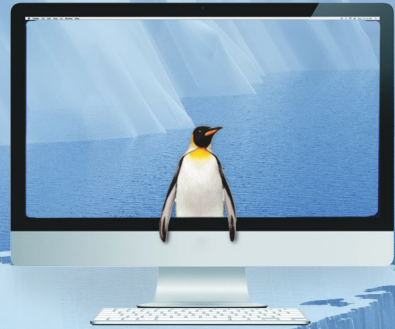


ENGELLİ WEB

2019

AN ICEBERG OF UNSEEN
INTERNET CENSORSHIP
IN TURKEY

YAMAN AKDENİZ - OZAN GÜVEN



ENGELLİ WEB

2019

YAMAN AKDENİZ - OZAN GÜVEN

• RESEARCH •



Kingdom of the Netherlands

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Prepared by: YAMAN AKDENİZ · OZAN GÜVEN

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Freedom of Expression Association and 2019 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 part of the activities of the Freedom of Expression Association, this report was prepared in collaboration with the EngelliWeb initiative within the scope of a project funded by the Human Rights Programme of the Government of the Netherlands. As a civil society initiative launched in 2008, EngelliWeb shared information and statistics on the blocked websites identified by the initiative in Turkey and the judicial and administrative decisions blocking these websites, 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 that framework, the 2018 EngelliWeb Report has been prepared with regard to the ongoing Internet censorship practices in Turkey. The Turkishⁱ and Englishⁱⁱ versions of the report were published in June and July 2019 respectively. In addition, as part of the EngelliWeb project, an advisory report was prepared in November 2019 regarding the Turkey Report to be prepared within the framework of the UN 2020 Universal Periodic Review (UPR), and current statistical data as of that date was made available to the public.ⁱⁱⁱ In particular, the EngelliWeb 2018 Report had widespread national and international

i See https://ifade.org.tr/reports/EngelliWeb_2018.pdf

ii See https://ifade.org.tr/reports/EngelliWeb_2018_Eng.pdf

iii See https://ifade.org.tr/reports/IFOD_UPR_Tavsiyeler_2019.pdf

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 Grand National Assembly of Turkey (Parliament), 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.

As can be examined in detail in the 2019 report, the practices to block widespread access to the Internet continued in Turkey as in previous years. 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 blocked from Turkey significantly increased in 2019. Therefore, **the number of websites blocked from Turkey reached 408.494 as of end of 2019.** While the Constitutional Court has given nearly 35 separate judgments on Internet and access blocking practices, including the Wikipedia 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 2019. Our 2019 report examines the access-blocking orders issued in 2019, in the light of the judgment of the Constitutional Court on the **Ali Kızık Application**^{vi} and the “**prima facie violation**” approach that the Court required for the access-blocking orders issued due to the violation of personal rights subject to Article 9 of Law No. 5651. Similarly, an assessment of the application of the judgment of the Constitutional Court on the **Birgün İletişim ve Yayıncılık Ticaret A.Ş. Application**^{vii} and the “**prima facie violation**” approach that the Court adopted for the access-blocking orders issued for reasons such as national security and public order subject to Article 8/A of Law No. 5651 will be assessed for 2019.

The **methodology of this study** includes the monthly scanning of approximately 202 million domain names; the weekly scanning of 3.7 million current news articles from 82 different news websites; the monthly scanning of approximately 33 million archived news articles; the real-time connectivity tracking and monitoring of whether 105 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 and the analysis of the access-blocking orders sent by certain news websites to the İFÖD team.

The 2019 EngelliWeb Report is written by Professor **Yaman Akdeniz** (Faculty of Law, İstanbul Bilgi University) and Expert Researcher **Ozan Güven**. We would like to express our gratitude to the Lumen database^{viii} for its indirect but significant contribution to the study. We would also like to thank to Dilara Alpan and Birce Altın for their contribution to the analysis of the application of the Constitutional Court’s Ali Kızık decision in 2019.

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 Ali Kızık Application, No: 2014/5552, 26.10.2017.

vii Birgün İletişim ve Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019.

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

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The 2019 EngelliWeb Report of the Freedom of Expression Association (İfade Özgürlüğü Derneği - IFÖD) includes an overview of and considerations on increasing Internet censorship and access blocking practices in Turkey by the end of 2019. This assessment is predominantly conducted by reference to the application of Law No. 5651 on Regulation of Publications on the Internet and Suppression of Crimes Committed by Means of Such Publications, which was enacted about 13 years ago and other subsequent regulations in Turkey.

The EngelliWeb project of the Freedom of Expression Association is carried out retrospectively and constantly updated. However, since new domain names, websites, news articles, social media accounts, and social media content items blocked in previous years were identified in 2019, there exist some differences between the data provided in the 2018 report and the data provided in the subsequent 2019 report. 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 focal reference point in this field.

