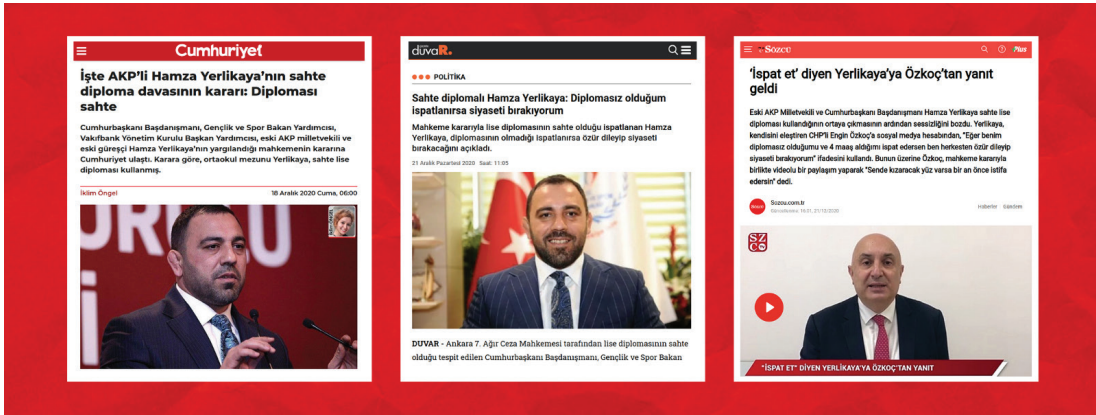
¹⁰⁷ N.B.B. Application, No: 2013/5653, 03.03.2016. See further Bianet, “Can a rapist have the ‘right to be forgotten?’” 19.08.2020, at <https://m.bianet.org/english/print/229282-can-a-rapist-have-the-right-to-be-forgotten>

¹⁰⁸ Korkuteli Criminal Judgeship of Peace, no. 2020/357, 19.08.2020.

¹⁰⁹ Bianet, “Kaftancıoğlu, takipsizlik kararını kaldıran hâkimi HSK’ye şikâyet etti” [Kaftancıoğlu filed a complaint to HSK against the judge who reversed the judgment of non-prosecution], 17.12.2020, <https://m.bianet.org/bianet/toplumsal-cinsiyet/236165-kaftancioglu-takipsizlik-kararini-kaldiran-hakimi-hsk-ye-sikayet-etti>

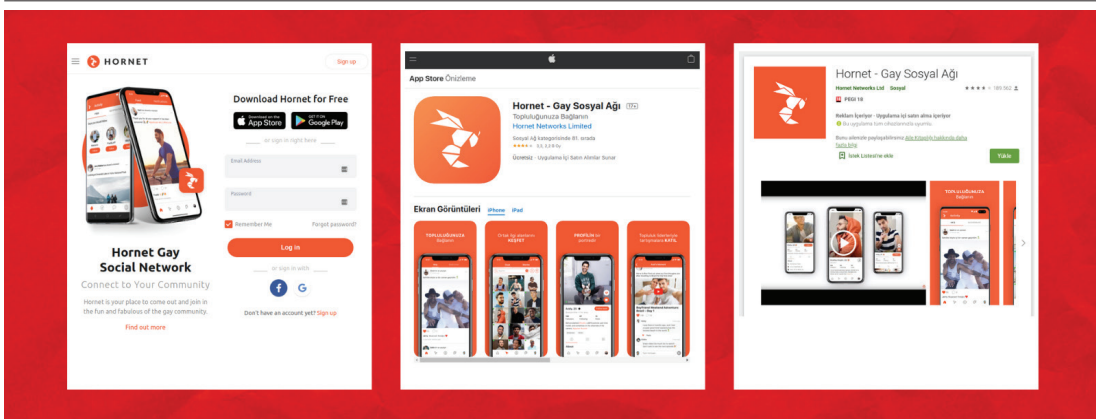
A total of 125 URLs, including news articles, tweets, and YouTube videos, about the allegation that **Hamza Yerlikaya**, one of the Chief Advisors to the President, Deputy Minister of Youth and Sports, Deputy Chairman of Vakıfbank, former AKP deputy and former wrestler, **used a fraudulent high school diploma** to gain admission to a sports associate's degree program,¹¹⁰ were blocked subject to the decision of the Bakırköy 1st Criminal Judgeship of Peace on 28.12.2020 (no. 2020/6242) on the grounds that the personal rights of Hamza Yerlikaya were violated.

Screenshot 29: Sample of blocked news articles



The website (hornet.com) of **Hornet** Queer Social Network and its applications on the Apple App Store and Google Play were blocked subject to the decision of the Ankara 8th Criminal Judgeship of Peace on 06.08.2020 (no. 2020/5617) upon the request of the **Ankara Provincial Gendarmerie Command** on the grounds that the personal rights of the Gendarmerie Command were violated. The order did not specify how the personal rights of the Ankara Provincial Gendarmerie Command, which submitted

Screenshot 30: Announcement of access blocking decision for the Hornet platform



¹¹⁰ See further Bianet, "Access blocked to reports on presidential advisor's fake high school diploma," 29.12.2020, at <https://bianet.org/english/politics/236755-access-blocked-to-reports-on-presidential-advisor-s-fake-high-school-diploma>

the request and had no connection with Hornet, were violated. The relevant application file did not explain which personal rights were violated or how they were violated, either.¹¹¹ An appeal by a Hornet user from Turkey was rejected and an individual application has been lodged with the Constitutional Court.

Screenshot 31-32: Screenshots from the access-blocking dossier for Hornet

/Ankara İl J.K.İği SSM Şube Müdürlüğü

Ek-2
Ağustos 2020

Konu: İstisnâin engellenmesi.

1. Ankara İl J.K.İğünün 03.08.2020 tarihinde 990560 kayıt numarası ile internet üzerinden gelen ihbarda, HORNET GAY sosyal ağı hakkında inceleme talep edilmiş, "18 yaş altı bireylerin cinsel istisnâ" olubunu iddia edilmiş ve söz konusu platform hakkında inceleme talep edilmiştir.

2. Ankara İl J.K.İği Siber Suçlarla Mücadele Şube Müdürlüğü tarafından söz konusu HORNET GAY uygulaması ve internet sitesi incelemiş olup, "https://play.google.com" URL adresinde müdahale ve 18 yaş altı bireylerin cinsel istisnân olubunu, Türkiye'den de bu içeriklere ulaşılabildiği değerlendirilmiştir. Söz konusu URL adresleri ve ekran görüntüleri sunulmuştur.

TUTANAKTIR

1. Ankara İl J.K.İği SSM Şube Müdürlüğüne, HORNET GAY internet sitesinin söz konusu paylaşımları yaptığı görülmüştür. Konu ile ilgili olarak HORNET GAY internet sitesinde yayınlanan içerik ile ilgili Araştırma Raporu tanzim edilmiştir. Suç teşkil edildiği düşünülen paylaşımlar incelenmiş olup HORNET GAY platformunun genel olarak ekran görüntüsü alınıp suç teşkil edildiği düşünülen konsept de yürütüldüğü değerlendirilmektedir. HORNET GAY adlı internet platformunun ilgili uygulama ve internet sitesi aşağıda sunulmuştur.

<https://hornet.com/>

<https://play.google.com/store/apps/details?id=com.hornet.android>

<https://apps.apple.com/us/app/hornet-gay-social-network/id462678375>



A report prepared by the Turkish Medical Association ("TTB") involving the COVID-19 outbreak in Manisa Organized Industrial Zone and at Vestel factories and the news articles about this report were blocked subject to the decision of the Manisa 2nd Criminal Judgeship of Peace on 28.08.2020 (no. 2020/2257) on the grounds that the personal rights of **Vestel Elektronik Sanayi ve Ticaret A.Ş.** were violated. The

Screenshot 33: Sample of blocked news articles



¹¹¹ See further Middle East Eye, "Turkey: Apple removes gay dating app Hornet from its store," 11.08.2021, at <https://www.middleeasteye.net/news/turkey-apple-removes-hornet-gay-dating-app>

judgeship stated in its decision that “when the content of the news articles was examined, it was found that the articles were not based on any concrete evidence and that as such, it was not possible to discuss the public’s right to information and freedom of the press.” However, the judgeship did not assess the TTB report while reaching this decision. As a result, the URL address of the TTB report¹¹² and 41 news articles related to the report were blocked.

News articles about the appointment of Dr. Nermin Aydın in place of a prison doctor at the Bakırköy Prison, who was detained for a while and dismissed for allegedly being a member of FETÖ and DHKP/C, whose criminal investigation was conducted by Dr. Nermin Aydın’s husband **Ömer Faruk Aydın**, Deputy Chief Public Prosecutor of Bakırköy, were blocked subject to the decision of the Bakırköy 6th Criminal Judgeship of Peace on 25.09.2020 (no. 2020/3781) on the grounds that the personal rights of Ömer Faruk Aydın were violated.¹¹³

Screenshot 34: Sample of blocked news articles



¹¹² See https://www.ttb.org.tr/haber_goster.php?Guid=277577d0-e6c5-11ea-a71f-a359d317f791

¹¹³ For detailed information see Freedom of Expression Association, **EngelliWeb Analiz Raporu I:** “Diken’in “Görevden alınan’ doktorun yerine, ‘görevden aldırın’ savcının eşi atandı” Başlıklı Haberinin Erişime Engellenmesi, Yayından Çıkarılması ve Arama Motorları ile İlişkinin Kesilmesi Süreci” [EngelliWeb Analysis Report I: “Process of Access Blocking, Removal of Content, and Removal from Search Engines of Diken’s Article Entitled ‘Wife of the Prosecutor Who Dismissed the Doctor Replaced the Doctor’], December 2020, https://ifade.org.tr/reports/IFOD_EngelliWeb_Analiz_Raporu_I.pdf

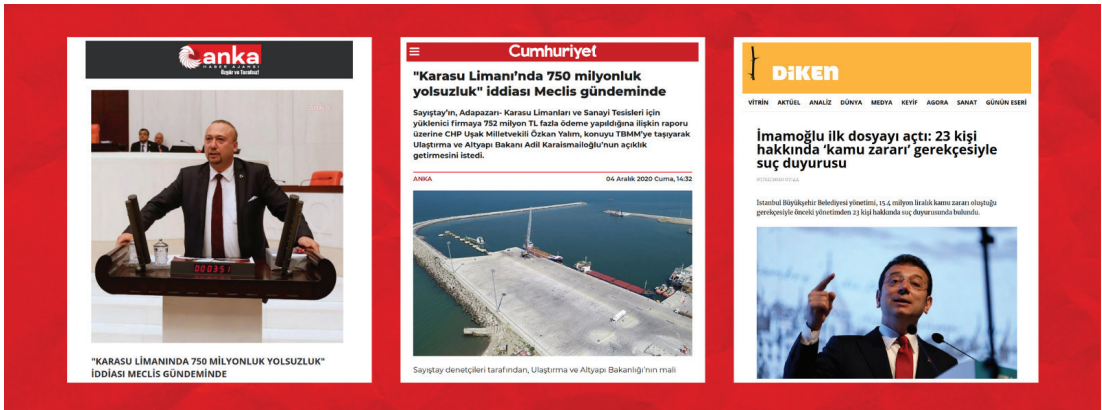
News articles claiming that **D. Ç.**, who was allegedly involved in fraud cases worth millions of Turkish liras by introducing himself as a judge, prosecutor, or a MIT agent, was arrested while leaving a prosecutor's office at the Izmir Courthouse were blocked subject to the decision of the Association of Access Providers on 13.10.2020 (no. 2020/180) on the grounds that the personal rights of D. Ç. were violated.

Screenshot 35: Sample of blocked news articles



News articles about a complaint filed by Istanbul Metropolitan Municipality (“IMM”) against 8 former IMM officials, including **Adil Karaismailoğlu**, who was IMM’s Deputy Secretary General during the AKP era and who now serves as the Minister of Transport and Infrastructure; as well as against 6 company officials, including Abdurrahman Tığ, the former general manager of Medya A.Ş.; and 9 officials of a subcontractor company involving allegations of corruption and irregularities in the municipality during the AKP era were blocked subject to the decision of the Istanbul 4th Criminal Judgeship of Peace on 10.12.2020 (no. 2020/5526) on the grounds that the personal rights of Adil Karaismailoğlu were violated. In its decision, the judgeship stated that the requesting party was the “Minister of Transport and Infrastructure”

Screenshot 36: Sample of blocked news articles



and “the relevant news articles included statements that could be misinterpreted and damage the reputation and dignity of the requesting party,” and that “the content of the articles was offensive to the dignity of the requesting party.”

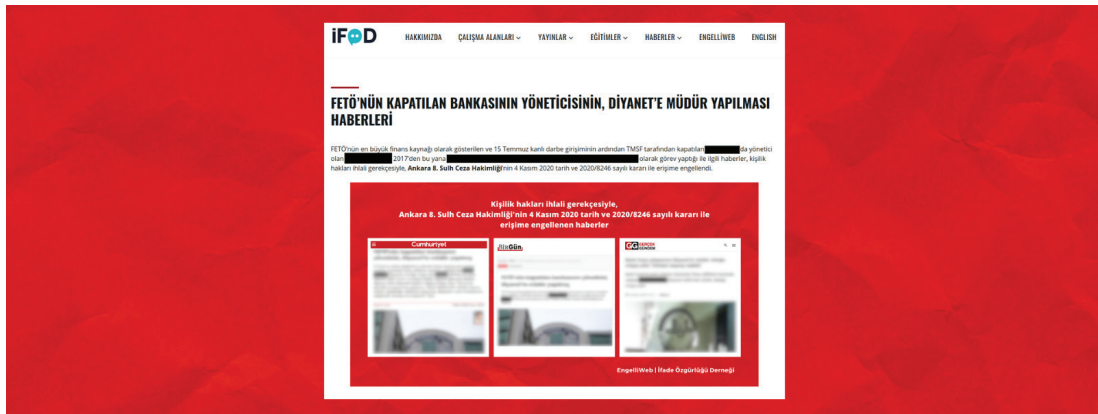
27 separate news articles and content items regarding Medipol Hospital, founded by Fahrettin Koca, the Minister of Health, were blocked subject to the decision of the Istanbul 5th Criminal Judgeship of Peace on 20.08.2020 (no. 2020/3433) on the grounds that the personal rights of the **Turkey Education Health and Research Foundation** (“TESA”), of which Fahrettin Koca is the founding president, were violated.

Screenshot 37: Sample of blocked news articles



Lastly, an announcement published on the website of the **Freedom of Expression Association** and shared on our EngelliWeb Twitter account about the access blocking of news articles on the “appointment of Oğuz Köktaş as a director at the Diyanet Foundation, who was a former executive at Bank Asya, which was subsequently closed,” by the Ankara 8th Criminal Judgeship of Peace was blocked and the İFÖD announcement was ordered to be deleted by the decision of the Ankara 8th Criminal Judgeship of Peace on 10.12.2020 (no. 2020/9347) on the grounds that the personal rights of Oğuz Köktaş were violated.

Screenshot 38: An announcement published on the website of the İFÖD was blocked

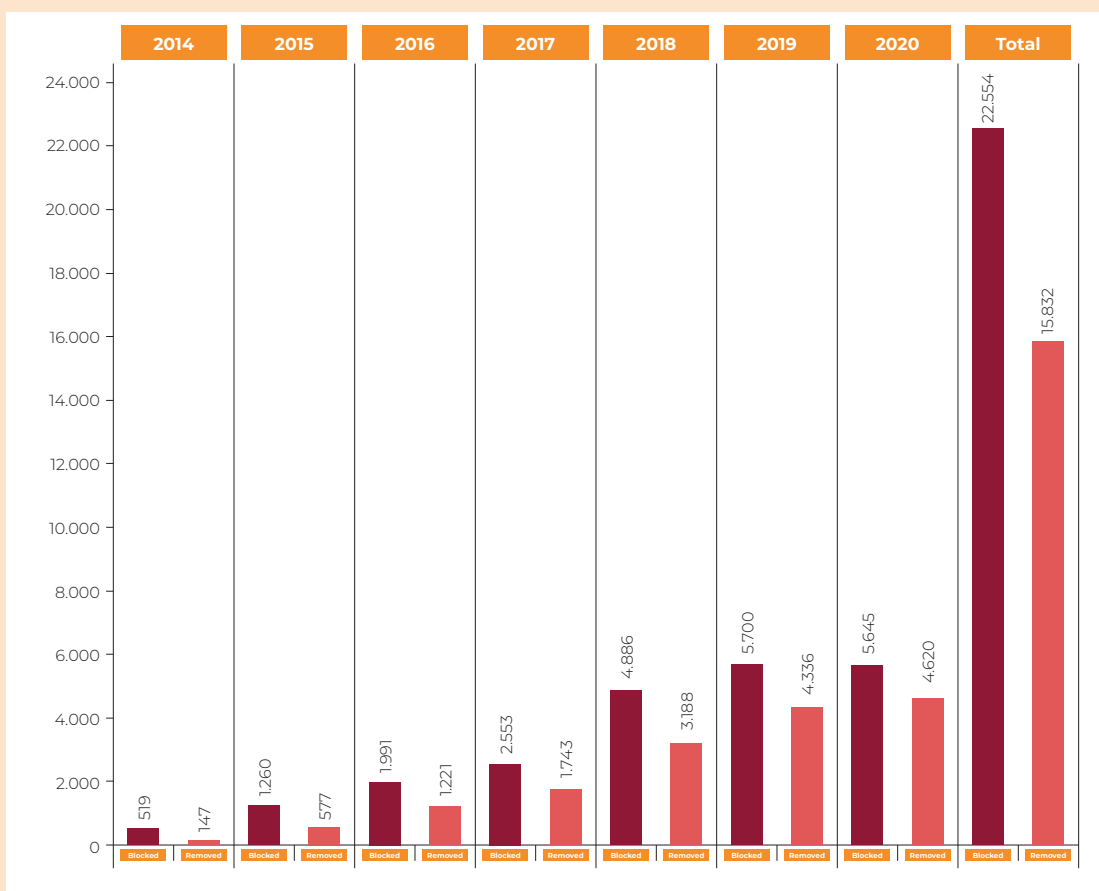


More examples can be provided; however, as can be seen in a large number of examples, while access to many political news articles that are of public interest is subject to blocking and/or removal by criminal judgements of peace, the case-laws of the Constitutional Court and the European Court of Human Rights with regards to freedom of expression and freedom of the press continue to be ignored, as will be discussed in more detail below. While the political nature of the demands draws attention, it has been observed that from President Erdoğan to many politicians, from many ministers and ministries to institutions and organizations close to the government submitted frequently lodged requests for access-blocking during 2020. It was observed that the judgements issued blocking and removal decisions primarily using their template decisions, without taking into account freedom of expression and freedom of the press.

TOTAL STATISTICS OF BLOCKED AND DELETED NEWS ARTICLES (URL-BASED) 2014-2020

Since the URL-based access blocking measure due to personal rights violations came into force in February 2014 with the amendment of article 9 of Law No. 5651,

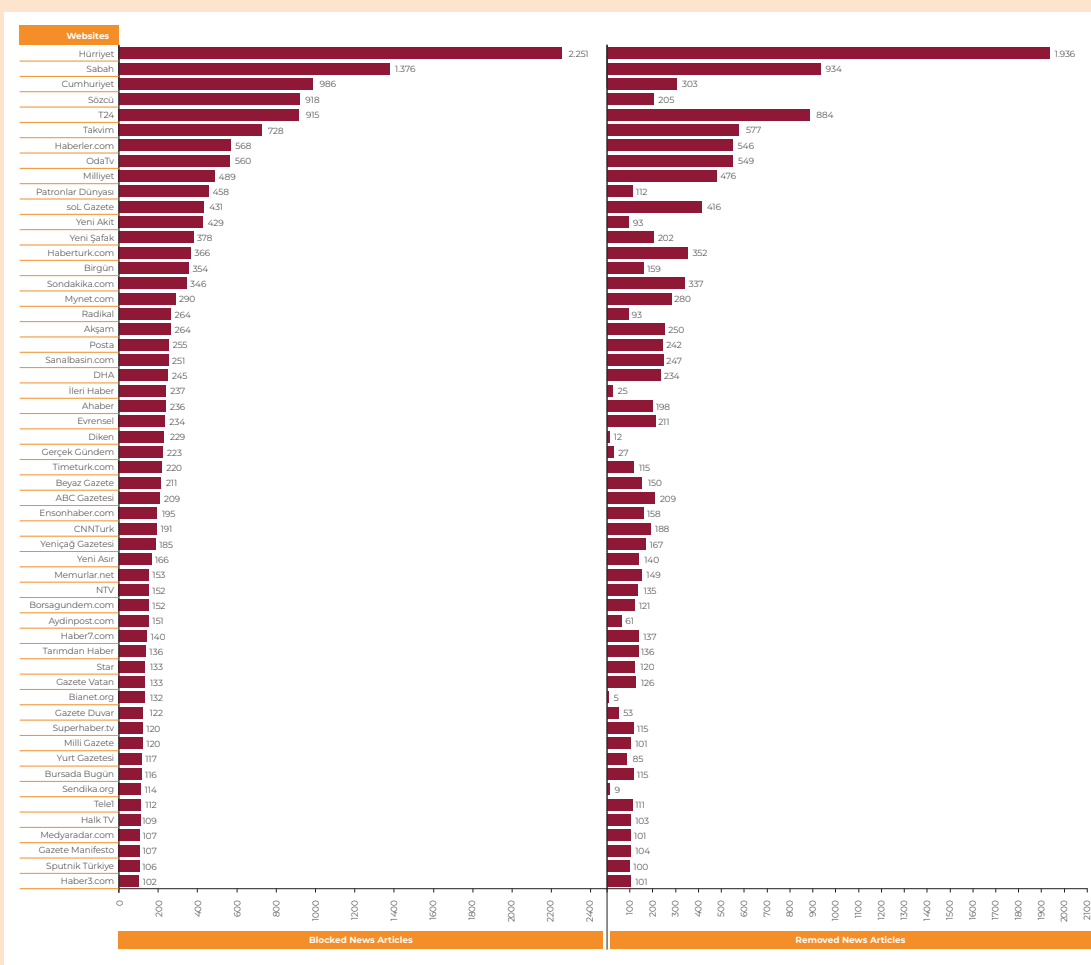
Figure 16: Total number of Blocked and Removed News Articles (URL Addresses): 2014-2020



it was determined that as of end of 2020, a total of **22.554 news articles** (URL-based) were blocked and **15.832 news articles (URL)** were deleted or removed. These URLs were blocked subject to **5.136 separate orders** issued by **468 separate criminal judgements of peace**. While 2019 ranked first with a total of **5.700** blocked news articles, 2020 was the year when the highest number of news articles (**4.620** news articles) were deleted or removed. Overall, **70%** of the blocked news articles were removed.

As can be seen in figure 17, by the end of 2020, **Hürriyet** ranked first in the category of “**news websites with the highest number of blocked news articles (URLs)**” with **2.251 blocked news articles**, and Hürriyet was followed by **Sabah** with **1.376 blocked news articles**. While **Cumhuriyet** ranked third with **986 blocked news articles**, **Sözcü** ranked fourth with **918 blocked news articles**, and **T24** ranked fifth with **915 blocked news articles**. The details of the news websites with more than 100 blocked news articles are provided in figure 17.