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 2019. For example, on 22 April 2019, the Ministry of Transport and Infrastructure rejected the request for the disclosure of the number of blocked websites and statistical data on the grounds that **“it 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 international level **since other countries do not officially and collectively disclose such data.**"¹ Similarly, on 5 February, 2019, Alpay Antmen (CHP Mersin MP) asked the Ministry of Transportation and Infrastructure about the number of websites blocked between 2003 and 2019.² In the response of the Ministry of Transport and Infrastructure, dated 28 March, 2019, the response of 5 February, 2019 was repeated exactly and it was stated that all such requests were responded negatively as it would create information pollution.³ On 25 April 2019, the Ministry of Transport and Infrastructure disclosed the proportional breakdown of access-blocking orders issued subject to Article 8 of Law No. 5651, but it did not disclose the total number.⁴

This EngelliWeb report, prepared by the Freedom of Expression Association, includes detailed statistical information both for the year of 2019 and also provides an overview of blocked websites, news articles (URL-based), social media accounts, and social media content items for the 2007-2019 period. It is the intention of İFÖD to share such data and analysis with the general public on a regular basis. Therefore, further reports will be prepared and published; the first in October 2020 with regard to the first half of 2020 and a subsequent report in June 2021 as a year-end report for 2020.

ACCESS TO 408.494 WEBSITES WAS BLOCKED FROM TURKEY BY THE END OF 2019

In the EngelliWeb 2018 Report of the Freedom of Expression Association, it was stated that access to **a total of 245.825 domain names were blocked from Turkey by the end of 2018**. As mentioned in the introduction, the EngelliWeb project is carried out retrospectively and constantly updated. However, since new domain names and websites blocked in previous years were identified during 2019, there are some differences between the data provided in the 2018 report and the data provided in this 2019 report. Therefore, according to the current EngelliWeb 2019 Report, a total of **347.445** domain names and websites were blocked from Turkey by the end of 2018. 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 61.049 new domain names** were blocked from Turkey in 2019. Including these 61.049 domain names and websites, a total of 408.494 domain names and websites were blocked from Turkey by the end of 2019 pursuant to the legal provisions and relevant authorities to be detailed in this report.

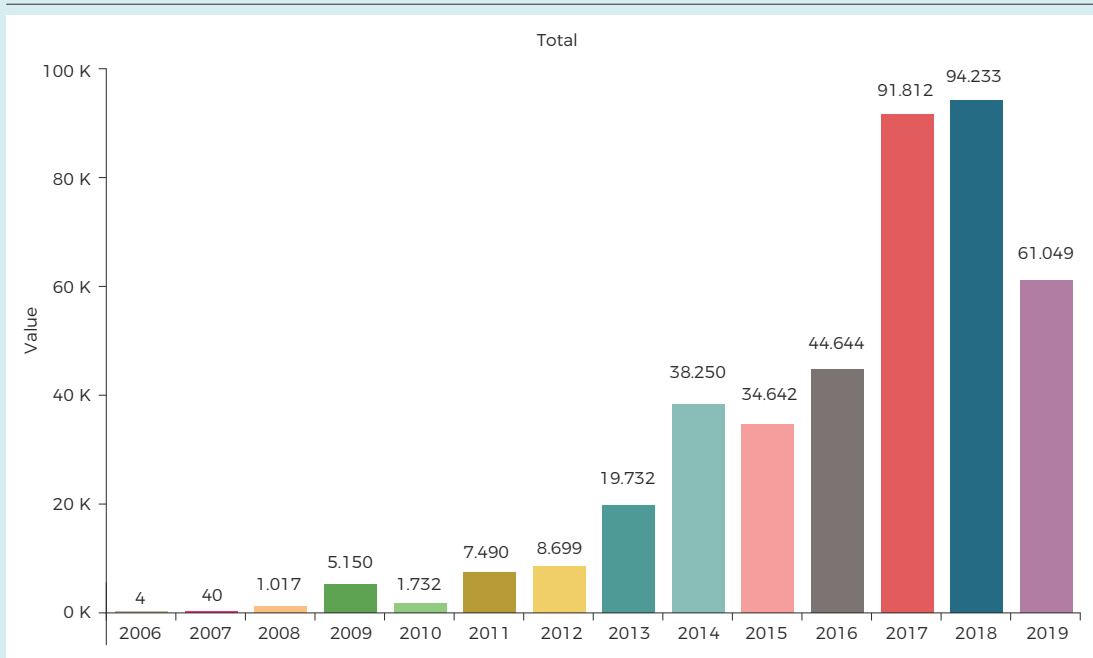
1 See the written question no. 7/8292, 4.02.2019 of Ömer Fethi Gürer (CHP Niğde MP) to Deputy President Fuat Oktay, at <https://www2.tbmm.gov.tr/d27/7/7-8292s.pdf>, and the written response, 22.04.2019 at <https://www2.tbmm.gov.tr/d27/7/7-8292sgc.pdf>.

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

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

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

Figure 1: Total Number of Blocked Websites From Turkey (2006-2019)



When the number of blocked websites is analysed on a yearly basis, a decrease is observed in 2019 (**61.049**) compared to previous years (2018: **94.233** and 2017: **91.812**). However, in 2019, the number of access-blocking practices remained above the average (**31.422 websites per year**) for the 13-year period (**2007-2019**) since the Law No. 5651 came into force and access-blocking practices have been deployed.

Moreover, it was found that **130.000** URLs, **7.000** Twitter accounts, **40.000** tweets, **10.000** YouTube videos, and **6.200** Facebook content were blocked subject to Law No. 5651 and other legal provisions by the end of 2019. In addition to these, nearly 50.000 content (URLs) were removed by content providers subject to access-blocking orders by the end of 2019.

The most despicable blocking practice was the total access blocking of the **Wikipedia** platform subject to the decision of the Ankara 1st Criminal Judgeship of Peace⁵ in April 2017. Access blocking to the Wikipedia platform continued during 2019. Individual applications with regards to the Wikipedia platform, which had been blocked for nearly 2.5 years, were concluded by the Constitutional Court on 26 December 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 observa-

5 Access to the Wikipedia platform was blocked pursuant to the order of the Ankara 1st Criminal Judgeship of Peace, no. 2017/2956 D. İş (Misc.), 29.04.2017 and due to the Turkey-related parts of two English articles titled "**Foreign involvement 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)

tions that Article 8/A of Law No. 5651 was applied in an arbitrary way.⁶

Access to **Imgur**, the popular image sharing platform, was blocked pursuant to an order of the Turkish Medicines and Medical Devices Agency (TITCK) of the Ministry of Health⁷ in October 2017. Access blocking to the Imgur platform continued throughout the year of 2019.⁸

THE POWER AND LEGAL AUTHORITY TO BLOCK ACCESS FROM TURKEY

As detailed in the EngelliWeb 2018 Report, 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 pursuant 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.

Considerable number of administrative bodies are 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. The **Ministry of Treasury and Finance** was added to this list in 2019 pursuant to the Law on the Digital Service Tax and the Amendment of Certain Laws and the Law Decree No. 375. All "**authorized bodies**" within the scope of the Law on Product Safety and Technical Regulations, published in the Official Gazette during 2020, were also added to the list:

- **Presidency of Turkey and the relevant ministries**⁹
- **Telecommunications Communication Presidency (TIB)**¹⁰ until its closure¹¹

⁶ Wikimedia Foundation Inc. and Others Application, No: 2017/22355, 26.12.2019.

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. This issue will be examined more extensively in the EngelliWeb 2020 report.

⁹ Pursuant to Article 8/A(1), titled "Removal of the content and/or blocking access in circumstances where delay would entail risk," of the **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 Article 8/A(2), 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 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 Certain Institutions and Organizations in August 2016.

¹¹ It was authorized under Articles 8, 8/A and 9/A of the 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.

- **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
- **Jockey Club of Turkey**¹⁸

12 *Ibid.*

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 judgeship 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 pursuant 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 pursuant 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, pursuant to paragraph 4 of Article 99 (Added by: 17 March 2017 – Decree-Law No. 690/Article 67; Enacted by Amendment: 1 February 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 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 dated 7 November 2011 and numbered 27808). 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 Pursuant to Article 7, titled “**Application to Administrative and Judicial Authorities**,” of the Regulation on Online Games of Chance (Official Gazette dated 14 March 2006 and numbered 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.

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

- **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

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 July 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 dated 21 December 2008 and numbered 27087).
- 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. Pursuant to a paragraph (Added paragraph: 2 July 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, dated 2 July 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 electronical 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 electronical 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 March 2018 – Law No. 7103/Article 82) added in 2018 to 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 pursuant to the above mentioned article on removing content and/or blocking access shall be governed by the third and fifth paragraphs of Article 8/A of the 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 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

- **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

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 dated 1 August 2019 and numbered 30849).

- 23 The **Supreme Election Council** may also request that certain content be blocked pursuant 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 Pursuant to the first paragraph of Article 7, titled “Tax security,” of the **Law** (Official Gazette dated 7 December 2019 and numbered 30971) **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 January 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. Pursuant 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 Pursuant 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 dated 12 March 2020 and numbered 31066), in case of the 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.). Pursuant to Article 3, entitled “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.

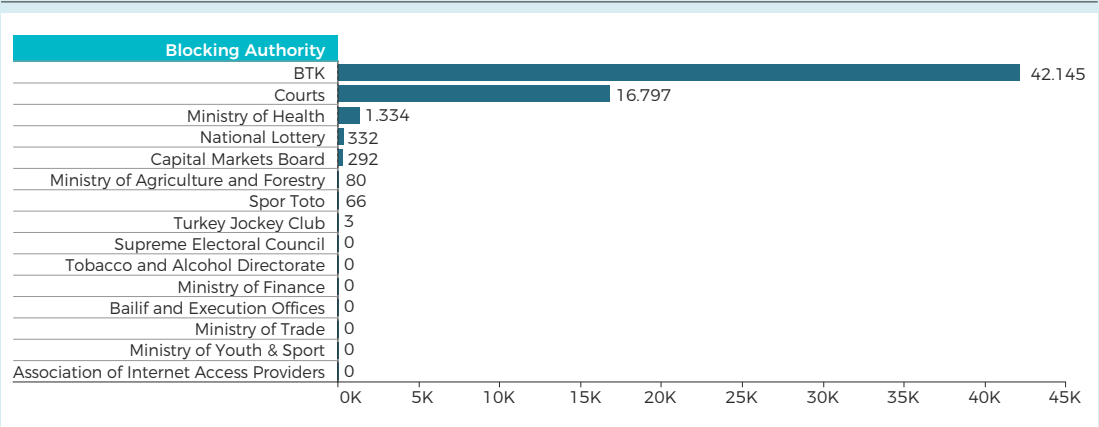
As can be seen, more than 15 institutions and organizations are authorized to issue or request access-blocking orders under various regulations and most of these powers are exercised by submitting administrative blocking orders to BTK or ESB without the need for judicial approval.