Figure 17: Total Number of Blocked and Removed News Articles (URL Addresses): 2014-2020



As can be seen in figure 18, by the end of 2020, **Hürriyet** came out on top also in the category of “**removed and deleted news articles**” by removing or deleting **1.936 (86%)** of its **2.251** blocked news articles. Hürriyet was followed by **Sabah**, which removed or deleted **934 (68%)** of its **1.376** blocked news articles, and **T24**, which removed or deleted **884 (97%)** of its **915** blocked news articles. **Takvim**, which removed or deleted **577 (79%)** of its **728** blocked news articles, ranked fourth, while **OdaTV**, which removed or deleted **549 (98%)** of its **560** blocked news articles, ranked fifth. **Haberler.com**, which was in the top five until the end of 2019, ranked sixth by removing **546 (96%)** of its **568** blocked news articles in 2020.

Figure 18: Total Number of Removed or Deleted News Articles (URL Addresses): 2014-2020

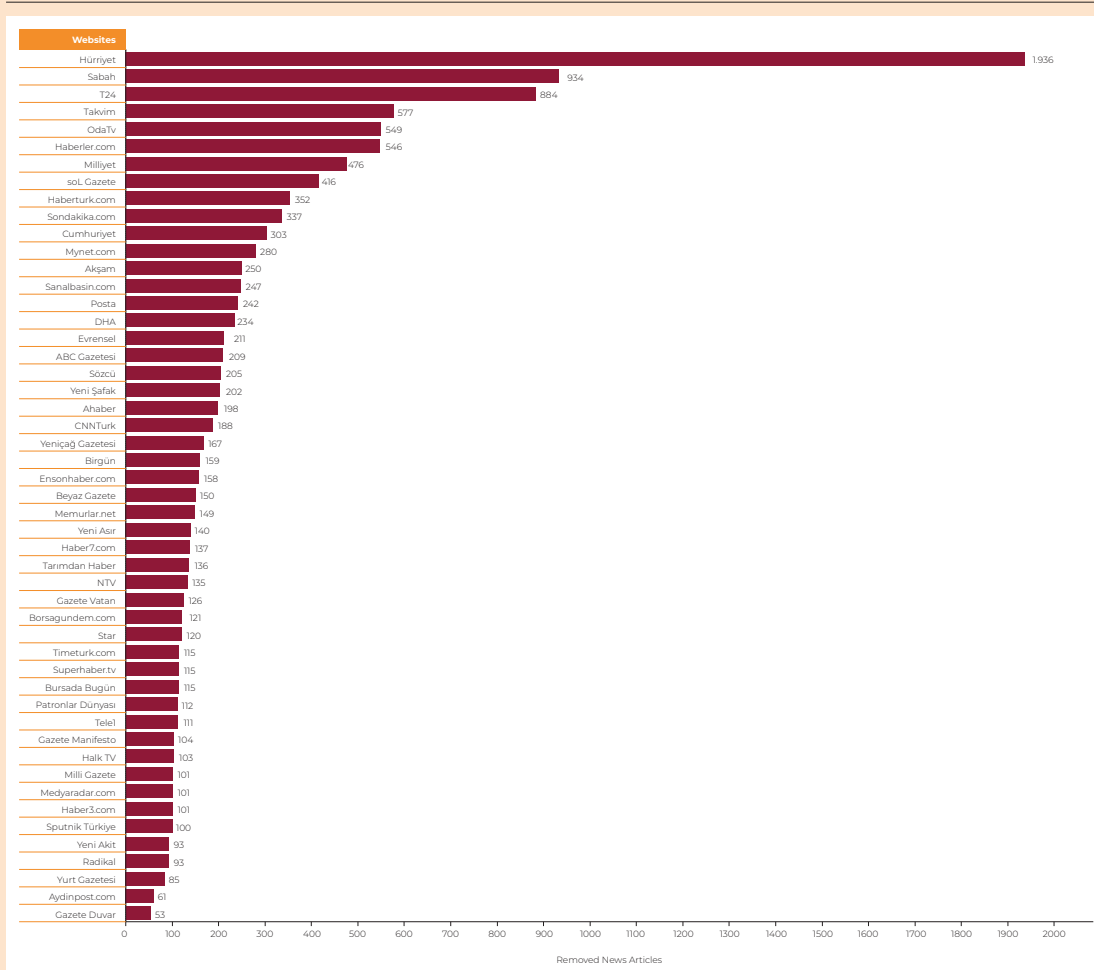


Table 2 below shows the top 25 news websites from Turkey in terms of blocked news articles by the end of 2020; including how many URL addresses on these websites were blocked; how many of those blocked URL addresses have been deleted or removed from the websites; and the rate of deleted/removed URLs to blocked URLs.

Table 2: 2014-2020 Access-Blocking League Table for the News Articles

Rank	News Website	Number of Blocked URL	Number of Deleted URL	The Rate of Removal
1	Hürriyet	2251	1936	86%
2	Sabah	1376	934	68%
3	Cumhuriyet	986	303	31%
4	Sözcü	918	205	22%
5	T24	915	884	97%
6	Takvim	728	577	79%
7	Haberler.com	568	546	96%
8	OdaTv	560	549	98%
9	Milliyet	489	476	97%
10	Patronlar Dünyası	458	112	24%
11	soL Gazete	431	416	97%
12	Yeni Akit	429	93	22%
13	Yeni Şafak	378	202	53%
14	Haberturk.com	366	352	96%
15	Birgün	354	159	45%
16	Sondakika.com	346	337	97%
17	Mynet.com	290	280	97%
18	Akşam	264	250	95%
19	Radikal	264	93	35%
20	Posta	255	242	95%
21	Sanalbasin.com	251	247	98%
22	DHA	245	234	96%
23	İleri Haber	237	25	11%
24	Ahaber	236	198	84%
25	Evrensel	234	211	90%

While judgeships could only issue “access-blocking orders” before the amendments made to article 9(3) of Law No. 5651 on 29.07.2020, they may now also order news articles and content items to be removed after this date. As stated in our 2019 report, it was found that many news websites removed their news articles and content from their websites subject to “access-blocking” decisions issued by judgeships both before and after the amendments made on 29.07.2020. Therefore, judgeships

- could only issue access-blocking decisions before 29.07.2020 and
- may issue access-blocking and/or content removal decisions after 29.07.2020.

While the access-blocking sanction can only be imposed by Internet service providers, the sanction of removing content must be imposed by content and hosting providers. Many news websites frequently and increasingly remove and delete their news articles and content that have been subject to blocking decisions of the criminal judgements of peace that include **only** the access-blocking sanction under article 9 of Law No. 5651. On the contrary, unless judgements order the removal of content or news article, there is no legal basis requiring the removal of such content or news article. This practice is partly due to the following standard printed notifications sent from the Association of Access Providers (“ESB”) to content providers and news websites. In the notifications sent to content providers, ESB requests that the Association shall be notified in case the **“content mentioned in the notified decision is removed,”** regardless of the type of the sanction included in the decisions of the judgements. While such notification is obligatory in terms of content removal decisions, it is not legally obligatory to remove such content or notify the Association regarding content removal, when only an access-blocking decision has been issued.

Dear Official of ifade.org.tr,

The Association of Access Providers was established subject to article 6(A) of Law No. 5651.

Subject to article 3 of Law No. 5651, those who carry out the activities within the scope of this Law in Turkey or abroad may be notified via email or other means of communication by using the means of communication on their websites, domain names, IP addresses, or any information obtained through other similar sources.

Article 9 of Law No. 5651 provides that “...content removal and/or access-blocking decisions issued by a judge within the scope of this article shall be directly sent to the Association... In case the blocked content is removed, the decision of the judge shall automatically become null and void... **Content and hosting providers as well as access providers shall take the necessary action immediately, within four hours at the latest, to enforce the content removal and/or access-blocking decision** sent by the Association to the relevant content, hosting and the relevant access providers... An administrative fine from five hundred days to three thousand days shall be imposed on officials of content, hosting, or access providers that fail to enforce the decisions of criminal judgements of peace in a timely manner in accordance with the conditions specified in this article.”

In this context, we kindly request that our Association be notified in case the **content specified in the annexed decision of the ISTANBUL 4TH CRIMINAL JUDGESHIP OF PEACE dated 12.03.2021, no. 2021/1331 is removed.**

Regards,

Association of Access Providers

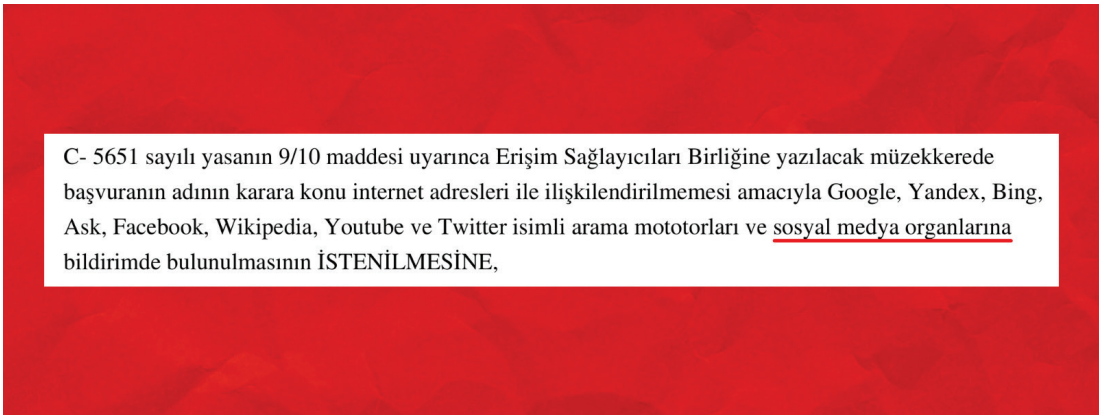
Consequently, **self-censorship increases** “with content removed” directly by content owners themselves and therefore, the decisions issued by the criminal judgements of peace “*become automatically void*” when “*the blocked content is removed from publication*” in accordance with article 9(7) of Law No. 5651. In other words, upon removal of the relevant blocked news articles from websites by content owners, the orders issued by the criminal judgements of peace become void. Therefore, it is no longer possible to resort to any legal remedy against a null and void judgment.

NON-ASSOCIATION OF INTERNET ADDRESSES WITH SEARCH ENGINES

With the scope of the amendments introduced to Law No. 5651 with the Law No. 7253 on **29.07.2020**, a new sanction regarding search engines has been included in article 9, which focuses on the violation of personal rights. As briefly mentioned above, judges may rule that the “names of those who submit requests subject to paragraph 10 of article 9 **shall not be associated with the Internet addresses** specified in the decisions issued within the scope of this article.” When reviewing such requests, criminal judgeships of peace must specify **which search engines shall be notified**. Subsequent to such a decision, ESB shall notify the relevant search engines specified by the judgeships.

22 separate decisions were imposed by the criminal judgeships of peace involving search engines between 29.07.2020 and until the end of 2020. These **22 decisions** were issued by **14 different judgeships**. Judgeships ruled that search engines **Google** (20 decisions), **Yandex** (19 decisions), **Bing** (13 decisions), **Yahoo** (12 decisions), **DuckDuckGo** (1 decision), and **Yaani** (1 decision) shall not associate the names of those who submit requests with the news articles and content specified in the relevant decisions. Judgeships also ruled that despite not being search engines; the platforms **Twitter** (4 decisions), **YouTube** (2 decisions), and **Wikipedia** (2 decisions); the web browsers **Chrome** (2 decisions) and **Mozilla** (2 decisions); and the website **Ask** (1 decision) shall not associate the names of those who submit requests with the news articles and content specified in the relevant decisions.

Screenshot 39: A sample order which is in violation of the procedure and the law



C- 5651 sayılı yasanın 9/10 maddesi uyarınca Erişim Sağlayıcıları Birliğine yazılacak müzekkerede başvuranın adının karara konu internet adresleri ile ilişkilendirilmemesi amacıyla Google, Yandex, Bing, Ask, Facebook, Wikipedia, Youtube ve Twitter isimli arama motorları ve sosyal medya organlarına bildirimde bulunulmasının İSTENİLMESİNE,

While **Twitter** and **YouTube** are considered “**social network providers**” within the scope of Law No. 5651, **Chrome** and **Mozilla** are popular and well-known web browsers. **Wikipedia** is an online encyclopedia, and the website **Ask** has not had a search engine function for nearly 10 years. Therefore, to put it in the jargon of criminal judgeships of peace, the decisions against Twitter, YouTube, Chrome, Mozilla, Wikipedia, and Ask platforms are issued “**in violation of the procedure and the law**” as these platforms and browsers are not search engines.

THE ALİ KIDIK JUDGMENT AND THE PRIMA FACIE VIOLATION PRACTICE OF THE CONSTITUTIONAL COURT

The Constitutional Court, in October 2017, in its Ali Kılık judgment¹¹⁴ stated that access-blocking orders subject to article 9 of Law No. 5651 are **not penal or administrative sanctions, but protection measures**¹¹⁵ and stressed that the access-blocking procedure prescribed by article 9 is not a legal remedy for all kinds of articles or news articles, but it **must be an exceptional legal remedy**. In this context, the Constitutional Court stated that the access-blocking decisions subject to article 9 of Law No. 5651 may be issued by criminal judgeships of peace only in circumstances where violations of personal rights can be recognized **at first sight**¹¹⁶ without the need for further investigation. The Constitutional Court recognized the obligation to make a prima facie violation assessment as a prerequisite for maintaining a fair balance between the need to quickly protect personal rights and freedom of expression and freedom of the press.¹¹⁷ The Constitutional Court has so far referred to the Ali Kılık judgment and the principle of prima facie violation in 16 different applications.¹¹⁸

The Ali Kılık judgment issued by the Constitutional Court in October 2017 is binding on the lower courts including the criminal judgeships of peace. It is therefore required for criminal judgeships of peace to make a prima facie violation assessment when reviewing and deciding on the requests involving access-blocking and/or content removal made subject to article 9 of Law No. 5651.

THE PRIMA FACIE VIOLATION ASSESSMENT OF THE CRIMINAL JUDGESHIPS OF PEACE IN 2019

As part of the EngelliWeb project, approximately 6.200 access-blocking decisions subject to article 9 of Law No. 5651 issued in 2019 by nearly 690 criminal judgeships of peace across Turkey were identified and assessed. It was found that among the access-blocking decisions assessed, only **69 (0.011%) decisions** issued by 17 different judgeships and 19 different judges referred to the Ali Kılık judgment of the Constitu-

¹¹⁴ Ali Kılık Application, No: 2014/5552, 26.10.2017.

¹¹⁵ A.A. Application, No: 2014/7244, 12.09.2018, para. 20.

¹¹⁶ Kemal Gözler, "Kişilik Haklarını İhlal Eden İnternet Yayınlarının Kaldırılması Usûlü ve İfade Hürriyeti: 5651 Sayılı Kanunun 9'uncu Maddesinin İfade Hürriyeti Açısından Değerlendirilmesi" [Procedure of Removing the Internet Publications Violating Personal Rights and Freedom of Expression: Evaluation of Article 9 of Law No.5651 in Terms of Freedom of Expression], Rona Aybay'a Armağan (Legal Hukuk Journal, Special Issue, December 2014), İstanbul, Legal, 2014, Volume I, pp.1059-1120. <http://www.anayasa.gen.tr/5651.pdf>.

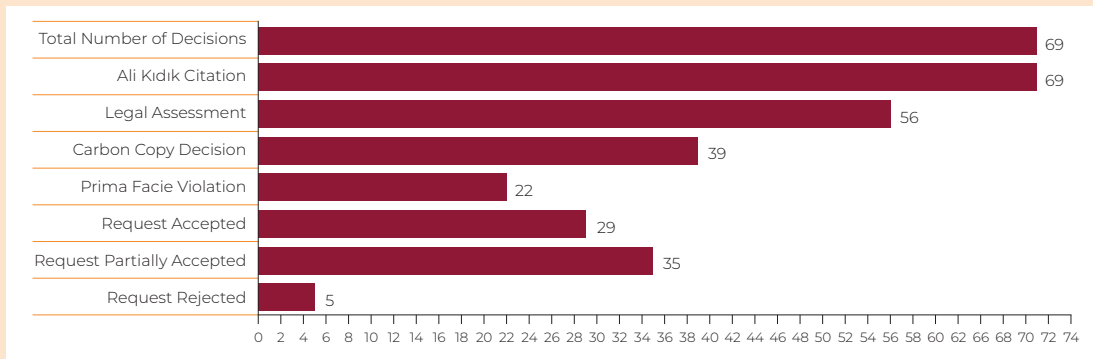
¹¹⁷ Ali Kılık Application, No: 2014/5552, 26.10.2017, para. 63.

¹¹⁸ Kemal Gözler Application (No: 2014/5232, 19.04.2018); Miyase İlknur and Others Application (No: 2015/15242, 18.07.2018); A.A. Application, (No: 2014/7244, 12.09.2018); Yeni Gün Haber Ajansı Basın ve Yayıncılık A.Ş. Application, (No: 2015/6313, 13.09.2018); IPS Communication Foundation Application (No: 2015/14758, 30.10.2018); Özgen Acar Application, (No: 2015/15241, 31.10.2018); IPS Communication Foundation Application (2) (No: 2015/15873, 07.03.2019); Barış Yarkadaş Application (No: 2015/4821, 17.04.2019); Medya Gündem Dijital Yayıncılık Ticaret A.Ş (3) Application (No: 2015/16499, 3.07.2019); Education and Science Workers' Union (Eğitim-SEN) Application (No: 2015/11131, 4.07.2019); Kemalettin Bulamacı Application (No: 2016/14830, 4.07.2019); Kerem Altıparmak and Yaman Akdeniz Application (3) (No: 2015/17387, 20.11.2019); Kerem Altıparmak Application (No: 2015/8193, 27.11.2019); Kemal Gözler Application (2) (No: 2015/5612, 10.12.2019); Aykut Küçükçkaya Application (No: 2014/15916, 09.01.2020); Medeni Özer Application (No: 2017/15421, 30.09.2020).

tional Court. Therefore, it was found that more than 6.000 decisions did not refer to the Ali Kıdık judgment of the Constitutional Court and that no “**prima facie violation**” assessment was made in thousands of decisions.

When the 69 decisions referring to the Ali Kıdık judgment in 2019 were examined in detail, it was seen that a legal assessment was made in 56 decisions but that 39 of those 56 decisions were identical copy-and-paste decisions. It was also observed that a “prima facie violation” assessment was made only in 22 of the 69 decisions identified out of the 6.200 decisions. Moreover, it was found that the requests were granted in 29 of 69 decisions, while they were partially granted in 35 decisions. On the other hand, only 5 requests were denied. The remaining 47 decisions only referred to the application number of the Ali Kıdık judgment, but they did not include any prima facie violation assessment, even though it was required by the Constitutional Court. Finally, there was no legal assessment or any prima facie violation assessment at all in 13 of the 39 decisions that referred to the Ali Kıdık judgment.

Figure 19: Performance of the CJPs in Relation to the CC's Ali Kıdık Decision in 2019



THE PRIMA FACIE VIOLATION ASSESSMENT OF THE CRIMINAL JUDGESHIPS OF PEACE IN 2020

As part of the EngelliWeb project, decisions issued by criminal judgeships of peace were examined in terms of prima facie violation assessment in 2020, as in 2019. Judgeships that issued the highest number of orders subject to article 9 in 2020 are as follows:

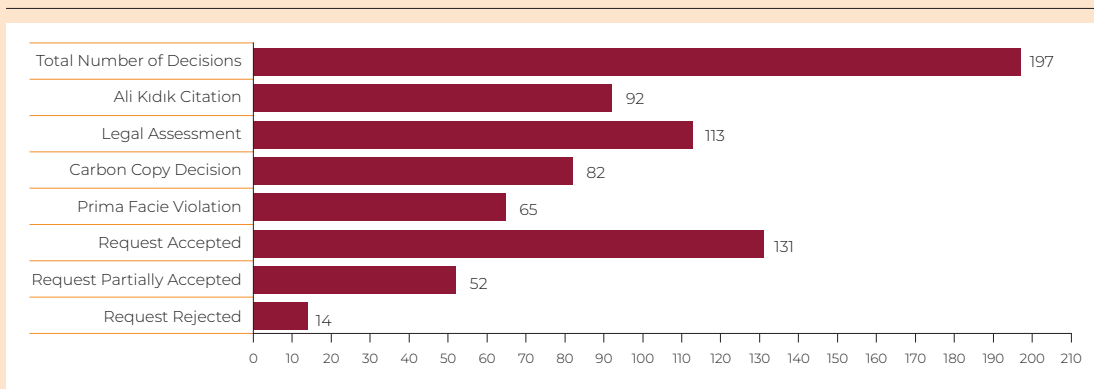
1. the Ankara 4th Criminal Judgeship of Peace with **140** decisions,
2. the Ankara 8th Criminal Judgeship of Peace with **113** decisions,
3. the Ankara 1st Criminal Judgeship of Peace with **100** decisions,
4. the Ankara 7th Criminal Judgeship of Peace with **85** decisions,
5. the Istanbul Anatolia 8th Criminal Judgeship of Peace with **63** decisions,
6. the Istanbul 3rd Criminal Judgeship of Peace with **59** decisions,
7. the Beykoz Criminal Judgeship of Peace with **49** decisions,

8. the Istanbul 4th Criminal Judgeship of Peace with **48** decisions,
9. the Istanbul 12th Criminal Judgeship of Peace with **45** decisions and
10. the Istanbul 9th Criminal Judgeship of Peace with **42** decisions.

As can be seen above, the criminal judgeships of peace in Ankara were in the top 4 in the list of criminal judgeships of peace with the highest number of access-blocking and/or content removal decisions issued in 2020. Other judgeships in the top 10 were various judgeships located in Istanbul.

As part of the EngelliWeb project, approximately **3.173** access-blocking and/or content removal orders issued in 2020 by nearly **369** criminal judgeships of peace across Turkey subject to article 9 of Law No. 5651 were identified and assessed. It was found that among the access-blocking decisions assessed, **92 decisions** issued by **60** different judgeships and **67** different judges directly referred to the Ali Kıdk judgment; that **105 decisions** referred to the principle of “prima facie violation” without reference to the Ali Kıdk judgment, and that **a total of 197 decisions (0.062%)** referred to this principle. Therefore, it was found that **2.976** decisions did not refer to the Ali Kıdk judgment of the Constitutional Court and that no “**prima facie violation**” assessment was made in thousands of decisions.

Figure 20: Performance of the CJPs in Relation to the CC’s Ali Kıdk Decision in 2020

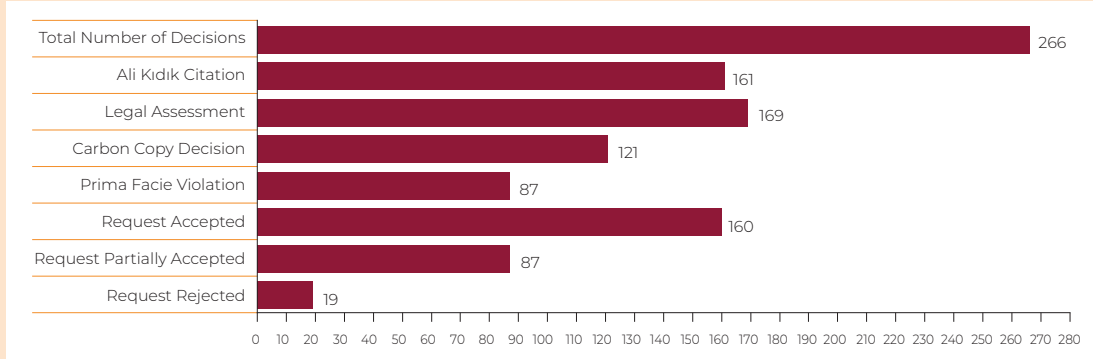


When the **197** decisions directly or indirectly referring to the Ali Kıdk judgment in 2020 were assessed in detail, it was seen that a legal assessment was made only in **113** decisions but that **82** decisions were identical copy-and-paste decisions. It was also observed that a “prima facie violation” assessment was made only in **65** decisions. Moreover, it was found that the requests were granted in 131 of 197 decisions referring to the principle of prima facie violation, while they were partially granted in 52 decisions. On the other hand, only 14 requests were denied. The remaining **132 decisions** only referred to the application number of the Ali Kıdk judgment or the principle of prima facie violation, but they did not include any prima facie violation assessment, even though it was required by the Constitutional Court. Finally, there was no legal assessment or any prima facie violation assessment at all in 83 of the 132 decisions that referred to the Ali Kıdk judgment.