**DOMAIN NAMES, URL'S, NEWS ARTICLES,
AND SOCIAL MEDIA CONTENT BLOCKED IN 2019**

GENERAL ASSESSMENT OF DOMAIN NAME BLOCKING PRACTICES

In the year of 2019, as far as it could be determined by our efforts within the scope of the EngelliWeb project, access to a total of **61.049 domain names** was blocked from Turkey. The vast majority of the blocking orders with **42.145 domain names** (70%), were issued by the President of the Information Technologies and Communication Board subject to article 8 of Law No. 5651. It is determined that **16.797** domain names were blocked with decisions issued by the criminal judgeships of peace, public prosecutors' offices and by the courts, **1.334** domain names were blocked by the Turkish Medicines and Medical Devices Agency of the Ministry of Health, **332** domain names were blocked by the Directorate General of National Lottery Administration, **292** domain names were blocked by the Capital Markets Board, **80** domain names were blocked by the Ministry of Agriculture and Forestry, **66** domain names were blocked by the Directorate of Spor Toto Organization and **3** domain names were blocked by the Turkey Jockey Club.

Figure 2: Number of Blocked Websites by the Blocking Authority (2019)



Together with these figures, by **the end of 2019, access to a total of 408.494 domain names** was blocked from Turkey. In detail, by the end of 2019, a total of **366.210 websites were blocked from Turkey by administrative blocking orders subject to article 8 of Law No. 5651**, including **129.124** blocked by TIB until its closure and

237.086 blocked by the President of BTK following the closure of TIB. Access to 32.741 domain names and websites was blocked by judicial organs (criminal judgements of peace, public prosecutors' offices, and courts). As can be seen in Figures 3 and 4 below, a total of 7.362 websites were blocked by the Ministry of Health, 607 were blocked by the Directorate of Spor Toto Organization, 497 were blocked by the Capital Markets Board, 483 were blocked by the Directorate General of National Lottery Administration, 207 were blocked by the Ministry of Agriculture and Forestry, 184 were blocked by the Ministry of Customs and Trade, 97 were blocked by the Turkey

Figure 3: Number of Blocked Websites by the Blocking Authority (Total)

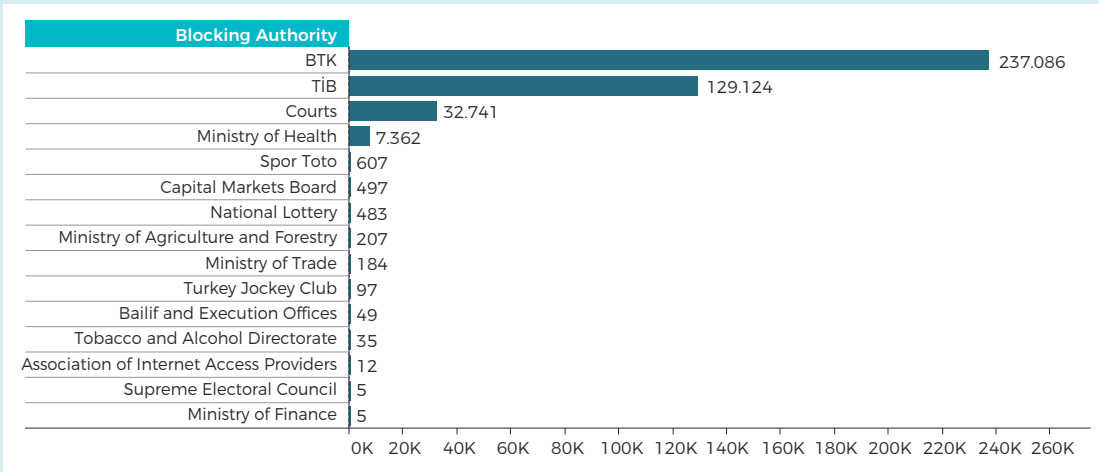
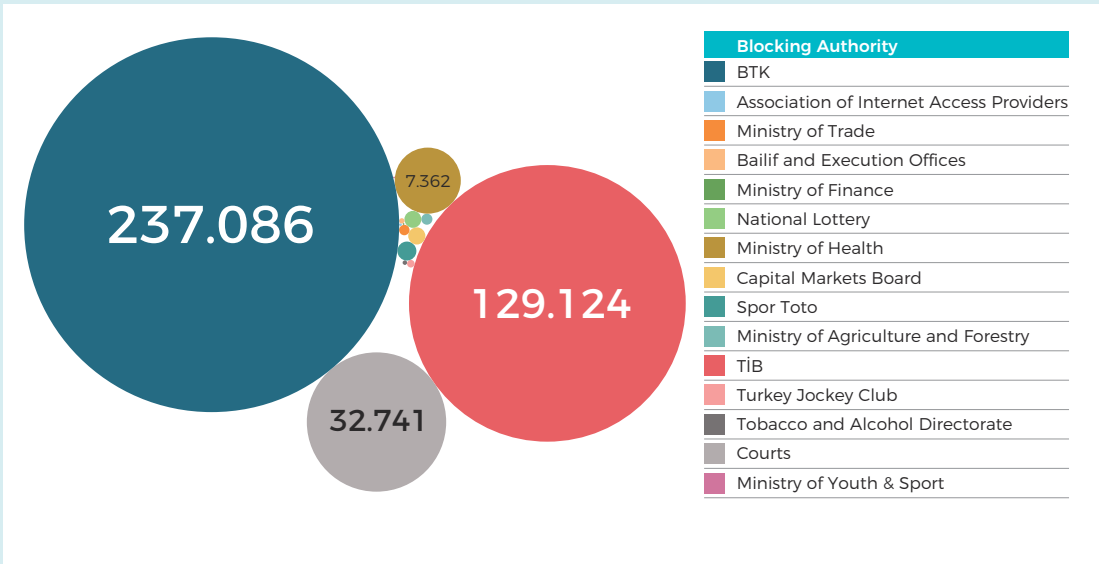


Figure 4: Number of Blocked Websites by the Blocking Authority (Total)



Jockey Club, **49** were blocked by directorates of execution, **35** were blocked by the Directorate of Tobacco and Alcohol, **12** were blocked by the Association of Access Providers, **5** were blocked by the Supreme Election Council and **5** were blocked by the Ministry of Finance.

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

The Law No. 5651 on Regulation of Publications on the Internet and Suppression of Crimes Committed by Means of Such Publications was enacted on 4 May, 2007. Subject to article 8 of Law No. 5651, it is provided that “it shall be decided to block access to online content if there is sufficient suspicion that the content constitutes any of the crimes and offences” by listing the following crimes and offences as defined under the Turkish Criminal Code: encouragement and incitement of suicide;²⁷ sexual exploitation and abuse of children;²⁸ facilitation of the use of drugs;²⁹ provision of dangerous substances for health;³⁰ obscenity;³¹ prostitution;³² gambling;³³ and crimes committed against Atatürk as provided subject to Law No. 5816.

While access blocking orders are issued through two different methods for the crimes listed under article 8, “**Precautionary Injunction Orders**” may be issued by the judges during the investigation phase of a criminal investigation and by the courts during the prosecution/trial phase. Nevertheless, the blocking orders under article 8 are mainly issued as “**Administrative Blocking Orders**” by TIB, until its closure and 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 such content contains sexual abuse of children, obscenity, and/or prostitution. 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 decision published in the Official Gazette on 7 February, 2018. As examined in our EngelliWeb 2018 Report, subject to a constitutionality review application made through the 13th Chamber of the Council of State, the Constitutional Court decided 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, the Court annulled the relevant measure.**³⁴ The Constitutional Court stated that the annulled power enabled the “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

²⁷ Article 84, Turkish Penal Code.

²⁸ Article 103(1), Turkish Penal Code.

²⁹ Article 190, Turkish Penal Code.

³⁰ Article 194, Turkish Penal Code.

³¹ Article 226, Turkish Penal Code.

³² Article 227, Turkish Penal Code.

³³ Article 228, Turkish Penal Code.

³⁴ Constitutional Court Judgment no. E. 2015/76., K. 2017/153, 15 November, 2017, published in the Official Gazette, no. 30325, 7.02.2018.

with this kind of ex officio orders issued by the President of BTK without the need for 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 its decision will enter into force one year after its publication in the Official Gazette on **7 February, 2018**; which then made the effective entry into force date **7 February, 2019**. Since no recent amendments were introduced to the Law No. 5651 by **7 February, 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 decisions has expired on that date. Since 7 February, 2019, blocking orders based on the offence of obscenity can only be issued by criminal judgeships of peace. However, in practice, **it is observed that BTK continued to block access to obscene websites ex officio** and by way of administrative decisions by the end of 2019. It has also been noticed that BTK continued to issue ex officio decisions without judicial approval since around October 2019, disregarding the annulment decision of the Constitutional Court.

Figure 5: 2019: BTK v. Judgeships: Blocking Decisions Subject to Article 8 (Law No. 5651)

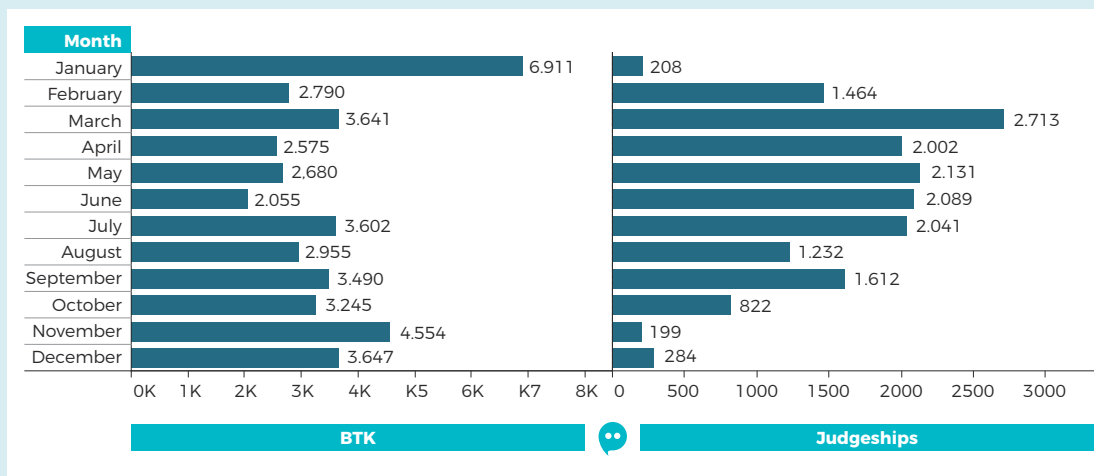


Figure 6: Comparison of Judgements v. BTK Blocking Decisions (2017-2019)