COMPARISON OF THE PRIMA FACIE VIOLATION ASSESSMENT OF THE CRIMINAL JUDGESHIPS OF PEACE IN 2019 AND 2020

As stated above, in **2019**, “prima facie violation” assessment, required since the Ali Kıdık judgment of the Constitutional Court, were only found in **11‰** of the decisions and only a small number of access-blocking decisions referred to this judgment. This rate increased to **62‰** in **2020**.

Figure 21: Performance of the CJPs in Relation to the CC’s Ali Kıdık Decision in 2019-2020



It was found that a prima facie violation assessment was only made in **22 (3‰)** of the **69** decisions referring to the Ali Kıdık judgment in **2019** and in **65 (20‰)** of the **197** decisions referring to the Ali Kıdık judgment in **2020**. Even though the number of decisions that were issued by the criminal judgeships of peace and referred to the Ali Kıdık judgment and the principle of prima facie violation increased in 2020, compared to 2019, this increase remains nominal.

This is clearly **not a coincidence**, and the criminal judgeships of peace continue to **completely ignore** the Ali Kıdık judgment and the subsequent 16 similar judgments issued by the Constitutional Court since October 2017. Therefore, the Ali Kıdık judgment of the Constitutional Court does not resolve the problems with the enforcement of article 9 and the Constitutional Court continued to ignore the structural problems related to article 9 in 2020. In nearly 4 years since the publication of the Ali Kıdık Judgment in the Official Gazette, the prima facie violation approach has become part of the structural problems instead of resolving them.¹¹⁹ It is clear that article 9 of Law No. 5651, which does not impose any obligation to assess whether there is a prima facie violation or not, does not qualify as a law in the material sense or **achieve the quality requirement** of Article 13 of the Constitution. The rule, as such, does not meet

¹¹⁹ See further International Commission of Jurists, *The Turkish Criminal Peace Judgeships and International Law Report*, 2018, <https://www.icj.org/wp-content/uploads/2019/02/Turkey-Judgeship-Advocacy-Analysis-brief-2018-TUR.pdf>; Venice Commission, *Opinion on the Duties, Competences and Functioning of the Criminal Peace Judgeships*, No. 852/2016, 13 March 2017, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)004-tur](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)004-tur); Venice Commission, *Opinion on Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publication (“the Internet Law”)*, No. 805/2015, 15 June 2016, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)011-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)011-e).

the requirements of the legality principle, such as clarity, precision and predictability or providing assurance against arbitrary interference. Moreover, while these structural problems continued, the amendments made to article 9 of Law No. 5651 in July 2020 completely ignored this matter.

URL'S, NEWS ARTICLES, AND SOCIAL MEDIA CONTENT BLOCKED SUBJECT TO ARTICLE 9/A OF LAW NO. 5651

Subject to the legal procedures established by article 9/A of Law No. 5651, individuals who assert that their right to privacy has been violated by the content of a publication on the Internet may request that access to that content be blocked by applying directly to the President of BTK. The President shall immediately enforce access-blocking with regards to the specific publication/section, image, or video (in the form of URL, etc.) infringing the right to respect for private life.

Following this, those who request access blocking from the President of BTK, shall submit their request to a judge within twenty-four hours. The judge shall issue his/her decision on whether the Internet content has violated the right to privacy within forty-eight hours and directly submit the blocking decision to BTK; otherwise, the blocking measure shall automatically be removed and become void. Further, in circumstances where it is considered that delay would entail a risk of violation of the right to privacy, access-blocking shall be carried out by BTK upon the direct instructions of the President of BTK.

It is observed that in practice, the legal procedure prescribed by article 9/A has not been preferred as much as that established by article 9 of Law No. 5651. A significant contributing factor to the low usage is the complexity of the procedure provided by BTK with regards to the enforcement of article 9/A.¹²⁰ While the intention of the legislator in enacting article 9/A was to ensure “**expeditiousness**” with respect to violations of right to privacy, BTK requires **the relevant violation request forms to be submitted either by hand or mail**. As a result, only a total of **214 orders**, including 112 in 2015, 93 in 2016, and only 9 in 2017, were issued by criminal judgeships of peace upon requests of citizens subject to article 9/A.¹²¹ These numbers are very small compared to thousands of decisions issued by criminal judgeships of peace subject to article 9 of Law No. 5651.

RTUK AND ACCESS-BLOCKING PRACTICES

Article 29/A, entitled “Presentation of broadcasting services over the Internet,” was added to Law No. 6112 on the Establishment of Radio and Television Enterprises and Broadcasting Services by article 82 of Law No. 7103 on 21.03.2018. The Regulation on the Presentation of Radio, Television, and On-Demand Broadcasts on the Internet, based on this new legal provision entered into force upon its publication in the Official Gazette on 01.08.2019, no. 30849. The Radio and Television Supreme Council

¹²⁰ See <https://www.ihtarweb.org.tr/ohg/>

¹²¹ Statistics of orders issued under article 9/A from 2018 to 2020 could not be accessed as part of the EngelliWeb project.

("RTUK") has been authorized to enforce this article and may request that orders be issued to block access to the broadcasting services of natural persons and legal entities that have not been granted any temporary broadcasting right and/or broadcasting license, or whose right and/or license has been revoked, subject to sub-paragraphs (2) and (3) of article 29/A.

(2) In case it is found by the Supreme Council that the broadcasting services of the natural and legal persons that have not been granted any temporary broadcasting right and/or broadcasting license by the Supreme Council, or whose right and/or license has been revoked are being transmitted via the Internet, criminal judgeships of peace may issue content removal and/or access-blocking orders against the relevant broadcasting service on the Internet, upon the request of the Supreme Council. This decision shall be notified to the Information Technologies and Communication Board for further action. The criminal judge of peace shall issue a decision upon the request of the Supreme Council within twenty-four hours at the latest without any hearing. This decision may be appealed against subject to the Code of Criminal Procedure No. 5271 dated 04.12.2004. The content removal and/or access-blocking decisions subject to the abovementioned article shall be governed by the third and fifth paragraphs of article 8/A of Law No. 5651.

(3) Notwithstanding that content or hosting provider is located abroad, the provisions of the second paragraph shall also apply to the transmission of the broadcasting services of the media service providers and platform operators via the Internet that are subject to the jurisdiction of another country via the Internet which are determined by the Supreme Council to be broadcasting in violation of the international treaties signed and ratified by the Republic of Turkey in relation to the scope of duty of the Supreme Council as well as the provisions of this Law, and to the broadcasting services offered in Turkish by the broadcasting enterprises addressing the audience in Turkey via the Internet or featuring commercial communication broadcasts addressing the audience in Turkey even though the broadcast language is not Turkish. In order for these enterprises to continue their broadcasts on the Internet, they must be granted a broadcasting license by the Supreme Council, just like any other enterprises subject to the jurisdiction of the Republic of Turkey, and platform operators in this context must also obtain an authorization for broadcast transmission.

Once the legal provision and the relevant Regulation entered into force, RTUK issued warning notifications involving a total of 30 different websites and platforms. Within this context, **5** different websites and platforms including the video sharing platform **Amazon Prime** were warned on 31.03.2020,¹²² **8** different websites and platforms were warned on 20.04.2020,¹²³ **5** different websites and platforms were warned on 22.06.2020,¹²⁴ **2** different radio websites were warned on 28.09.2020,¹²⁵ **6** different websites and platforms including the world-renowned music platforms **Tidal** and

¹²² <https://biattv.com/canli-tv-izle>, <https://canlitv.com/biattv>, <https://slowkaradeniztv.com>, www.primevideo.com, www.dsmartgo.com.tr

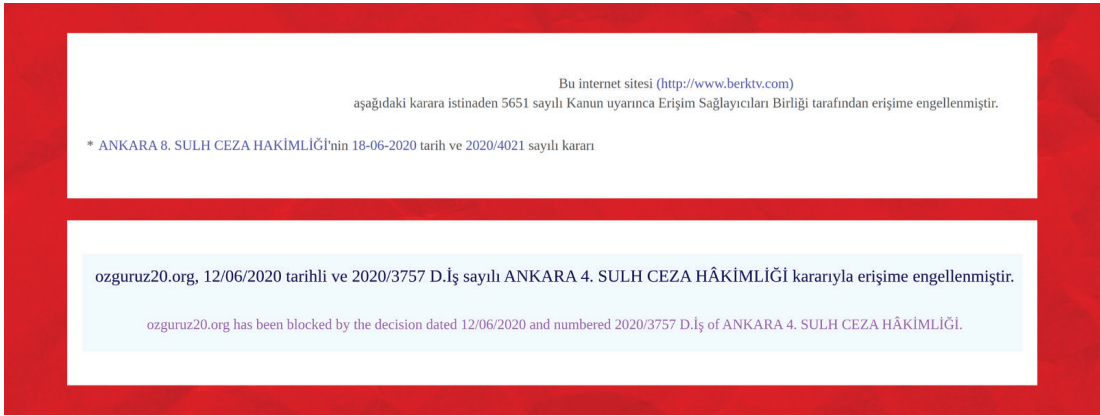
¹²³ <https://canlitv.com>, <https://canlitv.com/berk-tv>, <http://www.berktv.com>, <http://www.fuartzv.net/>, <https://canlitv.com/fuar-tv>, <http://www.guneydogutv.com>, <https://canlitv.com/guneydogu-tv>, <https://broadcasttr.com/gtv>

¹²⁴ <https://cine5tv.com>, <http://sinopyildiz.tv/>, <http://www.arastv.net/v1/>, <http://www.kanal58.com.tr>, <https://mubi.com/tr>

¹²⁵ www.radyosfer.com and www.radyogram.com

Deezer were warned on 09.11.2020,¹²⁶ and **4** different radio websites were also warned on 23.12.2020¹²⁷ that their websites may be blocked from Turkey in case they act in violation of article 29/A. **Tidal**, which ignored this warning, was blocked by the Ankara 7th Criminal Judgeship of Peace on **24.11.2020** upon the request of RTUK.¹²⁸ In its decision, the judgeship noted that “the request was granted as it was understood that broadcasting services were provided in violation of article 29/A of Law No. 6112.” When Tidal declared that it would apply to RTUK for license and had paid the broadcasting license fee for three months, RTUK appealed against the decision of Ankara 7th Criminal Judgeship of Peace, and this appeal was accepted by the Ankara 8th Criminal Judgeship of Peace.¹²⁹ During this process, Tidal was blocked until **19.12.2020**. **BerkTV** (<http://www.berktv.com>) was also blocked by a decision of the Ankara 8th Criminal Judgeship of Peace on **18.06.2020**¹³⁰ upon the request of RTUK. While 29/A orders are required to be notified to the “Information Technologies and Communication Board for further action”, BerkTV was blocked by the Association of Access Providers in violation of the relevant procedure.

Screenshot 40: Notification of access-blocking orders for [berktv.com](http://www.berktv.com) and [ozguruz20.org](http://www.ozguruz20.org)



Furthermore, **FilBox** (www.filbox.com.tr) was also blocked by a decision of the Istanbul 10th Criminal Judgeship of Peace on **26.06.2020** upon the request of RTUK.¹³¹ Appeals of FilBox and RTUK were accepted by the Istanbul 11th Criminal Judgeship of Peace on **27.08.2020**.¹³² Lastly, the website **ozguruz20.org** was also blocked by a decision of the Ankara 4th Criminal Judgeship of Peace on **12.06.2020** upon the request of RTUK.¹³³

¹²⁶ <https://serikajanstv.com/>, www.enbursa.com/, <https://www.kent19.tv/>, <https://www.tidal.com>, <https://www.deezer.com>, and www.radiokent.net

¹²⁷ <https://canliradyodinle.gen.tr>, <https://www.canli-radyo.biz>, <https://onlineradiobox.com/tr>, and <https://canliradyodinle.fm>

¹²⁸ Ankara 7th Criminal Judgeship of Peace, no. 2020/8108, 24.11.2020.

¹²⁹ Ankara 8th Criminal Judgeship of Peace, no. 2020/9654, 18.12.2020.

¹³⁰ Ankara 8th Criminal Judgeship of Peace, no. 2020/4021, 18.06.2020.

¹³¹ Istanbul 10th Criminal Judgeship of Peace, no. 2020/2567, 26.06.2020.

¹³² Istanbul 11th Criminal Judgeship of Peace, no. 2020/3558, 27.08.2020.

¹³³ Ankara 4th Criminal Judgeship of Peace, no. 2020/3757, 12.06.2020.

LEGAL RESPONSIBILITIES AND OBLIGATIONS OF SOCIAL NETWORK PROVIDERS UNDER LAW NO. 5651

With the amendments and additions made to Law No. 5651 with Law No. 7253 on 29.07.2020, a new provision involving the social network providers has been introduced. The amendments to the law were published in the Official Gazette on 31.07.2020.¹³⁴ First of all, the definition of “social network provider” was added to the definitions section of Law No. 5651 by article 1 of Law No. 7253. Accordingly, **social network provider** is defined as “natural or legal persons that allow users to create, view, or share content such as text, images, audio files, or location on the Internet for social interaction.”¹³⁵

Supplementary article 4, putting forth the responsibilities and obligations of the social network providers, was included in Law No. 5651 by article 6 of Law No. 7253. In this context, not all social network providers are included within the scope of the law but only “foreign social network providers with daily access of more than one million users are required to appoint at least one representative in Turkey, in order to fulfill the requirements of the law including taking the necessary action with regards to the notifications to be sent or the requests to be submitted by the BTK,¹³⁶ the ESB¹³⁷ or administrative or judicial bodies; responding to the applications to be made by the individuals within the scope of Law No. 5651; and to ensure that other obligations under this Law are fulfilled.”¹³⁸ It is also indicated that in case the representative is a natural person, he/she must be a Turkish citizen, and his/her contact details must be easily visible and directly accessible on the website of the social network provider.

Procedures and Principles Regarding Social Network Providers were put forth by the decision of the Information Technologies and Communication Board published in the Official Gazette on 02.10.2020.¹³⁹ Within this framework, it was clearly stated that representatives of social network providers may be “natural or legal persons.”¹⁴⁰ According to these procedures and principles, the legal entities to be established are required to be “established in Turkey subject to Turkish laws.”¹⁴¹ Provisional article 5 of Law No. 5651 provides that social network providers shall complete the necessary work to appoint representatives **within three months** from the date of entry into force of this article, namely on 31.07.2020, in order to fulfill their obligations.¹⁴² This period expired on 01.10.2020.

It was noted that BTK shall first send a notification to warn any social network provider that fails to fulfill its obligation to appoint a representative and notify BTK of its representative by 01.10.2020.¹⁴³ Despite this notification, if the social network providers do not designate or appoint a representative in Turkey, various sanc-

¹³⁴ Official Gazette, 31.07.2020, no. 31202.

¹³⁵ Article 2(s) of Law No. 5651.

¹³⁶ Information Technologies and Communication Board.

¹³⁷ Association of Access Providers.

¹³⁸ Supplementary Article 4(1) of Law No. 5651.

¹³⁹ Information Technologies and Communication Board, 2020/DK-İD/274, 29.09.2020.

¹⁴⁰ BTK, Article 6(1) of the Procedures and Principles Regarding Social Network Providers.

¹⁴¹ BTK, Article 6(2) of the Procedures and Principles Regarding Social Network Providers.

¹⁴² Provisional article 5(1)(a) of Law No. 5651.

¹⁴³ Supplementary article 4(2) of Law No. 5651.

tions and penalties may be imposed subject to this provisional article. In this context:¹⁴⁴

- If this obligation is not fulfilled **within thirty days** from the notification, an **administrative fine of ten million Turkish liras** shall be imposed on the social network provider by the President of BTK (**November 2020**).
- If this obligation is not fulfilled **within thirty days** from the notification of the first administrative fine, a subsequent **administrative fine of thirty million Turkish liras** shall be imposed (**December 2020**).
- If this obligation is not fulfilled within thirty days from the notification of the second administrative fine, the President of BTK will prohibit natural and/or legal persons who are taxpayers residing in Turkey from placing new advertisements on the relevant social networks. Within this scope, no new contract may be signed, and no money transfer may be made (**January 2021**).
- If this obligation is not fulfilled within three months from the advertisement ban, the President of BTK may submit a request to a criminal judgeship of peace **for the throttling of the Internet traffic bandwidth of the social network provider by fifty percent** (**April 2021**).
- If this obligation is not fulfilled within thirty days from the enforcement of the decision of the judgeship granting the initial throttling request, the President of BTK may submit a request to a criminal judgeship of peace **for the throttling of the Internet traffic bandwidth of the social network provider by up to ninety percent**. In its decision on the second application, the judge may determine a lower rate of throttling, by taking into account the quality of the service provided, provided that the throttling rate is not less than fifty percent (**May 2021**).

In case the obligation to “designate or appoint a representative in Turkey and notify BTK of the representative” is fulfilled during the above described process, a quarter of the administrative fines shall be collected, the administrative ban shall be lifted, and the throttling decisions of the judge shall automatically become null and void. While the first legal representative notification was made by **Vkontakte** in early November 2020, BTK announced that it imposed administrative fines of 10 million TRY on Facebook, YouTube, Instagram, Twitter, LinkedIn, TikTok, Dailymotion, Periscope, and Pinterest on **04.11.2020**. It was reported that an additional administrative fine of 30 million TRY was imposed on the same platforms on **11.12.2020**. Subsequently, **YouTube** (16.12.2020), **TikTok** (08.01.2021), **Dailymotion** (09.01.2021), **LinkedIn** (16.01.2021), **Facebook** and **Instagram** (18.01.2021) notified BTK that they would establish a legal representative office in Turkey.¹⁴⁵ On 19.01.2021, an advertisement ban was imposed on **Twitter**, **Periscope**, and **Pinterest**, which did not establish or announce that they will establish legal representation in Turkey.¹⁴⁶ Subsequent to the

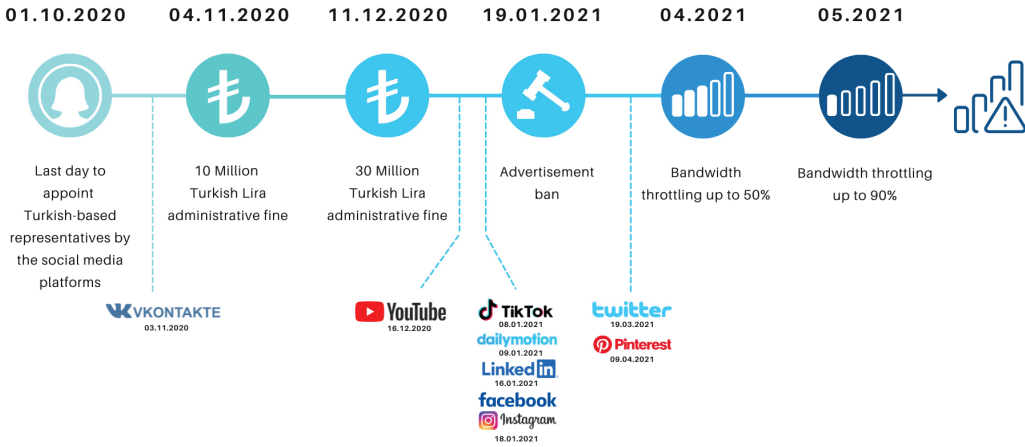
¹⁴⁴ Supplementary article 4(2) of Law No. 5651.

¹⁴⁵ See <https://twitter.com/ofatihsayan/status/1380454617146925059>

¹⁴⁶ BTK Decision No. 4202, 19.01.2021 (Pinterest); BTK Decision No. 3768, 15.01.2021 (Twitter); BTK Decision No. 3769, 15.01.2021 (Periscope), Official Gazette, 19.01.2021, no. 31369.

enforcement of the advertisement ban, **Twitter** (19.03.2021) and **Pinterest** (09.04.2021) declared that they would appoint a legal representative in Turkey. Based on these declarations, advertisement bans on Pinterest¹⁴⁷ and Twitter¹⁴⁸ were lifted on 11.04.2021 and 24.04.2021, respectively. Legal entities were established by Google on 12.01.2021, by TikTok on 29.02.2021,¹⁴⁹ and by Twitter on 22.04.2021 subject to Turkish law to represent these social network providers in Turkey.¹⁵⁰ Similarly, Facebook and LinkedIn established their representative offices in Turkey in the first half of 2021.¹⁵¹

Screenshot 41: Timeline of Procedures and Sanctions Involving the Social Network Providers



Therefore, as of May 2021, the bandwidth throttling penalty has not been imposed on any social network provider. The objection filed by the main opposition party for the annulment of this new regulation has not been reviewed by the Constitutional Court as of May 2021.

OBLIGATION TO RESPOND TO REQUESTS AND PROVIDE REASONS

As for the responsibilities of social network providers who have legal representatives in Turkey, they are “obliged to provide a positive or negative response to any application made by individuals regarding content subject to article 9, concerning personal rights, and article 9/A, concerning the right to privacy, of Law No. 5651, **within for-**

¹⁴⁷ BTK Decision No. 25159, 09.04.2021 (Pinterest), Official Gazette, 11.04.2021, no. 31451.

¹⁴⁸ BTK Decision No. 28123, 22.04.2021 (Twitter), Official Gazette, 24.04.2021, no. 31464.

¹⁴⁹ See <https://www.tiktok.com/legal/turkey-social-media-law-5651?lang=tr>.

¹⁵⁰ Other social network providers have not yet established legal entities as of the date of this report.

¹⁵¹ For Facebook, see <https://www.facebook.com/help/118930960130870/?helpref=related>, and for LinkedIn, see <https://www.linkedin.com/help/linkedin/answer/129169>.

ty-eight hours at the latest.¹⁵² Similarly, it is required to provide reasoned decisions in relation to negative responses. Social network providers are also obliged to ensure that such applications can be made in Turkish and that applications made in Turkish are responded in Turkish, in order to process the applications of individuals easily.¹⁵³ Among the social network providers that declared that they would appoint a legal representative in Turkey, or established their representative offices before June 2021; Facebook, LinkedIn, and TikTok prepared different forms for complaint in accordance with the requirements of Law No. 5651 in the first half of 2021.¹⁵⁴ It is stipulated that the President of BTK would impose an administrative fine of five million Turkish liras on the social network providers that fail to fulfill this obligation.¹⁵⁵

ENFORCEMENT OF ACCESS-BLOCKING AND CONTENT REMOVAL DECISIONS

Foreign social network providers with more than one million daily access from Turkey are required to enforce the access-blocking and/or content removal decisions issued subject to articles 8 and 8/A of Law No. 5651. It is stipulated that in case of failure to enforce these decisions, an administrative fine of a million Turkish liras shall be imposed on the providers, and that the fine shall be increased by one fold for each repetition of the violations requiring administrative fines within a year.¹⁵⁶ Similarly, it is stipulated that a judicial fine of five thousand days may be imposed in case of failure to enforce the access-blocking and/or content removal decisions issued subject to articles 8 and 9 of Law No. 5651.¹⁵⁷

Furthermore, in the event that any content which has been determined to be unlawful by a judge or a court decision is notified to a social network provider, the social network provider **shall be responsible** for the indemnification of any damages incurred, in case it fails to remove the content or block access to it within twenty-four hours despite the notification.¹⁵⁸ In this context, execution of this legal provision shall not require a recourse to the responsibility of the content provider or to a lawsuit against the content provider so far as the social media platform providers are concerned. Finally, these obligations of social network providers shall not relieve them of their responsibilities or obligations as content or hosting providers.¹⁵⁹ As of the publication date of this report, no penalty has been imposed on social network providers.

¹⁵² Supplementary article 4(3) of Law No. 5651.

¹⁵³ BTK, articles 10(2) and 10(3) of the Procedures and Principles Regarding Social Network Providers.

¹⁵⁴ For **Facebook**, see <https://www.facebook.com/help/contact/435015304579692> (accessed on 25.03.2021); for **LinkedIn**, see <https://www.linkedin.com/help/linkedin/ask/TURKISH-LAW?lang=tr>, and for **TikTok**, see <https://www.tiktok.com/legal/report/contentremoval?lang=tr>.

¹⁵⁵ Supplementary article 4(6) of Law No. 5651. Also see BTK, article 19 of the Procedures and Principles Regarding Social Network Providers.

¹⁵⁶ Supplementary article 4(7) of Law No. 5651.

¹⁵⁷ Supplementary article 4(7) of Law No. 5651.

¹⁵⁸ Supplementary article 4(8) of Law No. 5651.

¹⁵⁹ Supplementary article 4(9) of Law No. 5651.

OBLIGATION TO STORE USER DATA IN TURKEY

Within the scope of the new regulation, domestic or foreign social network providers with more than one million daily access from Turkey are obliged to take the necessary measures to host the data of their Turkey based users in Turkey.¹⁶⁰ Article 12 of the Procedures and Principles Regarding Social Network Providers, established by the decision of the Information Technologies and Communication Board,¹⁶¹ provides that “in the implementation of this article, priority shall be given to measures to ensure that basic user details and the data regarding particular issues that may be notified by the Board are stored in Turkey.”¹⁶² According to the same article, the “Board shall be notified of the measures taken under this article, as well as the issues notified by the Board, during each reporting period.” However, the relevant article or the relevant procedures and principles do not clarify which data/information of the users in Turkey shall be stored in Turkey by social network providers, the conditions under which this data shall be stored, how this data shall be stored and whether this data shall be disclosed collectively to BTK and/or other institutions. As of the publication date of this report, no explanation has been provided by social network providers or BTK on this matter.

REPORTING OBLIGATION

Domestic or foreign social network providers with more than one million daily access from Turkey are also obliged to submit reports that are prepared in Turkish and contain statistical and categorical information on the enforcement of the content removal and/or access-blocking decisions notified to them, and the applications made within the scope of paragraph 3, to BTK every six months.¹⁶³ In this context, the report regarding the applications made directly to social network providers¹⁶⁴ is required to be published on the website of the social network provider by removing any personal data. Provisional article 5 of Law No. 5651 requires social network providers to submit their first reports to BTK in June 2021 and publish them on their own websites.¹⁶⁵ It is stipulated that the President of BTK would impose an administrative fine of ten million Turkish liras on the social network providers that fail to fulfill their reporting obligations.¹⁶⁶

¹⁶⁰ Supplementary article 4(5) of Law No. 5651.

¹⁶¹ Information Technologies and Communication Board, 2020/DK-ID/274, 29.09.2020.

¹⁶² BTK, article 12(2) of the Procedures and Principles Regarding Social Network Providers.

¹⁶³ Supplementary article 4(4) of Law No. 5651.

¹⁶⁴ Supplementary article 4(3) of Law No. 5651.

¹⁶⁵ Provisional article 5(1)(b) of Law No. 5651.

¹⁶⁶ Supplementary article 4(6) of Law No. 5651.

SOCIAL MEDIA ACCOUNTS AND CONTENT BLOCKED FROM TURKEY IN 2020

RANKING OF TURKEY IN TWITTER TRANSPARENCY REPORTS

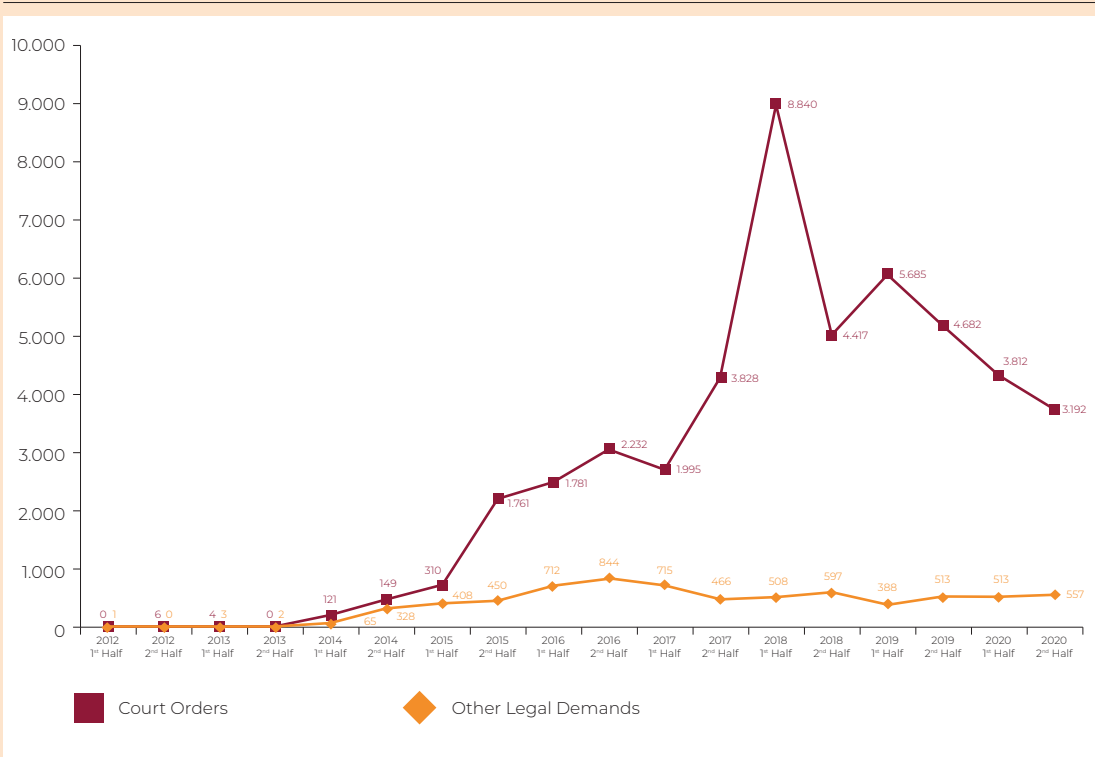
Twitter has been publishing biannual Transparency Reports since 2012. In these reports, Twitter reveals the number of removal orders received from local courts; the removal requests submitted by government bodies and other natural or legal persons; removal rates; the number of accounts specified in withholding/removal requests; the number of accounts withheld/removed; and the number of tweets blocked or removed from the Twitter platform per country, including Turkey.

Table 3: Turkey in Twitter Transparency Report: All Statistics

Report Period	Court Orders	Other Legal Demands	% of Legal Demands Where Some Content Withheld	Account Specified	Accounts Withheld	Tweets Withheld Turkey	Tweets Withheld Global	Tweets Withheld Other Countries
2012: 1 st Half	1	0	0%	7	0	0	0	0
2012: 2 nd Half	0	6	0%	9	0	0	44	44
2013: 1 st Half	3	4	0%	30	0	0	73	73
2013: 2 nd Half	2	0	0%	2	0	0	191	191
2014: 1 st Half	65	121	30%	304	17	183	251	68
2014: 2 nd Half	328	149	50%	2,642	62	1,820	1,982	162
2015: 1 st Half	408	310	34%	1,978	125	1,667	2,534	867
2015: 2 nd Half	450	1,761	23%	8,092	414	3,003	3,353	350
2016: 1 st Half	712	1,781	-	14,953	222	1,571	2,599	1,028
2016: 2 nd Half	844	2,232	19%	8,417	290	489	1,113	624
2017: 1 st Half	715	1,995	11%	9,289	204	497	1,463	966
2017: 2 nd Half	466	3,828	3%	6,544	148	322	1,122	800
2018: 1 st Half	508	3,480	18%	13,843	425	1,464	2,656	1,192
2018: 2 nd Half	597	4,417	0%	9,155	72	355	2,471	2,116
2019: 1 st Half	388	5,685	-	8,993	264	230	2,103	1,873
2019: 2 nd Half	513	4,682	0.31%	9,059	215	386	3,518	3,132
2020: 1 st Half	513	3,812	0.33%	6,523	43	148	3,069	2,921
2020: 2 nd Half	557	3,192	0.25%	7,381	26	182	2,571	2,389
Total	7,070	42,455		107,221	2,527	12,317	31,113	18,796

In 2020, **1.070** court decisions and **7.004** other removal requests were submitted to Twitter from Turkey, and **13.904** Twitter accounts were specified in withholding/removal requests. Nonetheless, Twitter announced that it withheld/removed only **69 accounts and 330 tweets** from Turkey in 2020.

Figure 22: Court Orders and Other Legal Requests Submitted to Twitter from Turkey (2012-2020)



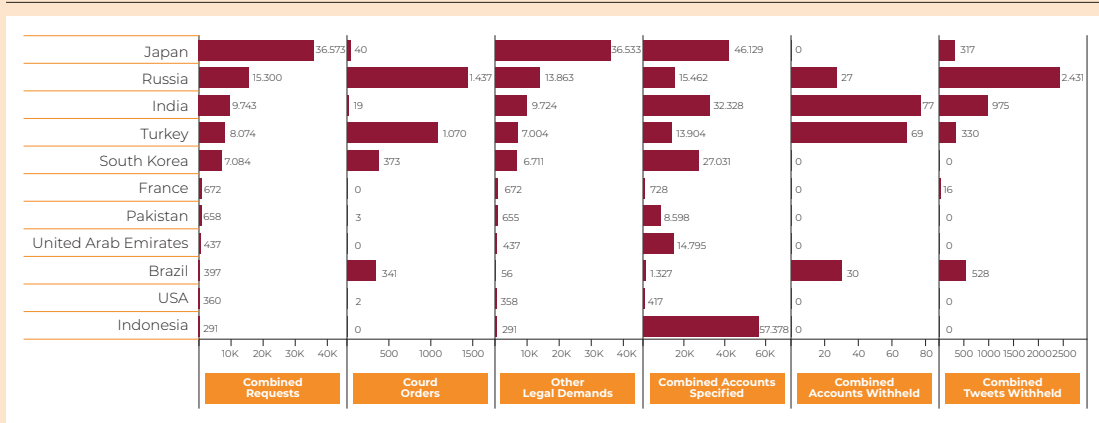
COURT ORDERS AND OTHER LEGAL REQUESTS SUBMITTED TO TWITTER BY TURKEY

1.437 of the **3.434** court decisions submitted to Twitter in **2020** were sent from **Russia**. When compared to other countries, **Turkey** ranked second with **1.070** court decisions and was followed by **South Korea** with **373** court decisions. A total of **77.310** other removal requests were submitted to Twitter. In this category, **Japan** ranked first with **36.533** requests and was followed by **Russia** with **13.863** requests and **India** with **9.724** requests. **Turkey** ranked fourth with **7.004** requests.

While a total of **217.290** Twitter accounts were requested to be removed in 2020, the highest number of requests (**57.378**) in this category were submitted from **Indonesia**, which was followed by **Japan** with **42.129** requests, **India** with **32.328** requests, and **South Korea** with **27.031** requests. **Turkey** ranked seventh with **13.904** requests.

Twitter only removed or withheld **205** accounts worldwide upon these requests in 2020. While **India** was the country in which Twitter removed or withheld the highest number of accounts (**77** accounts) in **2020**, **Turkey** ranked second with **69** accounts and **Brazil** ranked third with **30** accounts. Finally, in the category of withheld/removed tweets in 2020, **Russia** ranked first with **2,431** tweets, while **India** ranked second with **975** tweets, and **United Kingdom** ranked third with **854** tweets. **Turkey** ranked fifth with **330** tweets.

Figure 23: Twitter Transparency Report 2020: Combined Requests

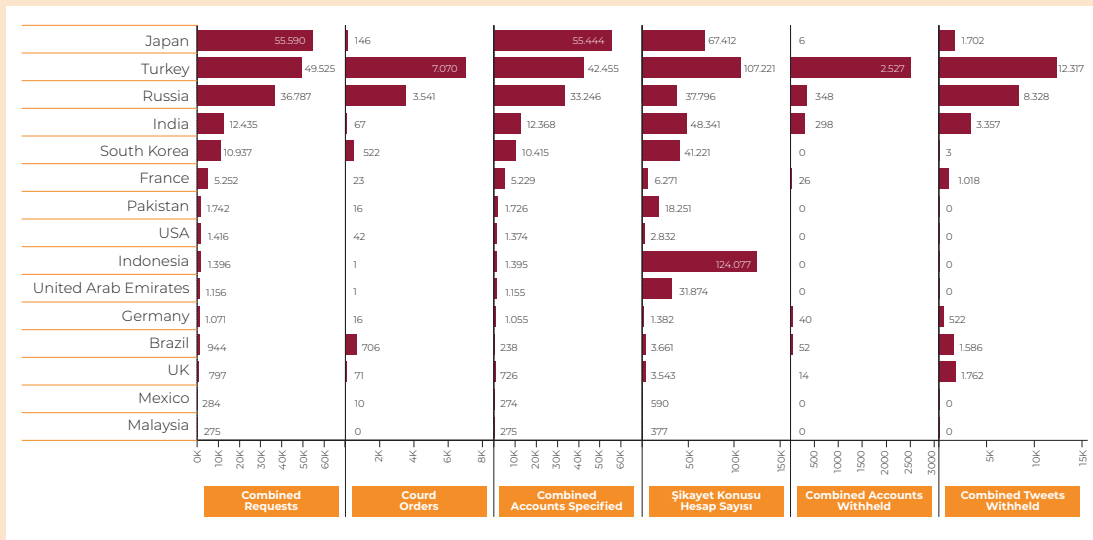


RANKING OF TURKEY IN TWITTER TRANSPARENCY REPORTS WORLDWIDE

The 2012-2020 Twitter Transparency Reports present a grim picture of Turkey when compared to other countries, as shown in the figures below. While **12,499 court decisions** submitted to Twitter worldwide from the beginning of 2012 to the end of 2020, **7,070 (57%)** of them were submitted from **Turkey**, which is the undisputed leader in this category. **Russia** ranked second with **3,541** court decisions, and **Brazil** ranked third with **706** court decisions. When **other removal requests** are examined, it is found that a total of **169,190** requests were submitted to Twitter worldwide. The highest number of requests were submitted from **Japan** with **55,444 (33%)** requests, while **Turkey** ranked second with **42,455 (25%)** requests and **Russia** ranked third with **33,246** requests. Similarly, when the total number of requests is assessed, it is observed that a total of **181,689** requests were submitted to Twitter. The highest number of requests were submitted from **Japan** with **55,590 (31%)** requests, while **Turkey** ranked second with **49,525** requests and **Russia** ranked third with **36,787** requests.

While a total of **500,325** accounts were specified in withholding/removal requests worldwide, Twitter only removed or withheld a total **3,387** accounts. In the category of the number of accounts reported, **Indonesia** ranked first with **124,077 (25%)** accounts and was followed by **Turkey** with **107,221 (21%)** accounts, **Japan** with **67,412** accounts ranked third, **India** ranked fourth with **48,341** accounts and **South Korea**

Figure 24: Twitter Transparency Report 2012- 2020: Combined Requests

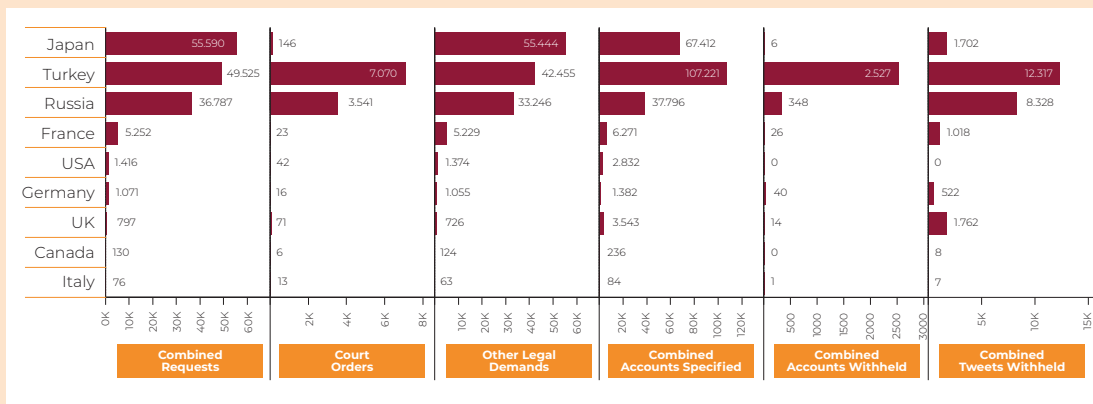


ranked fifth with **41.221** accounts. In the category of the number of accounts removed or withheld, **Turkey** ranked first with **2.527 (75%)** accounts and was followed by **Russia** with **348** accounts and **India** with **298** accounts.

When the tweets removed or withheld by Twitter are examined, it is noted that Twitter does not disclose the number of tweets specified in removal or withholding requests but only discloses the number of tweets removed or withheld. Twitter removed or withheld **30.941** tweets worldwide by the end of 2020. In the category of the number of tweets removed or withheld, **Turkey** ranked first with **12.317 (40%)** tweets and was followed by **Russia** with **8.328** tweets and **India** with **3.357** tweets.

In figure 25, the ranking of Turkey in the Twitter Transparency Reports is compared to that of **G8 countries**, and the grim picture of Turkey in the Twitter Transpar-

Figure 25: Comparison of Turkey and G8 Countries in the Twitter Transparency Reports



ency Reports is shown yet again transparently and clearly. It is submitted that Turkey is way ahead of G8 countries in the categories of submitted court decisions, accounts specified for removal, accounts withheld or removed, and tweets removed. It is observed that among G8 countries, only Japan outranked Turkey with an increasing number of requests in 2020 in the categories of other removal requests and therefore the total number of requests. It is noted that the requests submitted from Japan to Twitter were mainly submitted under the relevant laws regarding drugs, obscenity, and lending money.

RANKING OF TURKEY IN FACEBOOK TRANSPARENCY REPORTS

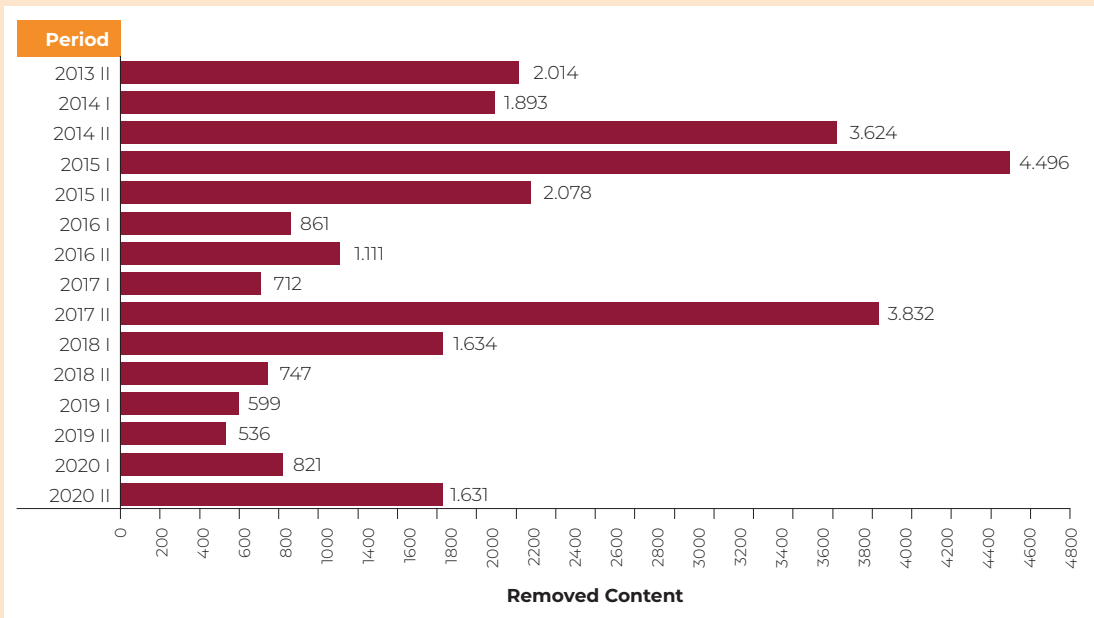
Facebook has started to publish biannual transparency reports since the second half of 2013 and published its last Transparency Report with respect to the second half of 2020.¹⁶⁷ Facebook removed a total of 24.137 content items from Turkey from the second half of 2013 to the end of 2019 and 2.452 content items were also removed in 2020, totaling the number of content items removed upon requests submitted from Turkey to 26.589. While Facebook removed 1.135 content items in 2019, the number of content items removed increased by 46% to 2.452 in 2020, compared to 2019. The cause of the increase was not explained in the Facebook Transparency Reports. However, it is considered that the number of requests submitted to Facebook from Turkey also increased.