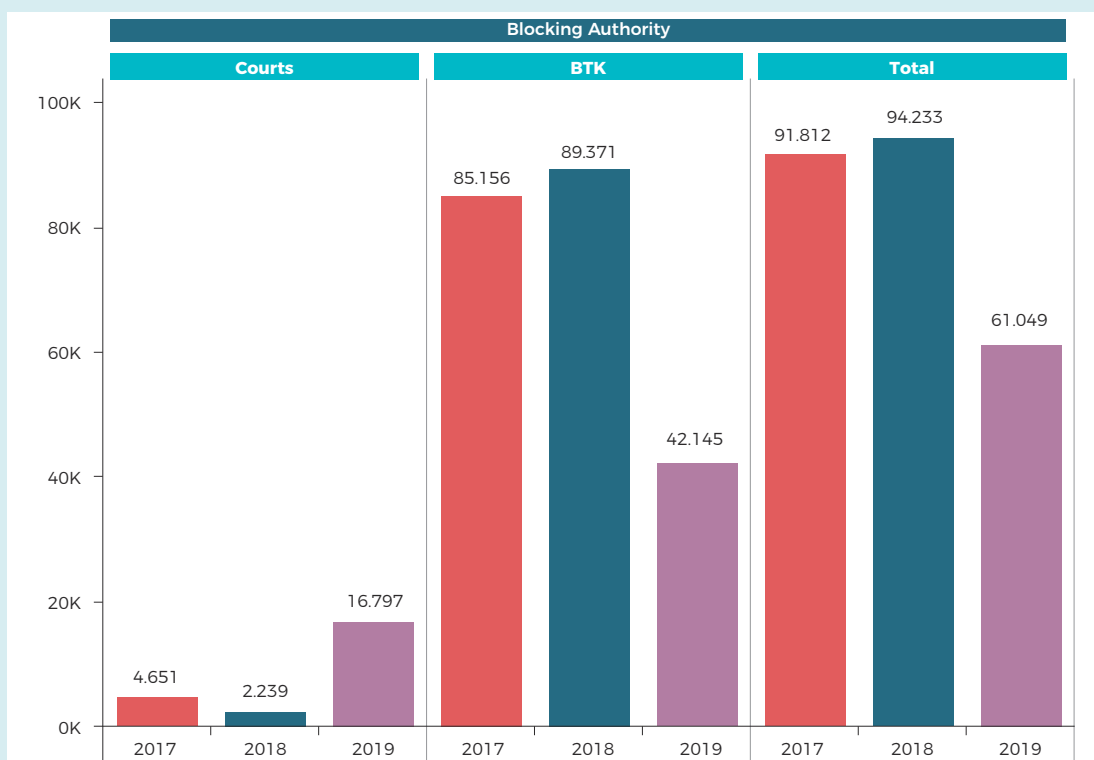
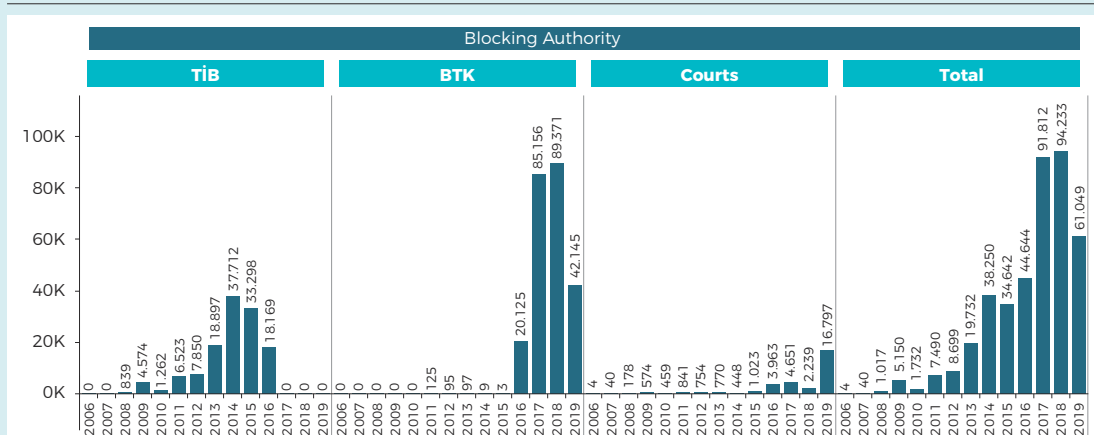


Figure 7: Comparison of Blocking Decisions Issued by TİB, BTK and the Judiciary (2016-2019)



In 2019, as far as it could be determined by our efforts, access to **42.145 domain names and websites** was blocked subject to **42.112** administrative blocking orders issued by BTK. Of those blocked in 2019, **18.689** domain names (approximately **31 per cent**) were related to gambling and betting sites.