Figure 26: Number of Removed Content from Facebook: Turkey



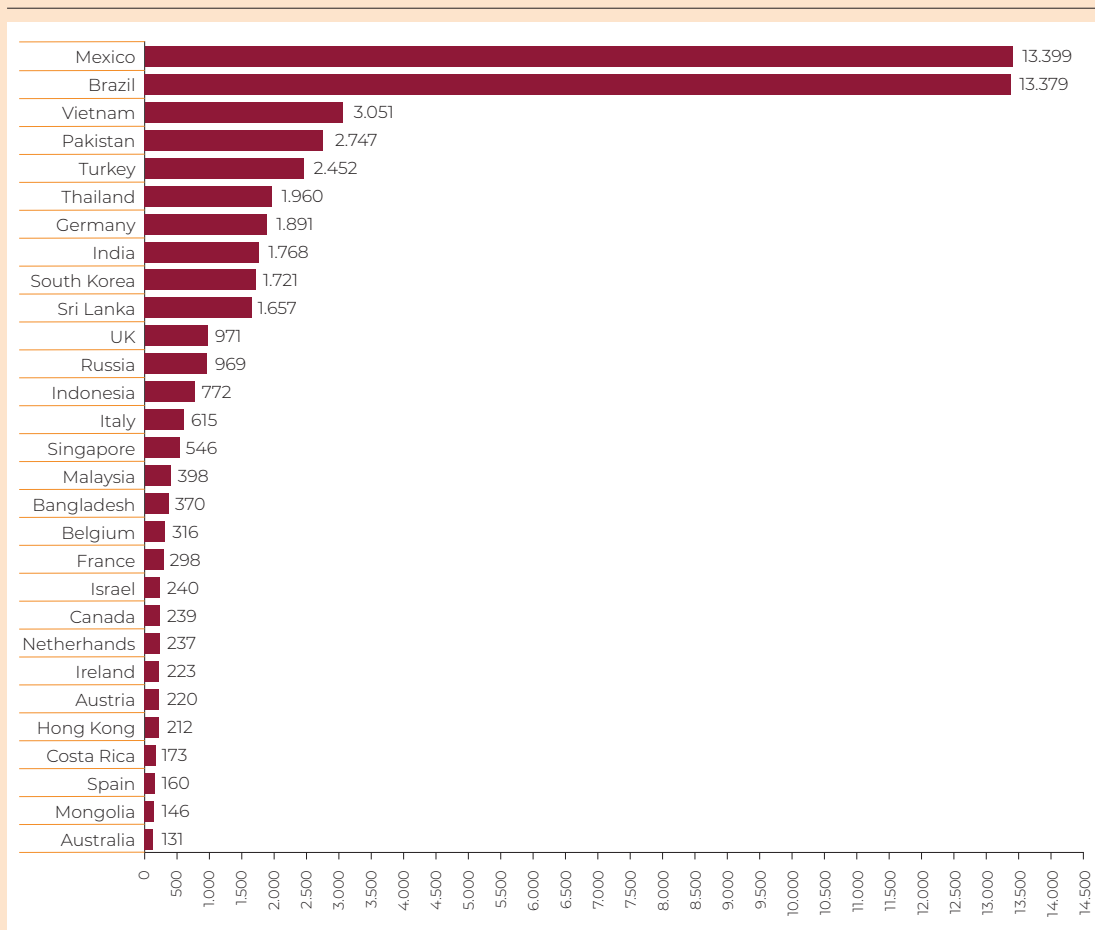
¹⁶⁷ See <https://transparency.facebook.com/content-restrictions>

Figure 27: Number of Removed Content From Facebook: Turkey (Periodical Data: 2013-2020)



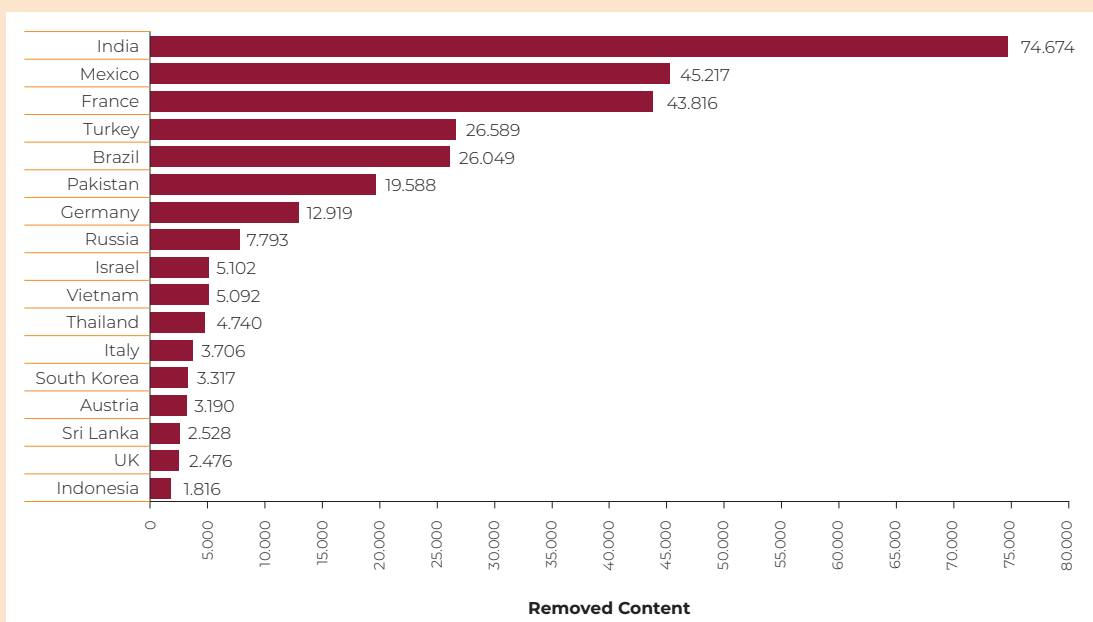
According to the 2020 statistics, **Mexico** ranked first with **13.399** content items removed, while **Brazil** ranked second with **13.379** items removed and **Vietnam** ranked third with **3.051** items removed. **Turkey**, instead ranked fifth in this category with **2.452** items removed.

Figure 28: Total number of Removed Content From Facebook: 2020



When the Facebook worldwide statistics are assessed, it is found that Facebook restricted access to a total of **300.424** content items from its platform by the end of 2020, while this figure is **54.295** for 2020. Among the countries where the highest number of content items were restricted or removed from Facebook, **India** ranked first with **74.674** items and was followed by **Mexico** with **45.217** items and **France** with **43.816** items. **Turkey** ranked fourth in this category with **26.589** items.

Figure 29: Total number of Removed Content From Facebook: 2013-2020



Unlike Twitter, Facebook does not provide further details or disclose the details of removal requests or requesting organisations.

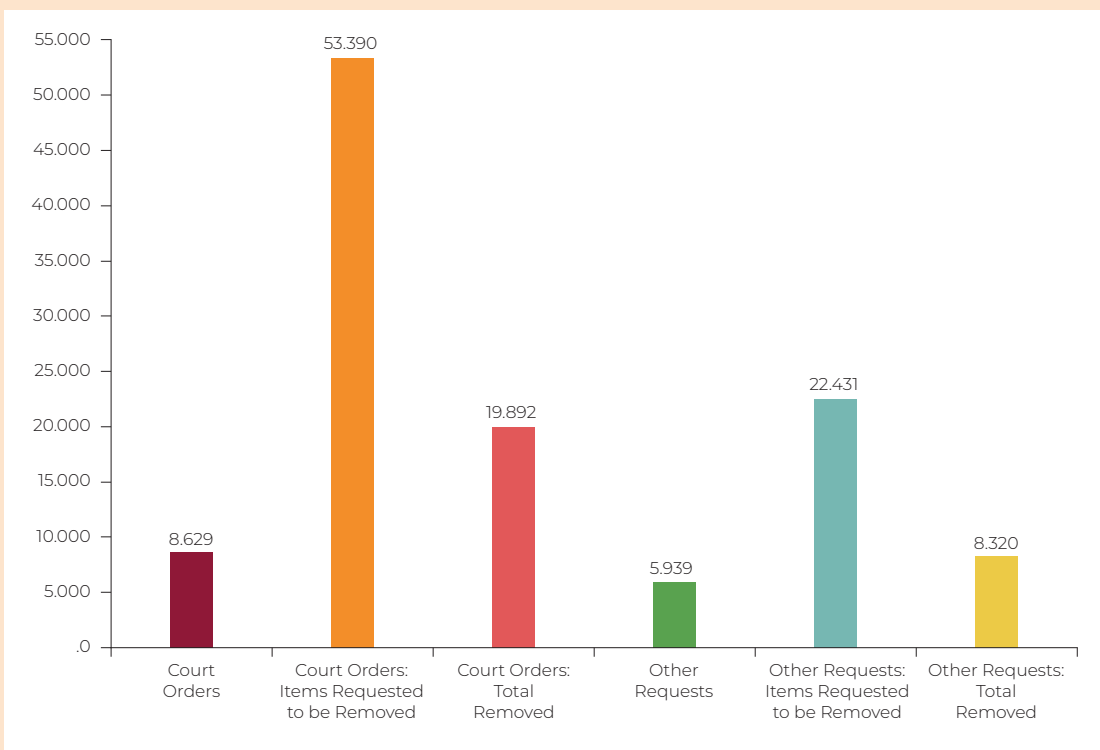
Facebook has stated that 408 of the 2.452 items removed or restricted upon requests submitted from Turkey in 2020 were removed upon the requests submitted by BTK, the courts, the Association of Access Providers, the Ministry of Health and the Ministry of Customs and Trade within the scope of Law No. 5651. It was added that 605 content items were removed subject to court orders. According to Facebook, some of the content items which were removed or restricted in the first half of 2020 were in connection with the conflicts in Syria.

RANKING OF TURKEY IN GOOGLE TRANSPARENCY REPORTS

Google started to publish transparency reports in the second half of 2009. The transparency reports include detailed statistical information on requests submitted to its services such as YouTube, Google Web Search Engine, Blogger, Google Photos, Google AdWords, Google Earth, Google Maps, Google Docs, and Google Groups for removal of content.

From 2009 until the **end of 2020**, a total of **14.568 requests** were submitted to Google from Turkey, including **8.629 court decisions** and **5.939 other removal requests** (BTK, police units, public institutions and natural or legal persons). A total of **14.568** requests were submitted for the removal of a total of **75.821** content items. **53.390** of these content items were requested to be removed subject to court decisions, while **22.431** were based on other requests.

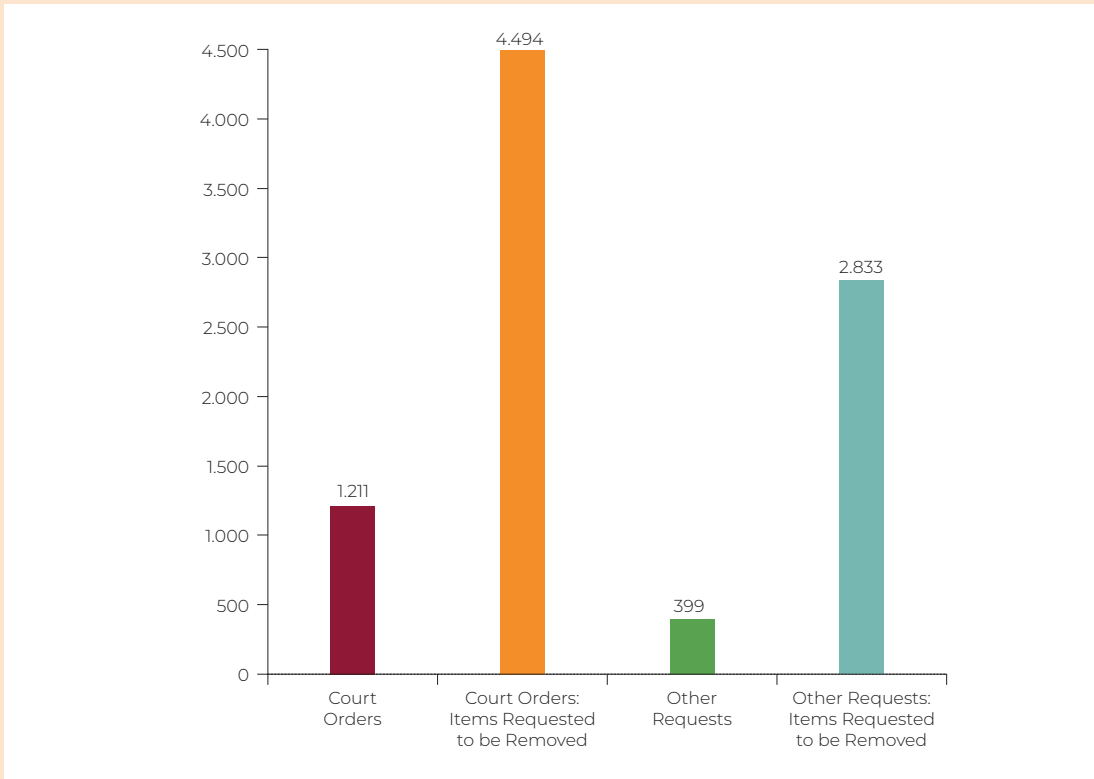
Figure 30: Turkey in Google Transparency Reports: Combined Requests for 2009-2020



19,892 of the **53,390** content items requested by the courts to be removed were removed or withheld by Google from Turkey. Similarly, Google removed or withheld **8,320** content items from Turkey subject to **22,431** content removal requests sent other than the court decisions. Thus, **by the end of 2020, 28,212** (37%) of **75,821** items requested to be removed were removed or withheld from Turkey.

As can be seen in figure 31, **a total of 1,610 requests, including 1,211 court decisions and 399 other removal requests,** were submitted from Turkey to Google in 2020.

Figure 31: Turkey in Google Transparency Reports: Combined Requests for 2020

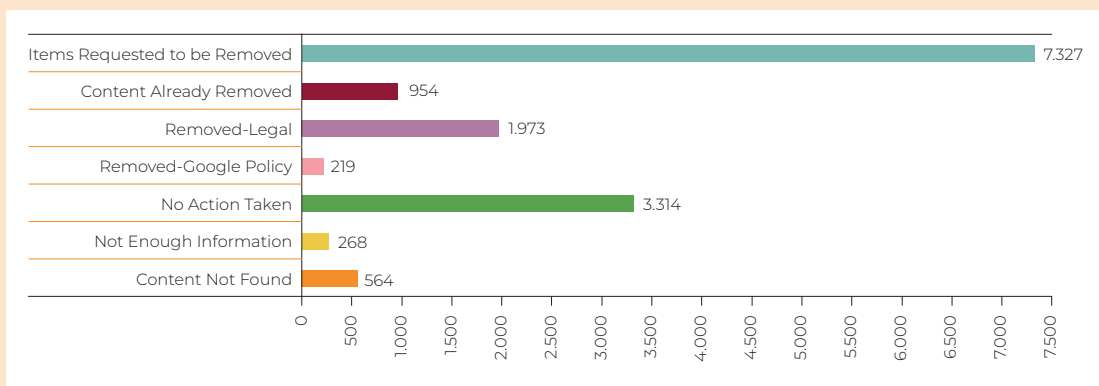


7.327 content items were specified in these removal requests, out of which **4.494** were based on court decisions, while **2.833** were based on other requests. In its 2020 transparency report, Google announced that it **removed** or withheld a total of **2.192 items**, including **1.973** content items removed or withheld subject to court decisions and **219** content items removed or withheld on the grounds that they violated Google’s policies. Google also stated that **564** content items could not be located, that there was not sufficient information on **268** content items, that they did not take any action regarding **3.314** content items and that **954** content items had already been removed.

A notable example provided in Google’s **2020 Transparency reports** was the request submitted by the Information Technologies and Communication Board for the removal of a Blogger post, which included a video from a Russian news agency, featuring footage of explosions and allegations of an attack on Turkish military forces. Google noted that they did not remove this Blogger post.

In another example, it was stated that a court order was issued upon the request of an unnamed famous brand for the delisting of eight news articles from Google Search. According to Google, the articles related to an employee of the brand’s factory who had been diagnosed with COVID-19 and that the street that the employee lived on was ordered to stay in lockdown. Google could not find the content in one of the articles and did not take action on the remaining 7 URLs. Google appealed against

Figure 32: Google: Action Taken with Regards to Requests from Turkey (2020)



the court decision and its appeal was accepted. Another request involving the COVID-19 pandemic was submitted by the Information Technologies and Communication Board, which sent an order issued by a criminal judgeship of peace subject to article 8/A of Law No. 5651 for the removal of a video claiming that the number of COVID-19 cases in Turkey was much higher than official figures. Nevertheless, Google did not remove this particular video.

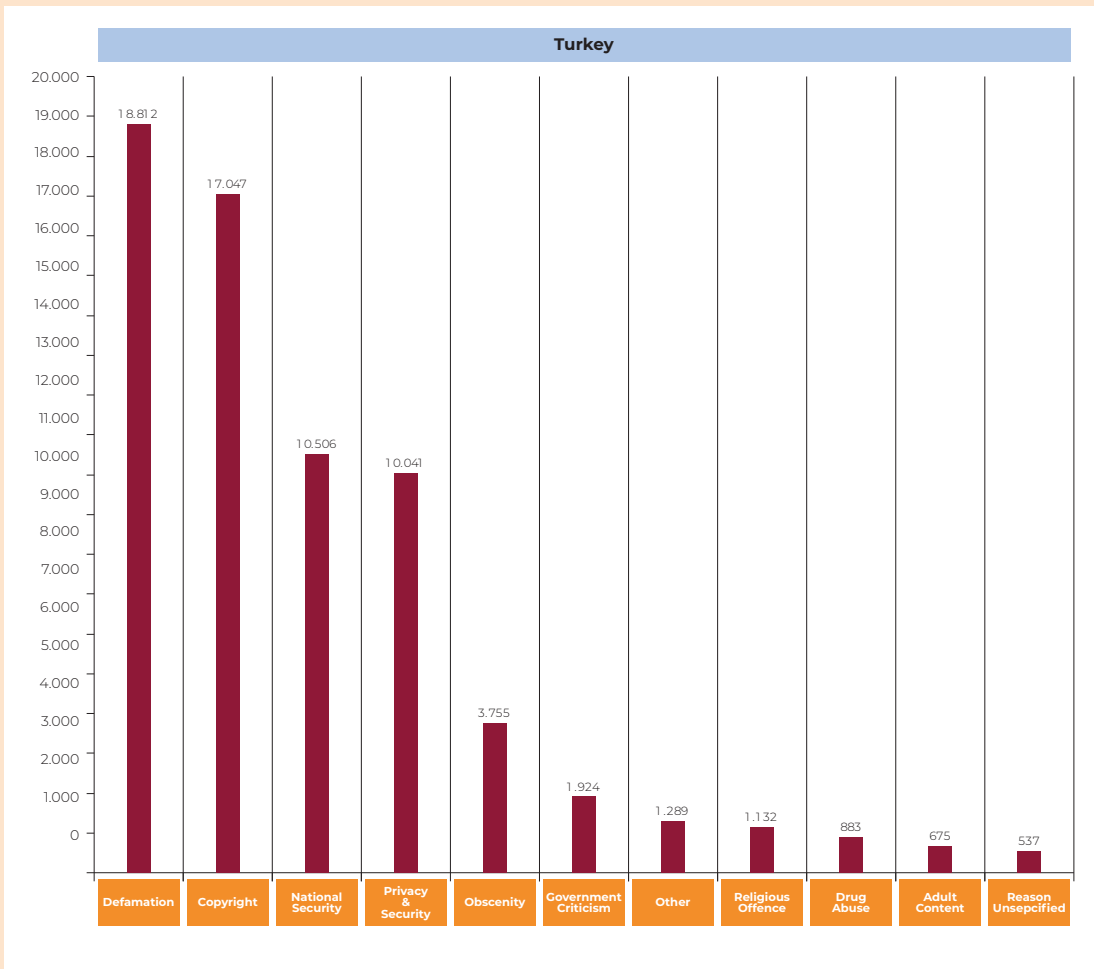
Google stated that among the requests submitted in 2020 was a request submitted by the government officials for the removal of 36 YouTube videos related to clashes on the Greek-Turkish border as Syrian refugees tried entering Greece from Turkey. The content of these videos included professional and amateur news reports as well as the footage of officials attacking the refugees. Google did not remove 33 of these videos but only removed one video for violating YouTube's Community Guidelines. On the other hand, two videos were deleted by their uploaders. Similarly, BTK requested the removal of 84 YouTube videos criticizing high-ranking government officials and sent an order issued by a criminal judgeship of peace on this matter. Google did not remove 61 of these videos but only restricted access to seven videos from Turkey. 16 videos were deleted by their uploaders.

In general, as can be seen in the tables and figures below, the most frequent reasons for the content removal requests sent to Google from Turkey were defamation, copyright, national security, privacy and security, obscenity, criticism of the government and official authorities, religious offense, drug abuse, adult content, other requests, and reason unspecified.

The most frequent reason for the requests submitted to Google from Turkey was defamation. The breakdown of the last 10 years is provided in the figures below. **By the end of 2020**, Turkish authorities requested the removal of **18,812** allegedly defamatory content items through a total of 4,042 court decisions and 428 other requests.¹⁶⁸ The examples provided by Google include the rejection of the request of a

¹⁶⁸ Google's detailed Transparency Reports have not included statistics on court decisions and other requests since the second half of 2019. Only the number of content items requested to be removed is included in the recent reports.

Figure 33: Total Number of Removal Requests (by Reason) Sent from Turkey to Google



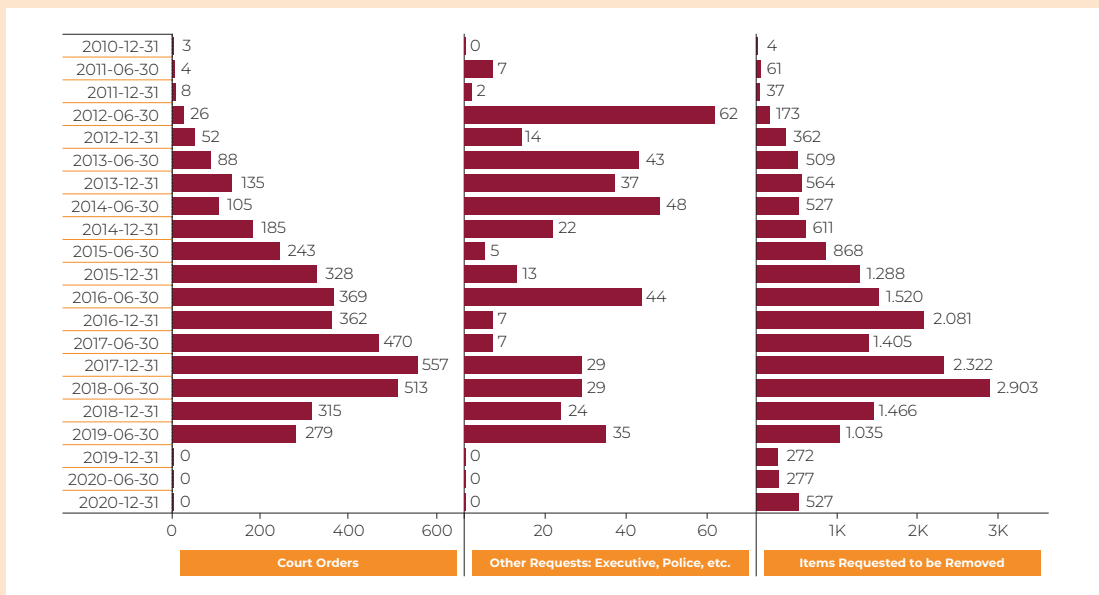
high-ranking government official for the removal of a Google Drive file that contained an image of a book that criticizes the government;¹⁶⁹ the rejection of the requests for the removal of two Google Groups posts, two Blogger posts, a Blogger image, and an entire Blogger blog that published political caricatures of a senior Government official of Turkey, despite the court order¹⁷⁰; and the rejection of the request for the removal of four Blogger posts that contained criticism of a prominent political figure in Turkey, despite a court order.¹⁷¹ Similarly, Google stated that a court order was sent for the removal of a Blogger post allegedly defaming the CEO of one of Turkey's largest media companies; that Google examined the post and realized that the post associated the claimant with a Twitter account leaking names of journalists that have been arrested for allegedly preparing a "coup d'état"; and that no action was taken regard-

¹⁶⁹ July-December 2018.

¹⁷⁰ July-December 2016.

¹⁷¹ July-December 2015.

Figure 34: Turkey in Google Transparency Reports: Total Number of Requests Involving to Defamation

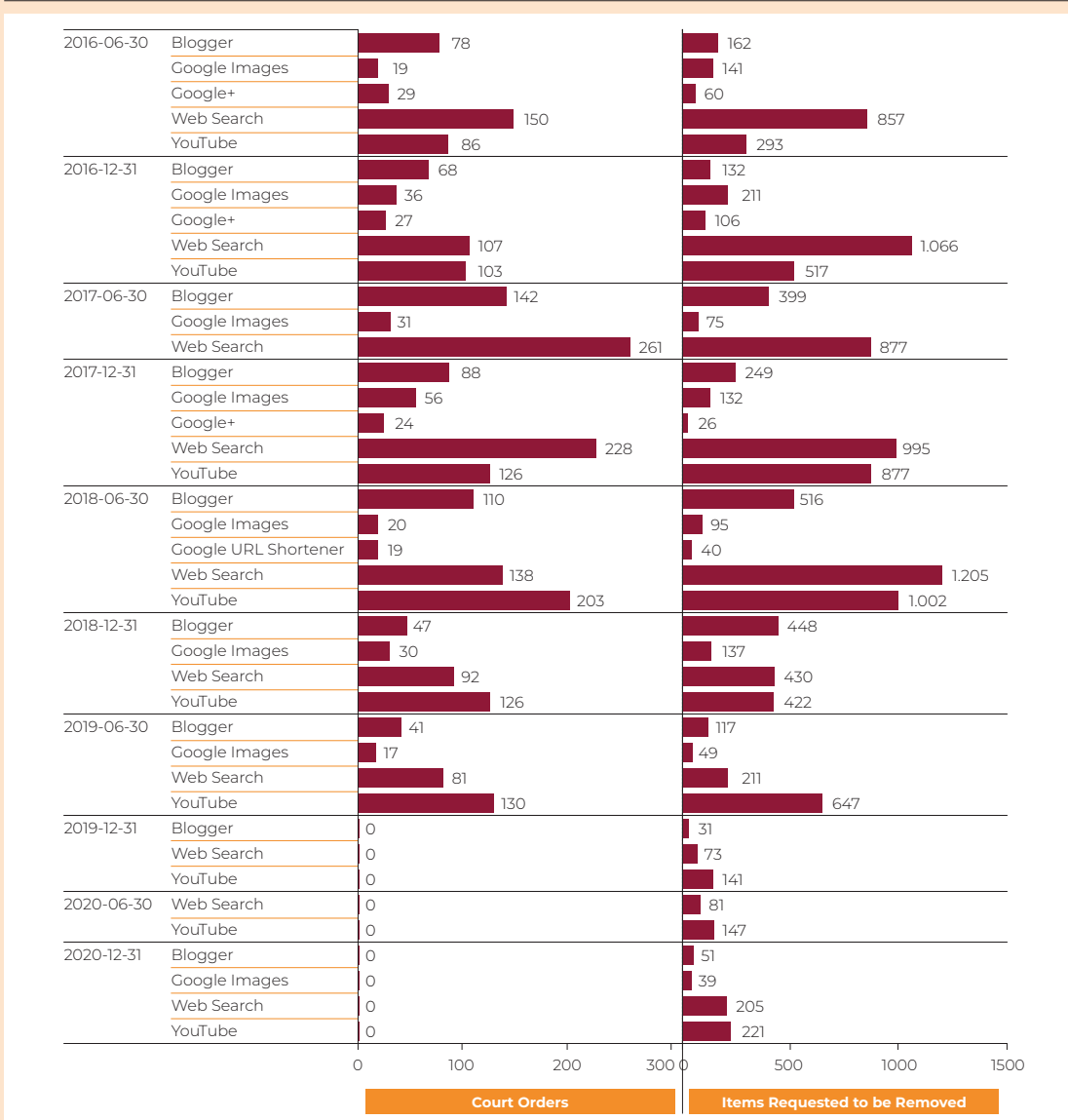


ing the post.¹⁷² More recently, a high-ranking political figure has submitted a court order for the removal of a Blogger post. Google stated that they removed the post from the Blogger service in Turkey as the court ruled that the Blogger post in question contained unsubstantiated accusations and insults against the political figure in question, as well as profanity against both the political figure in question and his/her family members.¹⁷³

¹⁷² January-June 2015.

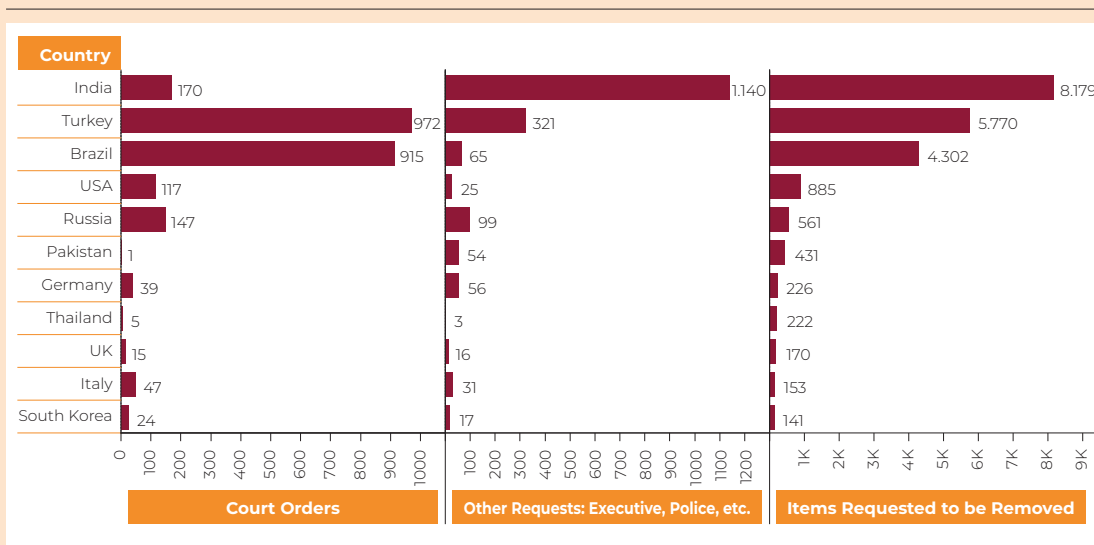
¹⁷³ July-December 2020.

Figure 35: Turkey in Google Transparency Reports
(Total Number Product Based Requests Involving Defamation): 2016-2020



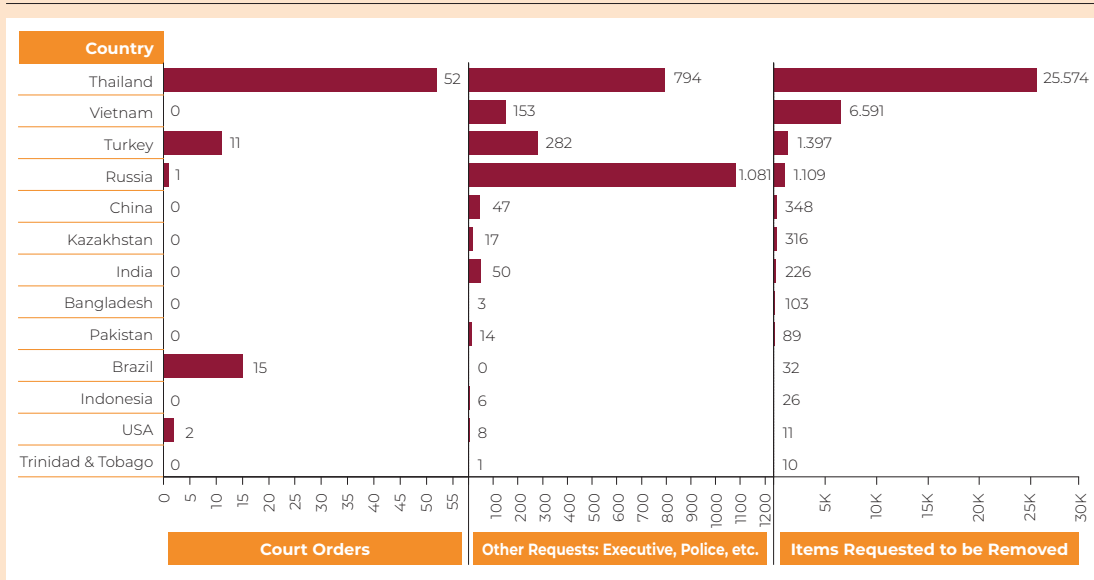
When an assessment of the **defamation** related requests for the removal of content from the YouTube platform is made, it is noted that by the **end of 2020**, the highest number of requests were sent from **India** with **8.179** requests. **Turkey** ranked second with **5.270** requests, but Turkey ranked first in this category with the highest number of court decisions sent to Google.

Figure 36: YouTube: Total Number of Defamation Related Requests



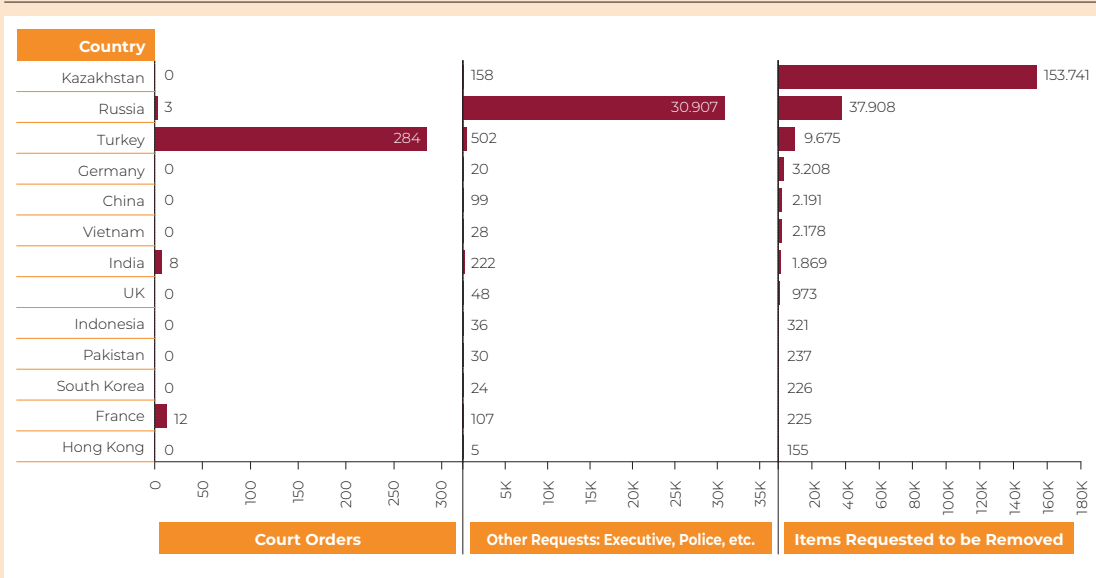
Similarly, the “**criticism of the government and official authorities**” related requests for the removal of content from the YouTube platform are assessed, it is noted that **Thailand** ranked first with **25.574** requests and that **Vietnam** ranked second with **6.591** requests. They were followed by **Turkey** with **1.397** requests.

Figure 37: YouTube: Total Number of Government Criticism Related Requests



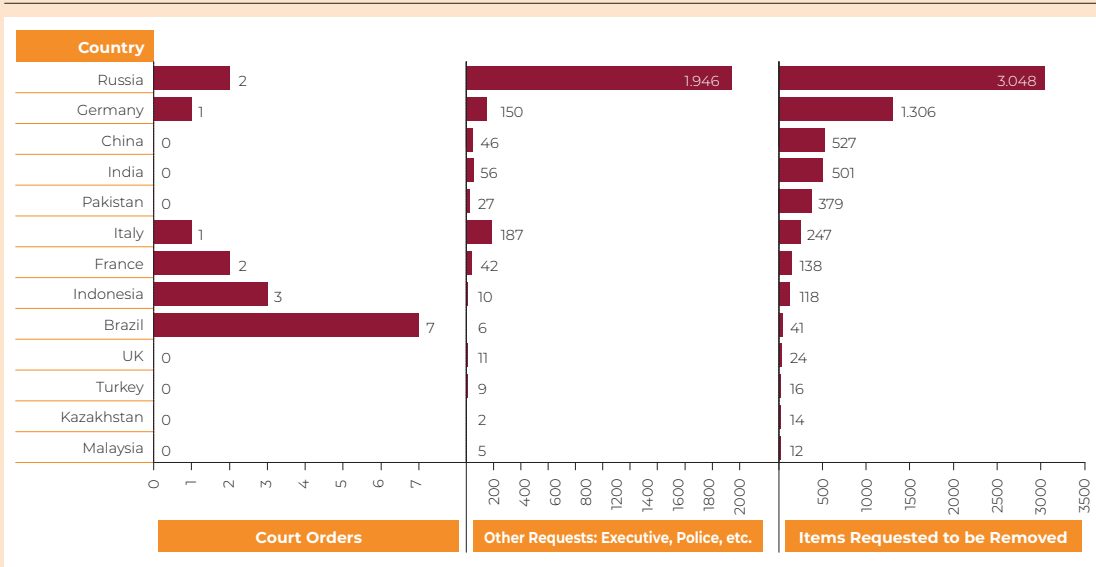
Although the leading countries changed in the category of “**national security**” in requests for removal from the **YouTube** platform, Turkey’s ranking remains similar, as **Turkey** ranked third with **9.675** requests for content removal, after **Kazakhstan** (153.741 content items) and **Russia** (37.908 content items).

Figure 38: YouTube: Total Number of National Security Related Requests



Moreover, when the category of “**hate speech**” related requests for the removal of content from the YouTube platform are assessed, a completely different picture

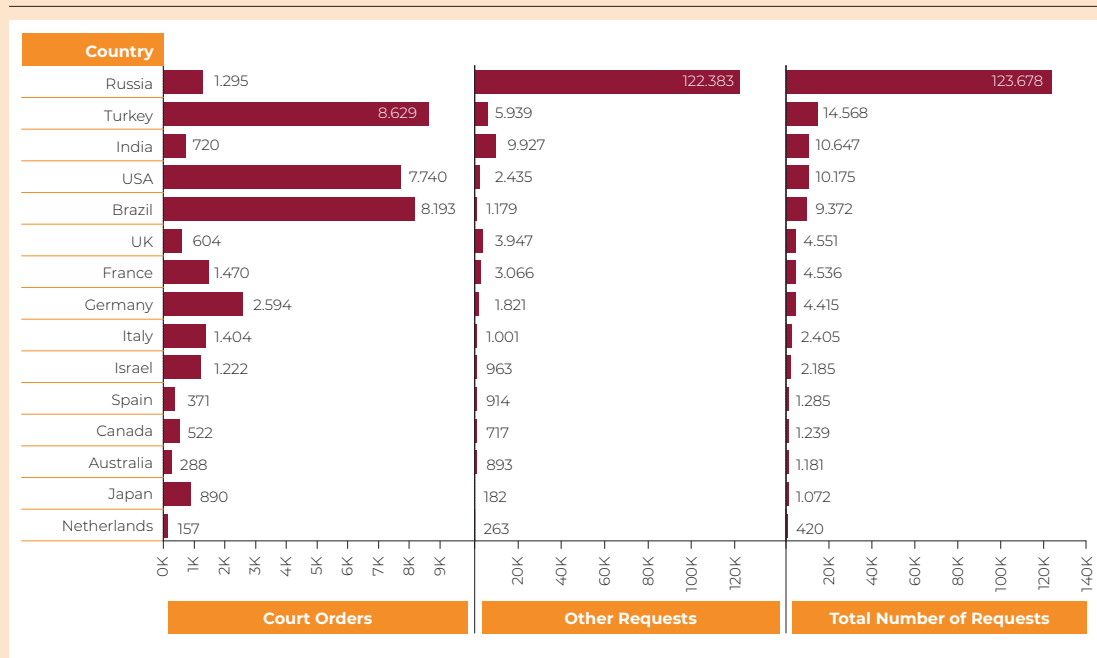
Figure 39: YouTube: Total Number of Hate Speech Related Requests



emerges as hate speech is not among the categories **Turkey** is sensitive about. While **Russia, Germany, and China** were the top three countries in this category, Turkey ranked 11th with only 16 requests.

By the **end of 2020**, a total of **212.406** requests were sent to Google worldwide, including **41.258 court decisions** and **171.158 other requests**. As can be seen in figure 40, **Russia** submitted the highest number of content removal requests (**123.678** requests) to Google as of end of 2020. Most of the requests sent from Russia (**122.383**) were categorized under “**other requests**” rather than in the category of court decisions. Only **1.295** court decisions were sent by Russia to Google. **Turkey** ranked second with **14.568** removal requests; out of which **8.629** were based on court decisions, while **5.939** were other requests. Among the countries sending the highest number of court decisions, Turkey ranked first with 8.629 decisions and was followed by Brazil with 8.193 decisions and the USA with 7.740 decisions. In the category of other requests, Turkey came third after Russia and India.

Figure 40: Total Number of Requests Sent to Google by Country: 2009-2020

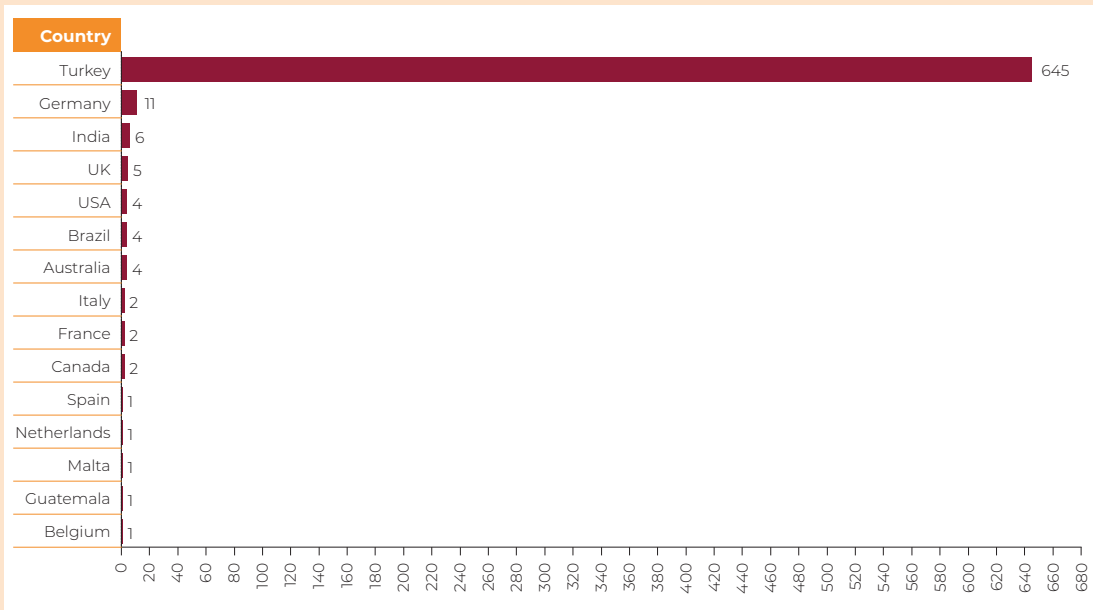


RANKING OF TURKEY IN WORDPRESS TRANSPARENCY REPORTS

According to WordPress Transparency Reports, **645 of the 690 court decisions** that were submitted to WordPress worldwide from the beginning of 2014 until the end of 2020 were submitted from **Turkey**. Turkey is followed by **Germany** with only 11 court decisions and **India** with six court decisions. In 2020, **32 of the 38 court decisions** submitted to WordPress worldwide were submitted **from Turkey**. Similarly, in 2019, **72**

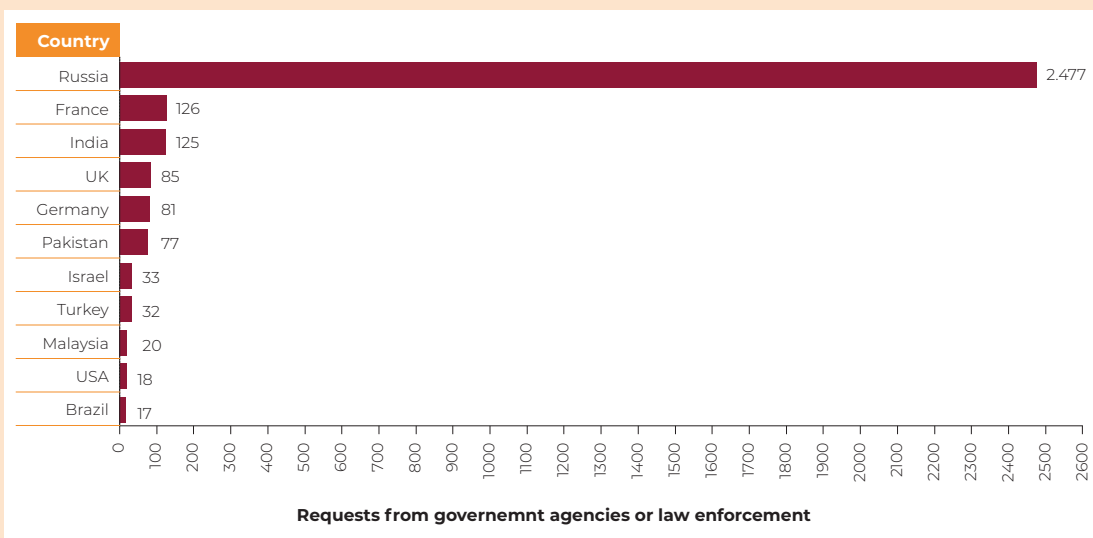
of the 75 court decisions submitted to WordPress worldwide were submitted from Turkey.

Figure 41: Turkey in the WordPress Transparency Reports: Total Number of Court Orders (2013-2020)



In the category of “other removal requests”, Russia ranked first with 2,477 requests, while there were only 32 other requests submitted from Turkey to WordPress. 27 of these 32 requests were submitted in 2019, while no request was submitted from Turkey in the category of “other requests” in 2020.

Figure 42: Turkey in the WordPress Transparency Reports: Total Number of Court Orders (2013-2020)



A total of 4,398 content items were specified for removal in 690 court orders and 3,245 other requests. In total, **903 content items were requested to be removed through** 645 court orders and 32 other requests sent from Turkey. Turkey came second in this category, while **Russia** ranked first with **1,755** items. According to the WordPress data, 54% of these removal requests were granted.

Figure 43: Turkey in the WordPress Transparency Reports: Total Number of Sites Specified for Removal (2013-2020)

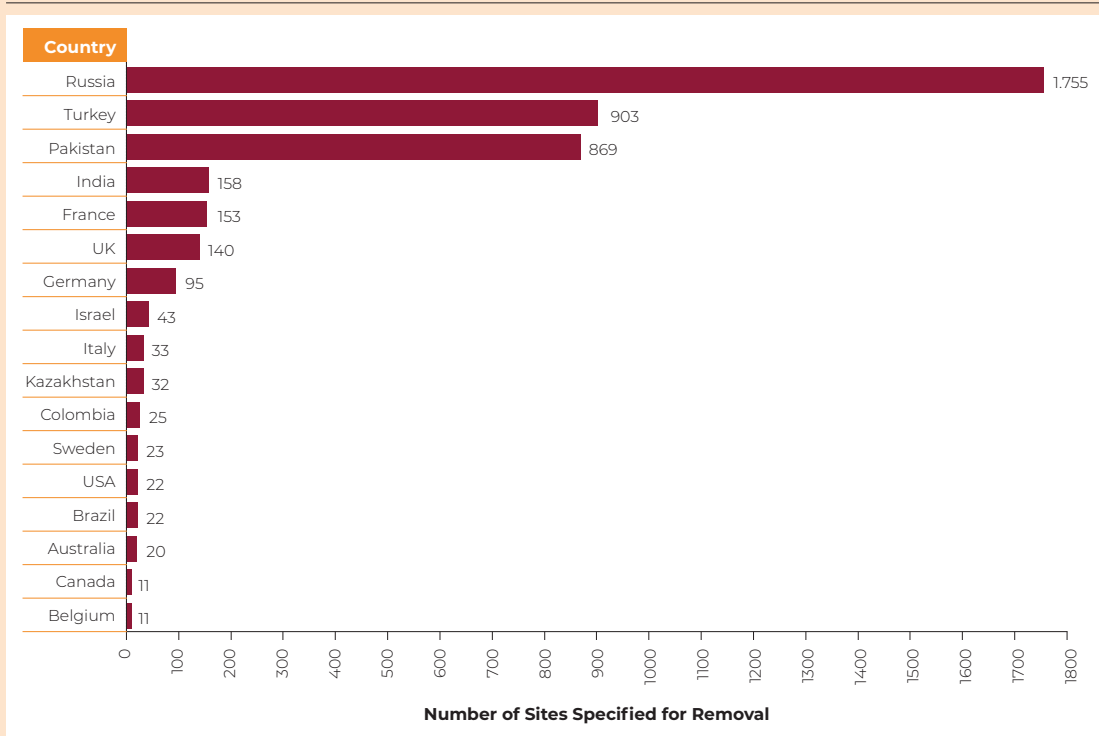


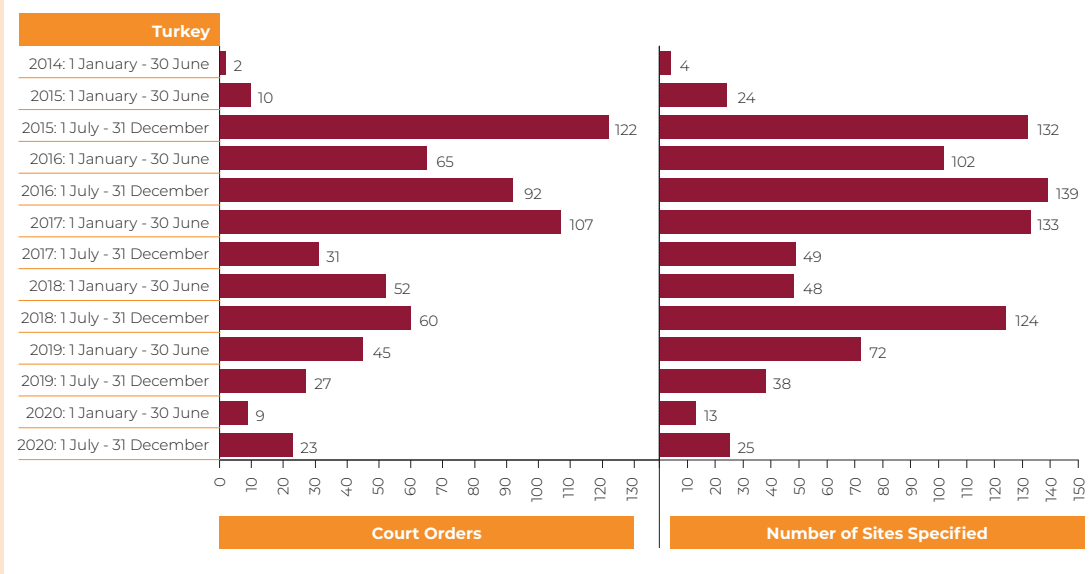
Figure 44 shows the number of court decisions submitted by Turkey and the number of items and WordPress pages specified in removal requests during each period. It is observed that court decisions were submitted most frequently in the second half of 2015, while the highest number of removal requests were submitted in the year following the 15 July 2016 coup attempt. These court decisions were issued by criminal judgeships of peace subject to articles 8/A and 9 of Law No. 5651 and sent to WordPress.