The Constitutional Court annulled³⁵ paragraph 16, which was added to article 8 of Law No. 5651 in September 2014 which provided further blocking powers to TIB with respect to national security and protection of public order. However, subsequently, on 27 March, 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 remove 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 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 March, 2015 and 2 July, 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 block access to Internet content 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 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 under 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, it may be decided to block access to the entire website.

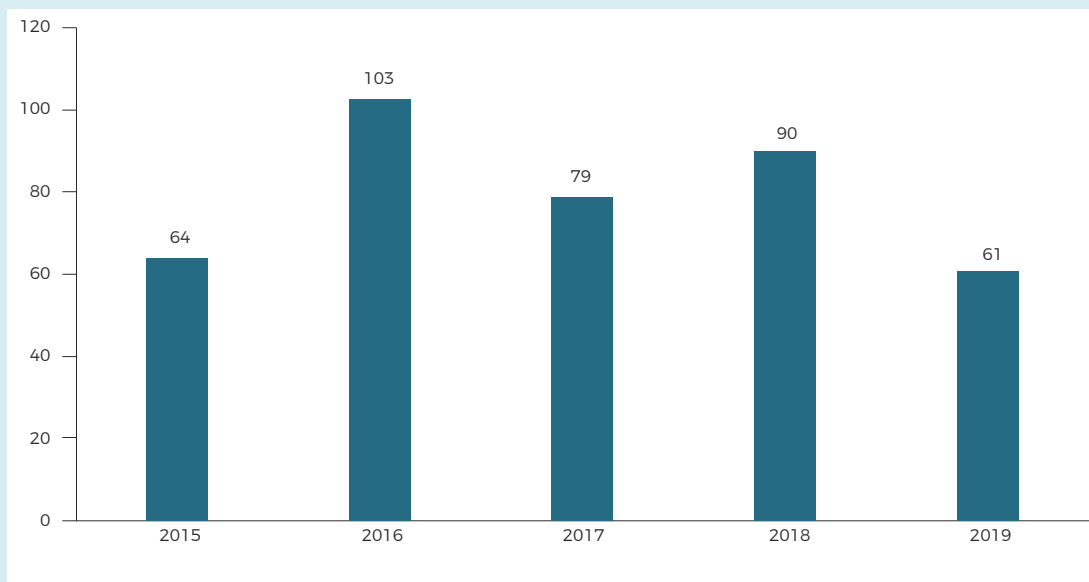
Article 8/A started to be used as a politically silencing tool especially after the general elections of **7 June, 2015**. Between **22 July, 2015** and **12 December, 2016**, **153** access-blocking orders were issued regarding the websites that were blocked by TIB upon the request of the Office of the Prime Minister, and were submitted to the approval of the Gölbasi Criminal Judgeship of Peace.³⁶ As of **13 December, 2016**, the admin-

³⁵ Constitutional Court Judgment no. E. 2014/149, K. 2014/151, 2 October, 2014.

³⁶ See the orders of the Gölbasi Criminal Judgeship of Peace numbered 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,

istrative blocking orders issued upon the request of the Office of Prime Minister and the relevant ministries started to be assessed by Ankara criminal judgeships of peace, and until **2 July, 2018**, **9 separate criminal judgeships of peace** in Ankara issued another **151 blocking orders** based on article 8/A. From the date of **2 July, 2018** until **31 December, 2019**, as far as known, **82 requests were submitted** by the Office of the President of Turkey³⁷ subject to article 8/A, and all of them were approved by 8 separate criminal judgeships of peace.

Figure 8: Number of 8/A Orders Issued Under 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 and **90** in 2018. In **2019**, a total of **61** 8/A orders were issued, and **as detailed below, access to more than 21.000 Internet addresses**³⁸ was blocked pursuant to these orders.

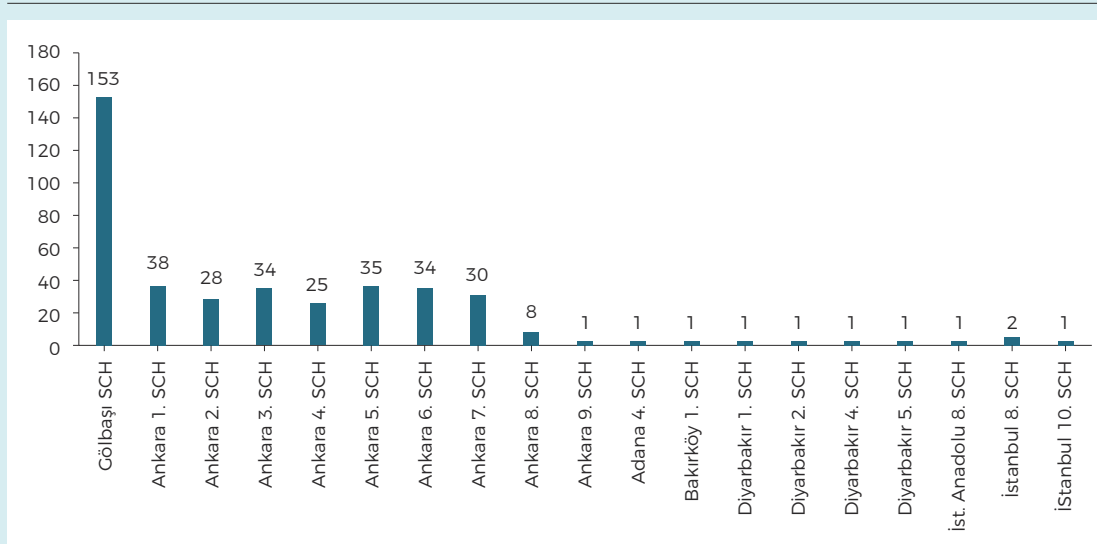
2015/931, 2015/937, 2015/947, 2015/955, 2015/958, 2015/960, 2015/972, 2015/1003, 2015/1012, 2015/1015, 2015/1021, 2015/1107, 2015/1169, 2015/1197, 2016/01, 2016/02, 2016/28, 2016/53, 2016/57, 2016/65, 2016/74, 2016/129, 2016/205, 2016/219, 2016/293, 2016/311, 2016/320, 2016/328, 2016/329, 2016/354, 2016/374, 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.