In 2020, a total of 32 court decisions were submitted from Turkey, specifying content items in a total of 38 WordPress pages for removal. Other than Turkey, court orders were submitted to WordPress only from India (3 orders), the USA (2 orders), and the United Kingdom (1 order) in 2020.

Upon those requests, by the end of 2020, **480 (39%) of the 1,237 WordPress blog pages** withheld by WordPress worldwide, were **withheld from Turkey** along with

their sub-pages.¹⁷⁴ 355 pages were withheld from **Russia**, while 305 were withheld from **Pakistan**. In practice, WordPress blocked those items from Turkey and other countries through the “geoblocking” technology and users attempting to access the blocked pages are greeted with the following notification message:

Figure 44: Total Number of Content Removal Requests (by Period) to WordPress from Turkey



In 2020, a total of 19 different WordPress blog addresses were blocked from Turkey through this method subject to court decisions. The pages of Bursa City Council (<https://bursakentkonseyi.wordpress.com>) and Solidarity of Pontos (<https://yasayan-pontosdayanismasi.wordpress.com/>) were among the WordPress pages blocked from Turkey in 2020.

Screenshot 42: WordPress Notification Message

ERROR 451: Unavailable for Legal Reasons

This site has been blocked in response to a unilateral order from a Turkish authority. You can find out about alternative ways to view this content on our guide to [bypassing Internet restrictions](#).

Bu site, yetkili bir Türk makamından gelen tek taraflı bir talebe cevaben engellenmiştir. Bu içeriği görüntülemek için alternatif yolları [internet kısıtlamalarını aşmaya ilişkin kılavuzumuzdan](#) öğrenebilirsiniz.

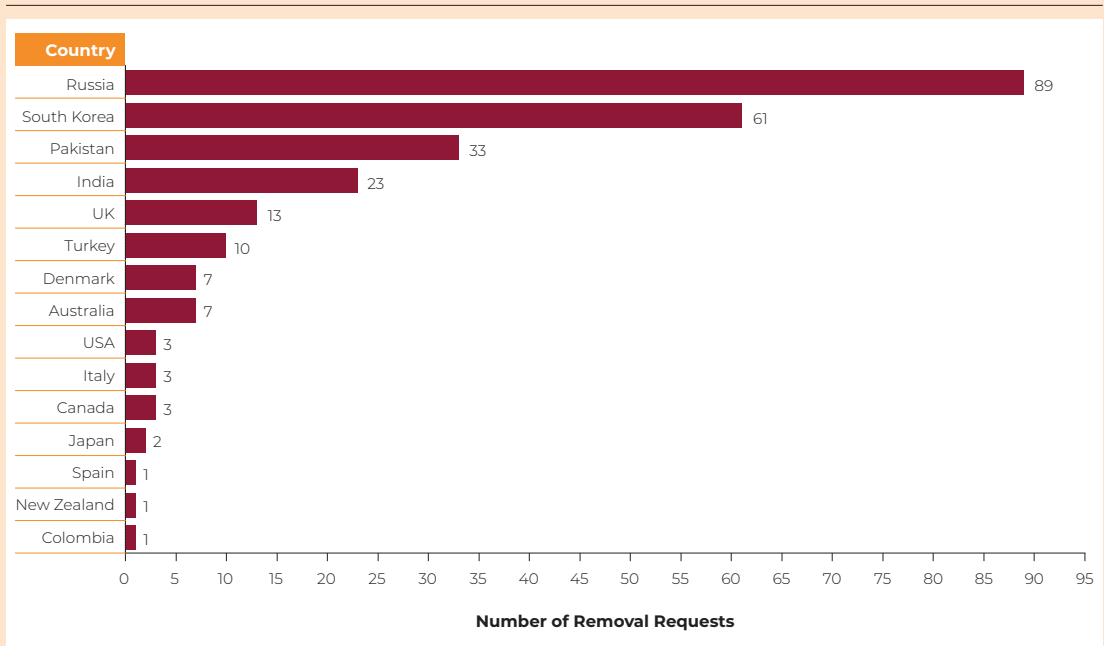
¹⁷⁴ See <https://transparency.automattic.com/country-block-list-february-2020/#turkey>

On 16.07.2018, 116 separate WordPress blog pages and content items (URL-based) were blocked and withheld from Turkey subject to a single blocking order of the Istanbul 6th Criminal Judgeship of Peace (no. 2018/3996) upon a request from President Recep Tayyip Erdoğan on the grounds that the pages and content violated his personal rights and that the pages “contain defamatory content that go beyond the limits of the freedom of the press and the freedom of expression and violate personal rights.”

RANKING OF TURKEY IN REDDIT TRANSPARENCY REPORTS

Among popular social media platforms, Reddit also included Turkey in its Transparency Report in 2020, as in previous years.¹⁷⁵ As will be recalled, in 2015, access to Reddit platform was blocked from Turkey for a short period of time subject to a blocking order of the Telecommunications Communication Presidency. In its 2015 Transparency Report, Reddit stated that no explanation was provided on the reason for the brief block.¹⁷⁶ In its 2020 report, Reddit stated that a total of **257** content removal requests were submitted from foreign countries. In this category, **Russia** ranked first with **89** requests and was followed by **South Korea** with **61** requests and **Pakistan** with **33** requests. **Turkey** submitted only **10** requests in this category. In 2020, Reddit announced the number of removed content items for the first time and stated that it complied with 167 of the 257 requests in total. Reddit announced that it complied

Figure 45: Reddit 2020 Transparency Report: Number of Removal Requests

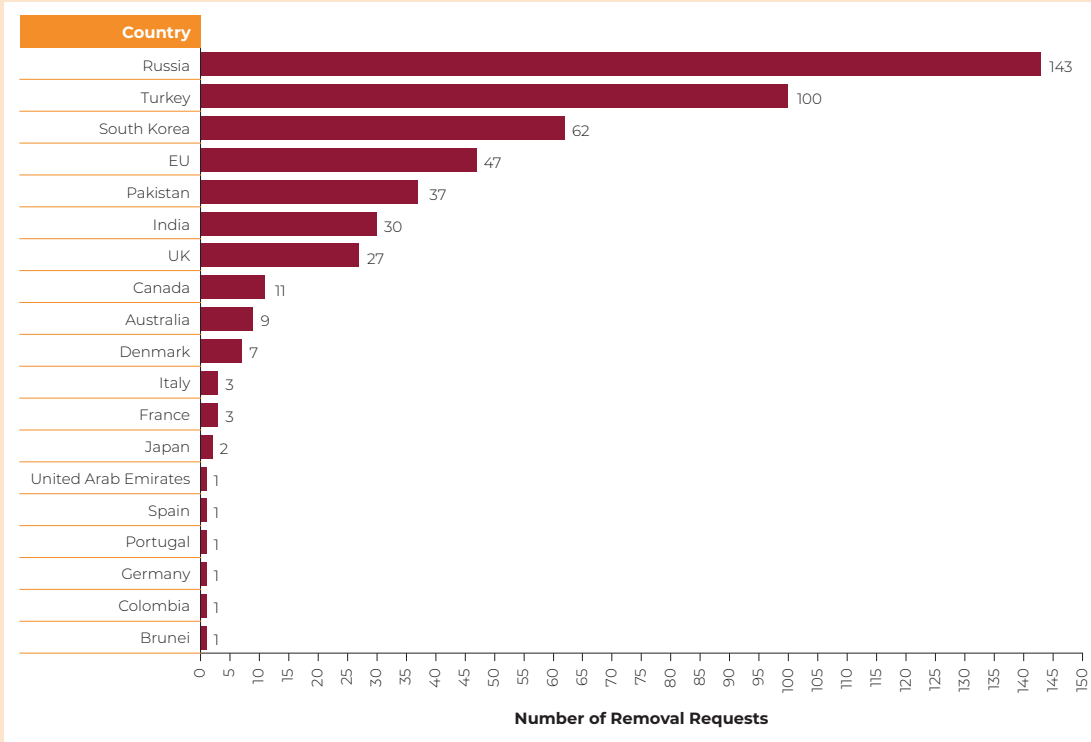


¹⁷⁵ 2020 Reddit Transparency Report: <https://www.redditinc.com/policies/transparency-report-2020>; 2019 Reddit Transparency Report: <https://www.redditinc.com/policies/transparency-report-2019>; 2018 Reddit Transparency Report: <https://www.redditinc.com/policies/transparency-report-2018>.

¹⁷⁶ See <https://www.reddit.com/wiki/transparency/2015>

with 8 of the 10 requests sent from Turkey. Reddit reported that it removed or withheld some of those content items, especially in circumstances where a court decision was submitted. Reddit also stated that it rejected some of these requests on the grounds of non-compliance with international law. Reddit also noted that **768** other requests were submitted by natural and legal persons and that only three requests were submitted from Turkey in this category.

Figure 46: Reddit 2016-2020 Transparency Reports: Total Number of Removal Requests



A total of **491** content removal requests were submitted since 2016, when Reddit released its first transparency report, until the end of 2020. While **Russia** ranked first in the total number of requests with **143 requests**, **Turkey** ranked second with **100 requests**.

RANKING OF TURKEY IN TIKTOK TRANSPARENCY REPORTS

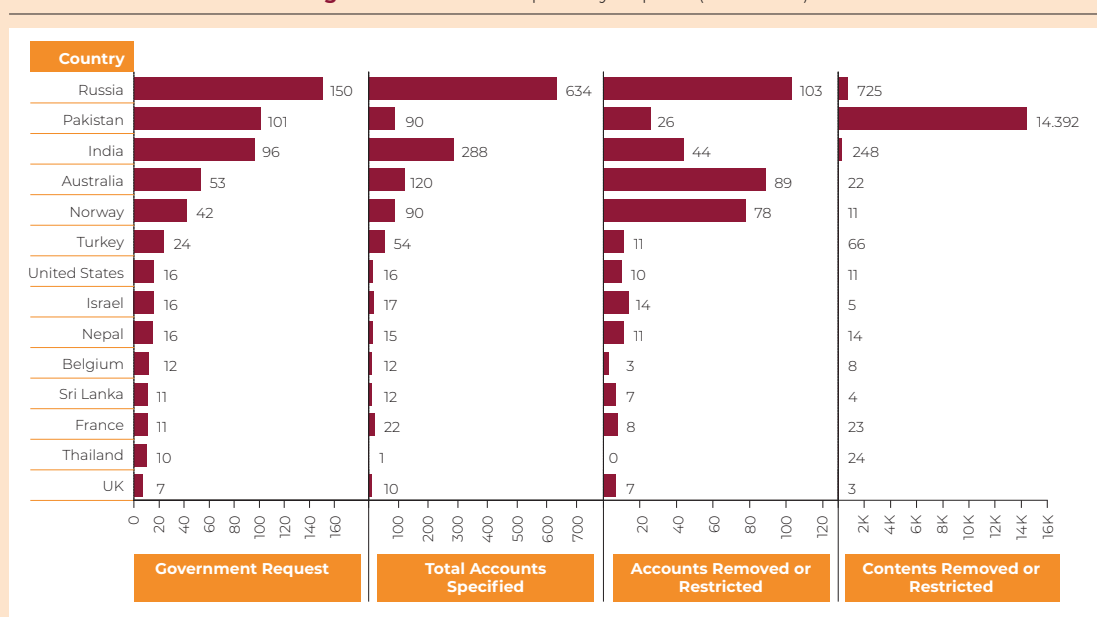
The video sharing platform TikTok was launched in 2017 and started to release bi-annual transparency reports in 2019, just like other social media platforms included in this report.¹⁷⁷ A total of 620 government requests were submitted to TikTok in 2019-2020. Most of these requests (547 requests) were submitted to TikTok during 2020. In these requests, a total of 1.681 TikTok accounts were specified for removal. Majority

¹⁷⁷ See <https://www.tiktok.com/transparency>

of these requests (1.512 accounts) were submitted during 2020. TikTok announced that a total of 577 (34%) accounts were deleted or restricted. Most of these accounts (431 accounts - 74%) were deleted or restricted during 2020. In its transparency reports, TikTok only discloses the number of content items removed or restricted, but does not reveal the number of content items requested to be removed or restricted. A total of 15.726 content items were removed or restricted by TikTok in this context.

While **Russia** submitted the highest number of requests in total with 150 requests, **Pakistan** ranked second with 111 requests and was followed by India with 96 requests. **Turkey** ranked sixth with **24** requests. The highest number of requests for account deletion were also submitted from Russia with 634 requests. India submitted 288 requests for account deletion, while **Australia** submitted 120 requests and **Turkey** submitted 54 requests. The highest number of accounts deleted upon these requests were deleted from **Russia** (103 requests). Moreover, 89 accounts were deleted from **Australia**, while 78 accounts were deleted from **Norway**. 11 accounts were deleted or restricted from **Turkey**. In the category of removed or restricted content items, **Pakistan** ranked first with 14.392 content items and was followed by **Russia** with 725 content items and **India** with 248 content items. A total of 66 content items from **Turkey** were restricted or removed.

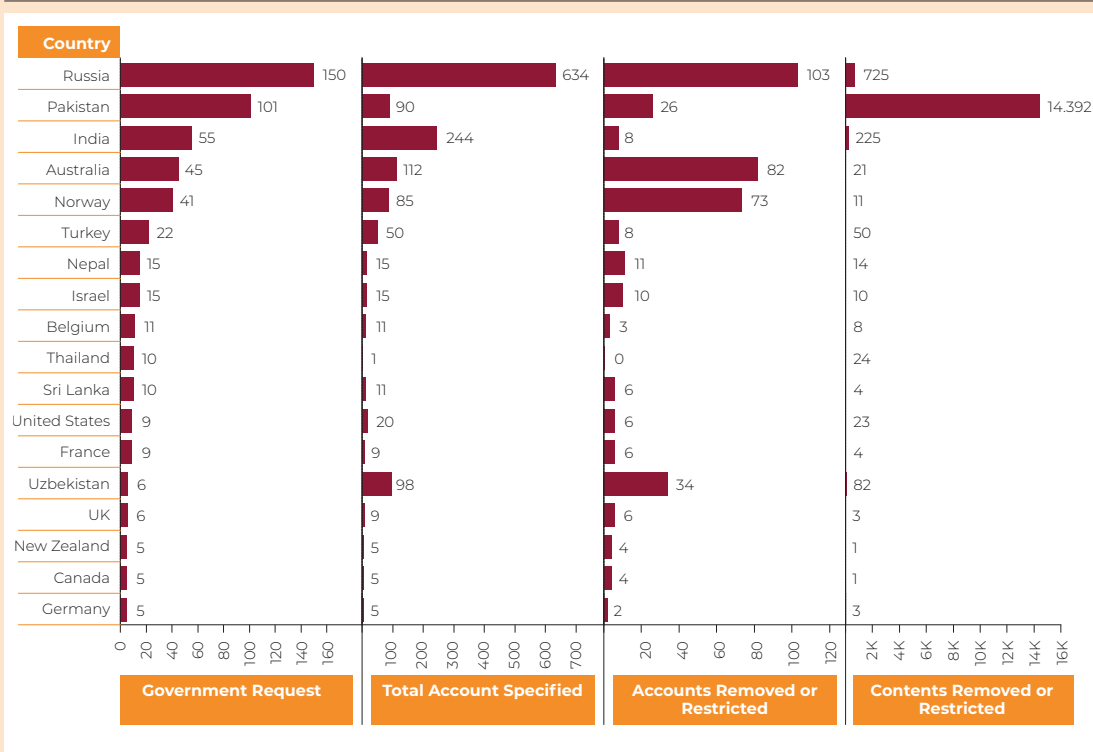
Figure 47: TikTok Transparency Reports (2019-2020)



Considering that TikTok only started to publish transparency report since 2019, a similar picture emerged in terms of statistics for 2020: While **Russia** submitted the highest number of requests in total with 150 requests, **Pakistan** ranked second with 101 requests and was followed by **India** with 55 requests. **Turkey** ranked sixth with **22** requests. The highest number of requests for account deletion were also submitted from Russia with 634 requests. **India** submitted 244 requests for account deletion,

while Australia submitted 112 requests and **Turkey** submitted 50 requests. The highest number of accounts deleted upon these requests were deleted from **Russia** (103 requests). 82 accounts were deleted from **Australia**, while 73 accounts were deleted from **Norway**. Only 8 accounts were deleted or restricted from **Turkey**. In the category of removed or restricted content items, **Pakistan** ranked first with 14.392 content items and was followed by **Russia** with 725 content items and India with 225 content items. A total of 50 content items from **Turkey** were restricted or removed.

Figure 48: TikTok Transparency Report (2020)



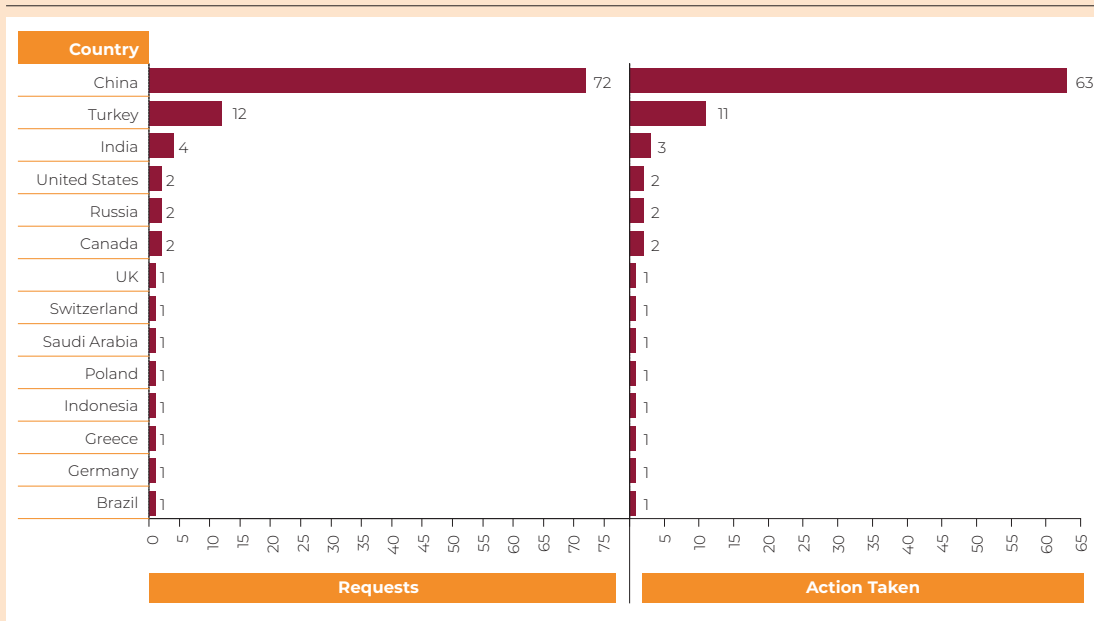
RANKING OF TURKEY IN LINKEDIN TRANSPARENCY REPORTS

LinkedIn is a professional social networking and social sharing platform founded in late 2002 with the aim of enabling people in the business world to communicate with others and exchange their knowledge with one another. LinkedIn has been releasing transparency reports since 2011 and started to include account deletion and content removal requests submitted by governments in its transparency reports since 2018.¹⁷⁸ As can be seen in these reports, LinkedIn’s reports contain much less information compared to the transparency reports released by other social media platforms. In

¹⁷⁸ See <https://about.linkedin.com/transparency/government-requests-report>

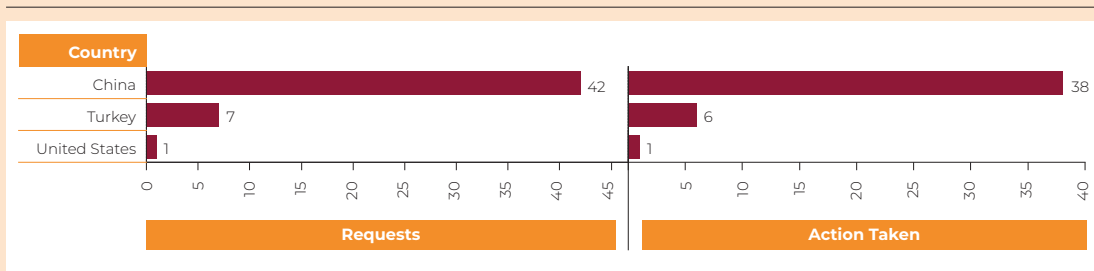
the LinkedIn reports, only the number of requests submitted by governments and the number of requests processed are disclosed. In this context, the highest number of requests were submitted to LinkedIn from **China** (72 requests) from 2018 to 2020, while **Turkey** ranked second (12 requests), and India ranked third (4 requests). Similarly, the highest number of requests processed were submitted from **China** with 63 requests, while 11 requests from **Turkey** were processed.

Figure 49: LinkedIn Transparency Reports (2018-2020)



In 2020, 42 requests were submitted to LinkedIn from **China**, while 7 were submitted from **Turkey**, and one was submitted from the **USA**. In its 2020 transparency report, LinkedIn stated that it processed 38 requests from **China**, 6 requests from **Turkey**, and a single request from the **USA**.

Figure 50: LinkedIn Transparency Reports (2020)



SOCIAL MEDIA ACCOUNTS INVESTIGATED IN 2020

Statistical information about investigations into several social media accounts as well as legal action taken in relation such accounts involving the crimes of making propaganda for a terrorist organization, praising those organizations, publicly declaring affiliation with terrorist organizations, inciting people to enmity and hatred, insulting state officials, acting against the indivisible integrity of the state, threatening the safety of the nation and hate speech were shared by the Ministry of Interior on a weekly basis in 2018. Since 2019, such information has been shared on a monthly basis.

According to weekly statements and statistical data, it is observed that during 2018, **26.996 social media accounts** were investigated, and legal actions were taken against **13.544 accounts**. However, in the statement of the Ministry of Interior dated 31.12.2018 and entitled “**Operations Carried out Between 1 January and 31 December 2018,**” it was stated that **42.406 social media accounts** were investigated in relation to the crimes of “making propaganda for a terrorist organization, praising those

Figure 51: Data on Social Media Investigations and Judicial Processes by the Ministry of Interior (2018-2020)



organizations, publicly declaring affiliation with terrorist organizations, inciting people to enmity and hatred, insulting state officials, acting against the indivisible integrity of the state and threatening the safety of the nation, and hate speech.” As a result of these investigations, **legal action was taken against 18.376 people.**¹⁷⁹

According to monthly data released in 2019, it is observed that **44.424 social media accounts** were investigated, and legal actions were taken against **22.728 accounts.**¹⁸⁰ In the annual report of the Ministry of Interior released at the end of 2019, it was stated that by the end of 2019, **53.814 social media accounts** were investigated in relation to the crimes of “making propaganda for a terrorist organization, praising those organizations, publicly declaring affiliation with terrorist organizations, inciting people to enmity and hatred, insulting state officials, acting against the indivisible integrity of the state and threatening the safety of the nation, and hate speech.” As a result of these investigations, **legal action was taken against 24.224 people.** More specific statistical data was provided with regards to **Operation Peace Spring**, which was launched in October 2019. The Ministry stated that 1.297 accounts identified for allegedly making propaganda for a terrorist organization, 452 people were detained and 78 people were arrested.¹⁸¹

According to monthly data released in 2020, it is observed that **75.292 social media accounts** were investigated, and legal action was taken against **32.390 accounts.** Subsequently, 2.397 persons were detained and 77 persons were arrested within the scope of these investigations. In addition, 340.212 digital materials were examined in 2020. From 15.07.2016 until the end of 2020, a total of 2.348.230 digital materials were examined.¹⁸² In the 2020 Annual Report published by the Directorate General for Security,¹⁸³ the Ministry of the Interior stated that they conducted operations against 61.897 social media accounts with allegedly criminal posts involving FETÖ/PDY activities, DAESH activities, PKK activities, insults to government officials, drug abuse, child abuse, illegal payment systems, extremist left-wing organizations and illegal betting, and that legal action was taken against a total of 30.091 users identified, as part of **virtual patrol** activities. In addition, it was noted that legal action was taken against 4.348 social media accounts within the scope of Law No. 6222 on the Prevention of Violence and Disorder at Sporting Events. Finally, according to the statement of the Ministry of the Interior on 05.04.2020, a total of 7.127 social media accounts were examined throughout Turkey regarding the COVID-19 outbreak. As a result of

¹⁷⁹ See Ministry of Interior, Operations in the Period of 1 January – 31 December 2018, <https://www.icisleri.gov.tr/1-ocak-31-aralik-2018-yili-icerisinde-yurutulen-operasyonlar>

¹⁸⁰ The Ministry of Interior did not share the data for February and December 2019. The average figures of the other 10 months were used for these two months for the purposes of this study.

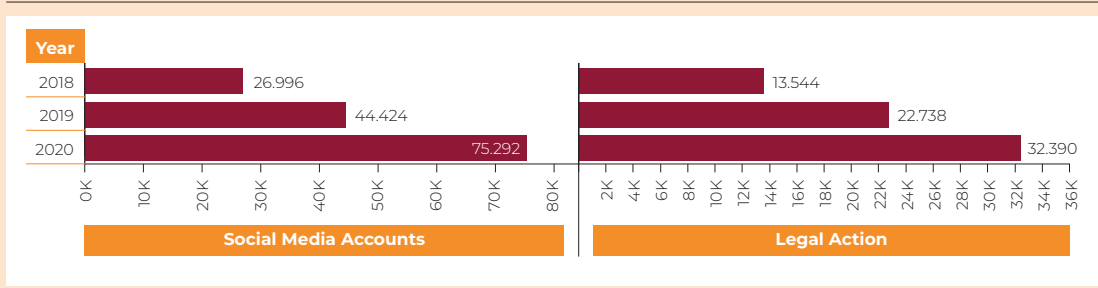
¹⁸¹ Press Release: “Emniyet Genel Müdüremüz Sayın Mehmet Aktaş Başkanlığında Koordinasyon Toplantısı Düzenlendi” [A Coordination Meeting Was Held under the Chairmanship of Mr. Mehmet Aktaş, General Director of Security], 30.10.2019, <https://www.egm.gov.tr/emniyet-genel-mudurumuz-sayin-mehmet-aktas-baskanliginda-koordinasyon-toplantisi>

¹⁸² Anadolu Agency, “İçişleri Bakanlığı Sözcüsü Çataklı: Boğaziçi’ndeki eylemlerde gözaltına alınan 17 kişiden 15’i Boğaziçi öğrencisi değil” [İsmail Çataklı, Spokesperson of the Ministry of the Interior, says, “15 of 17 people detained over the protests at Bogazici University are not students of the university”], 05.01.2021, <https://www.aa.com.tr/tr/turkiye/icisleri-bakanligi-sozcusu-catakli-bogazicindeki-eylemlerde-gozaltina-alinan-17-kisiden-15i-bogazici-ogrencisi-degil/2098548>

¹⁸³ See https://www.egm.gov.tr/kurumlar/egm.gov.tr/IcSite/strateji/Planlama/2020_IDARE_FAALİYET_RAPORU.pdf

these examinations, 496 people were detained and 10 people were arrested for their social media posts about the COVID-19 outbreak.¹⁸⁴

Figure 52: Ministry of Interior Data: Number of Social Media Related Criminal Investigations (2018-2020)



Therefore, a total of 146.712 social media accounts were examined from 2018 to 2020, and legal action was taken against 68.672 of them. No data has been disclosed regarding the detention or arrest orders issued or the judicial process carried out as a result of these legal actions.

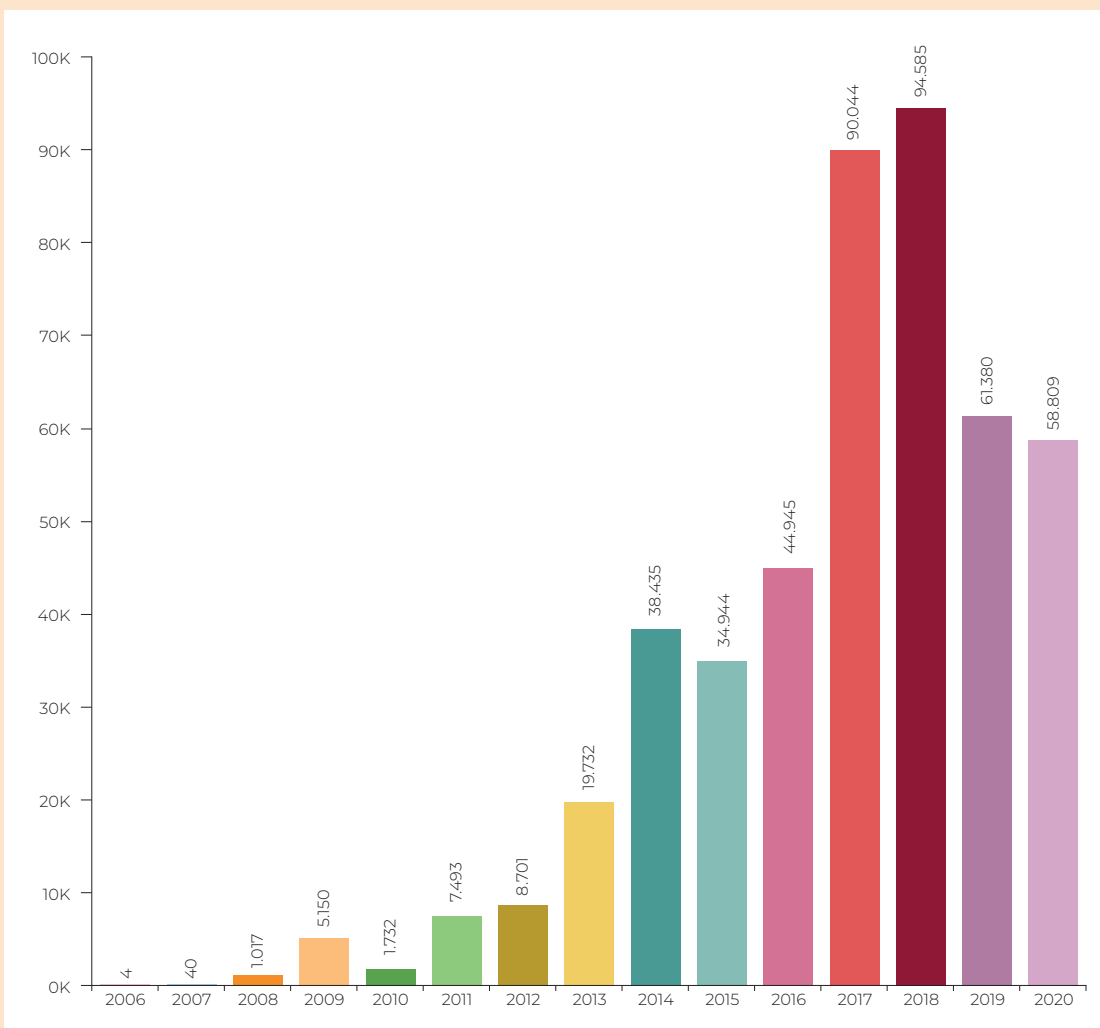
CONCLUSION AND OVERALL EVALUATION

Within the scope of the 2020 EngelliWeb report, prepared by the Freedom of Expression Association, it is determined that by the end of 2020, **467.011 websites and domain names** were blocked from Turkey. As can be seen in the figure 53, as part of the EngelliWeb project, it is determined that the number of blocked websites and domain names was **40** in **2007**, **1.017** in **2008**, **5.150** in **2009**, **1.732** in **2010**, **7.493** in **2011**, **8.701** in **2012**, **19.732** in **2013**, **38.435** in **2014**, **34.944** in **2015**, **44.945** in **2016**, **90.044** in **2017**, **94.585** in **2018**, **61.380** in **2019**, and **58.809** in **2020**.

The **467.011** websites and domain names that were blocked from Turkey by the end of 2020 were blocked subject to **404.808** separate blocking orders issued by **764** separate authorities. By the end of 2020, a total of **418.528 websites were blocked from Turkey by administrative blocking orders subject to article 8 of Law No. 5651**, including **129.160** blocked by TIB until its closure and **289.368** blocked by the President of BTK following the closure of TIB. Access to **35.008 domain names and websites** was blocked by **judicial organs** (criminal judgeships of peace, public prosecutors' offices, and the courts). In general, a total of **9.042** websites were blocked by the Ministry of Health, **2.112** were blocked by the Directorate of Spor Toto Organization, **846** were blocked by the Capital Markets Board, **615** were blocked by the Directorate General of National Lottery Administration, **306** were blocked by the Ministry of Agriculture and Forestry, **220** were blocked by the Ministry of Customs and Trade, **125** were blocked by the Jockey Club of Turkey, **99** were blocked by directorates of execution, **67** were blocked by the Directorate of Tobacco and Alcohol, **32** were blocked by

¹⁸⁴ HRFT, 2020 Türkiye'de İnsan hakları İhlalleri Raporu [2020 Human Rights Violations in Turkey Report], 10.12.2020, <https://tihv.org.tr/basin-aciklamalari/verilerle-2020-yilinda-turkiyede-insan-haklari-ihlalleri/>

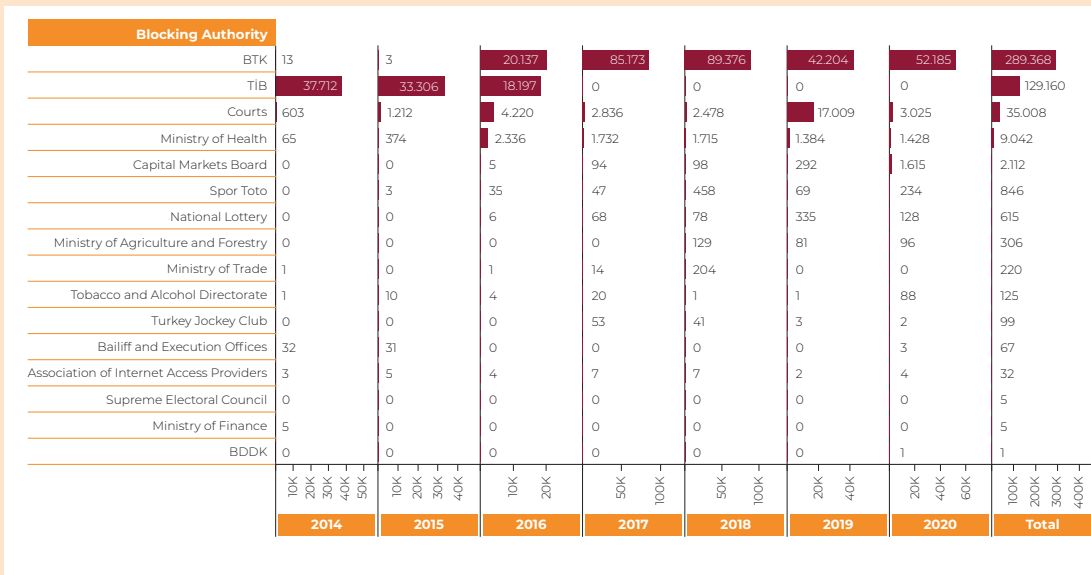
Figure 53: Total Number of Blocked Websites from Turkey: 2006-2020



the Association of Access Providers, **5** were blocked by the Supreme Election Council, **5** were blocked by the Ministry of Finance, and **1** was blocked by the Banking Regulation and Supervision Agency (“BDDK”).

On the other hand, as part of the EngelliWeb project, it was determined that a total of **22.554 news articles** (URL-based) were blocked and that **15.832 news articles (URL)** were deleted or removed in accordance with article 9 of Law No. 5651. These URLs were blocked subject to **5.136 separate orders** issued by **468 separate** criminal judgeships of peace. While 2019 ranked first with a total of **5.700** blocked news articles, 2020 was the year when the highest number of news articles (**4.620** news articles) were deleted or removed. Thus, self-censorship, which was a common practice among news websites since 2018, increased significantly in 2020, especially after the legal amendments made in July 2020.

Figure 54: Websites Blocked from Turkey 2014-2020: by the Blocking Authority



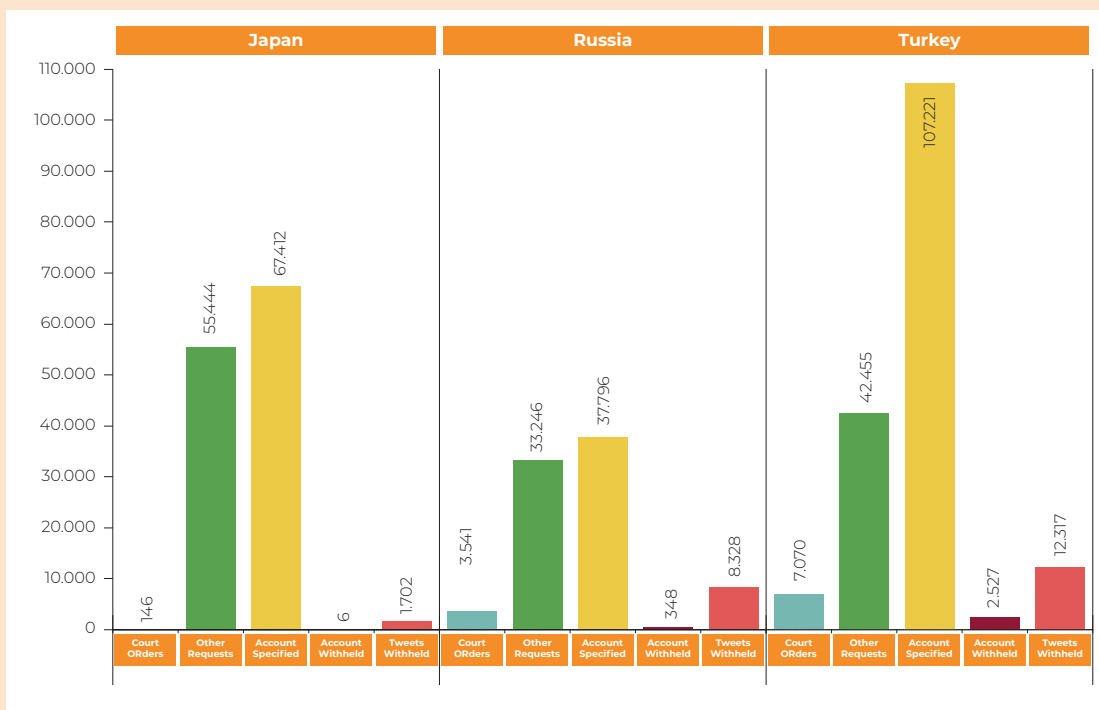
The 2020 report also showed that the rise in censorship in Turkey has reached an astonishing level as shown in the annual transparency reports published by social media platforms. The ranking of Turkey in the Twitter Transparency Reports is strikingly worrying, especially when compared to other countries. Since the rate of political debates and expressions is higher in Twitter than in other social media platforms in Turkey, the total number of removal and withholding requests for accounts and tweets is much higher in Turkey compared to Russia and Japan, its immediate followers, as shown in the figure 55.

While the grim picture that emerged in our 2018 and 2019 reports continued, it is observed and felt that during 2020, the current grim picture became more severe and that sanctions related to content on the Internet did not remain limited to access-blocking practices. There has been a significant increase in the number of news articles and content items removed through content removal sanctions, leading into more effective censorship practices primarily as a result of the legal amendments introduced in 2020.

While hundreds of blocking orders are issued systematically, the approach of the Constitutional Court of Turkey towards access to the Internet, freedom of expression, and freedom of the press is also addressed in the 2020 report. When the performance of the Constitutional Court is assessed, it is noted with concern that the Court issued judgments on **only four different applications** related to access-blocking at the level of relevant chambers and General Assembly level in 2020¹⁸⁵ and that the Court ruled

¹⁸⁵ Wikimedia Foundation and Others Application, No: 2017/22355, 26.12.2019; Aykut Küçükaya Application, No: 2014/15916, 09.01.2020; Ali Ergin Demirhan (Sendika.Org) Application, No: 2015/16368, 11.03.2020; Ali Ergin Demirhan (2) (Sendika.Org) Application, No: 2017/35947, 09.09.2020.

Figure 55: Comparison of Japan, Russia and Turkey in the Twitter Transparency Reports



that freedom of expression and/or freedom of the press were violated in all these applications. The Constitutional Court issued judgments on 17 separate applications regarding Law No. 5651 in 2019 and ruled that freedom of expression and/or freedom of the press were violated in 13 of those applications. It is noteworthy that judgments were issued on only a small number of applications in 2020, even though the number of applications regarding the Internet and freedom of expression increased. Therefore, while there are a considerable number of applications made since 2015 that are yet to be decided, it took the Constitutional Court almost 2.5 years to issue the judgment in relation to access blocking to the Wikipedia platform related applications and nearly five years to issue its judgment in relation to Sendika.Org related applications. As was stated in our 2019 report, Internet is a vital communications network and certain practices that can only be defined as censorship and violations of freedom of expression and freedom of the press, should be handled in a more expeditious manner by the Constitutional Court. Moreover, the principled approach developed by the Constitutional Court is ignored by the criminal judgeships of peace when deciding on access-blocking orders and regularly the blocking orders are issued as if the Constitutional Court did not issue any judgment on any practice in this matter. The Constitutional Court also refrains from issuing judgments on individual applications regarding such decisions.

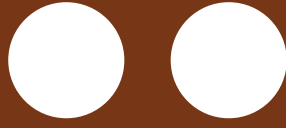
The Constitutional Court adopted a principled approach with regards to articles 8/A and 9 of Law No. 5651 and consistently referred to its principled approach in its decisions issued during 2020 as in previous years. The Court repeatedly stated that access-blocking decisions shall only be issued by criminal judgeships of peace in exceptional circumstances where the violation is obvious within the framework of the principle of “**prima facie violation**.” However, the analysis in this report showed that criminal judgeships of peace completely ignore the principle-based approach of the Constitutional Court in their decisions.

In 2020, only 62% of the decisions issued by the criminal judgeships of peace referred to the Ali Kıdık judgment,¹⁸⁶ where the Constitutional Court introduced the principles of “**prima facie violation**” with regards to article 9 of Law No. 5651. In this context, the principle of “**prima facie violation**” were adopted only in 65 orders of nearly 3.173 decisions issued in 2020. On the other hand, no decisions issued in 2020 or before subject to article 8/A referred to either the Ali Kıdık judgment or the Birgun judgment principles,¹⁸⁷ which was developed by the Constitutional Court by adapting the Ali Kıdık judgment principles to article 8/A. Therefore, rather than solving the problems, the Constitutional Court has become a part of the problems related to the enforcement of Law No. 5651 and its case-law has become ineffective as it is not implemented and ignored by the lower courts, despite its occasional judgments finding violations.

In brief, in the 15th anniversary of Law No. 5651, the complex **Internet Censorship Mechanism** of the state is alive and kicking and evolving actively and vigorously as never before. In 2020, RTUK started to exercise its authority regarding the Internet. During the COVID-19 outbreak, steps were taken to “**turn the crisis into an opportunity**” and to take better control of social media by ensuring that social media platforms have legal representatives in Turkey. While a detailed evaluation of the steps taken in 2020 will be assessed in detail in our 2021 report, the burning and destructive effect of the reinforced censorship and control mechanism will continue in the coming years.

¹⁸⁶ Ali Kıdık Application, No: 2014/5552, 26.10.2017.

¹⁸⁷ Birgun İletiflim and Yayınclık Ticaret A.Ŗ. Application, No: 2015/18936, 22.05.2019.



The EngelliWeb 2020 Report of the İfade Özgürlüğü Derneği (İFÖD – Freedom of Expression Association), is a continuation of the EngelliWeb 2018 and 2019 reports and is named **Fahrenheit 5651: The Scorching Effect of Censorship**, referring to Ray Bradbury's famous novel Fahrenheit 451, which was published in 1951, describing an oppressive, authoritarian, and dystopian society in which books are burned.

İFÖD's EngelliWeb project is carried out retrospectively and constantly updated. No statistical data on websites blocked from Turkey was ever published either by the former Telecommunications Communication Presidency ("TIB") or its successor, Information Technologies and Communication Board ("BTK"). Moreover, no statistical data on blocked websites, news articles (URL-based) and/or social media content has ever been officially published by the Association of Access Providers ("ESB"). Therefore, the EngelliWeb reports are the only resources for statistical data and have become a focal reference point in this field.

EngelliWeb 2020 Report includes detailed statistical information in relation to blocked websites, news articles (URL-based), social media accounts and social media content for the 2007-2020 period. The Report also provides detailed statistical information for 2020. This report focuses on the burning and destructive effect of the amendments made to the Law No. 5651 as a result of increasing pressure, especially in 2020 and during the COVID-19 pandemic and Internet censorship practices, which have been increasing gradually along with these amendments. With the publication of this report, İFÖD intends to ensure that the scorching effect and damage of censorship are not completely erased from the collective memory and to document the extent of censorship, as in previous reports.

It is the intention of İFÖD to share statistical data on an annual basis to inform the public. Please follow the website of the association (<https://ifade.org.tr>) as well as the Twitter account of the EngelliWeb Project at @engelliweb to obtain up-to-date information about on-going Internet censorship practices in Turkey.



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