³⁷ Following the closure of the Telecommunications Communication Presidency, Article 8/A blocking orders, to a large extent, were requested by the Office of Prime Minister before the elections of 24 June, 2018. After that date, in the wake of the new presidential system, the Office of Prime Minister was closed down, and the requests are now predominantly requested by the Office of the President of Turkey. Those requests were approved by the President of BTK, and administrative blocking orders are issued.

³⁸ Domain names, news articles, news websites, and social media content.

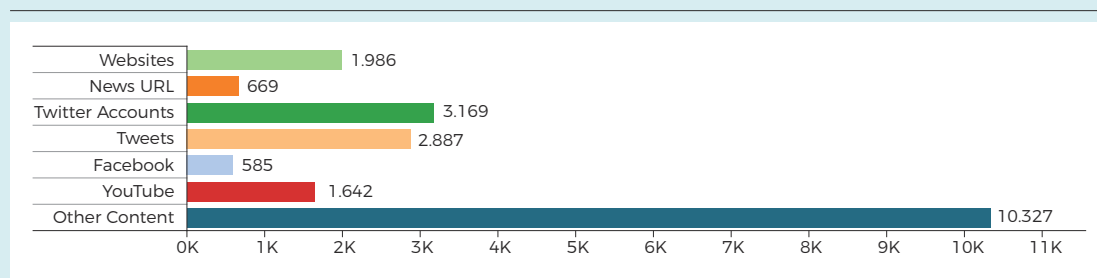
It is observed that **153 of the 397 orders issued by the end of 2019** were issued by the **Gölbaşı Criminal Judgeship of Peace** between 13 July 2015 and 7 December 2016. As the Telecommunications Communication Presidency was located at the Gölbaşı facilities prior to its closure, 153 successive orders were issued by the Gölbaşı Criminal Judgeship of Peace. While **38** of the **232 8/A** blocking orders issued by Ankara criminal judgeships of peace **by the end of 2019** were issued by the Ankara 1st Criminal Judgeship of Peace; **35** were issued by the Ankara 5th Criminal Judgeship of Peace, **34** were issued by the Ankara 3rd Criminal Judgeship of Peace, **34** were issued by the Ankara 6th Criminal Judgeship of Peace, **30** were issued by the Ankara 7th Criminal Judgeship of Peace, **28** 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. Another **11 8/A** orders were issued by courts other than the Ankara criminal judgeships of peace, namely the Adana 4th Criminal Judgeship of Peace; the Diyarbakır 2nd, 4th, and 5th Criminal Judgeships of Peace; the Istanbul Anatolia 8th Criminal Judgeship of Peace; the Istanbul 10th Criminal Judgeship of Peace and the Istanbul 8th Criminal Judgeship of Peace.

Figure 9: Number of 8/A Orders by Criminal Judgeships of Peace (2015-2019)



From 29 May, 2015 to the end of 2019; **access to more than 21.000 addresses**, including approximately 2.000 news websites and domain names, more than 650 news articles, more than 3.000 Twitter accounts, approximately 3.000 tweets, nearly 600 Facebook content items, and more than 1.600 YouTube videos, was blocked pursuant to a total of **397 8/A** orders determined to be issued by 19 different criminal judgeships of peace.³⁹

Figure 10: Approximate No of Internet Content Blocked by 8/A Orders: 2015-2019



Article 8/A-based orders are political 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 spread vital news stories that do not receive coverage in the national media.

In addition to Sendika.org⁴⁰ and SiyasiHaber.org, news websites such as Yüksekova Güncel, Dicle Haber Ajansı (DIHA), Azadiya Welat, Özgür Gündem, Yeni Özgür Politika, Rudaw, RojNews, ANF, JinNews, Kaypakkaya Haber, Güneydoğu'nun Sesi İdil Haber, Kentin Özgün Sesi Bitlis Güncel, Besta Nuce, and JINHA that locally publish articles in Kurdish and Turkish and therefore are critical for Kurdish politics are regularly blocked in Turkey by 8/A orders. Furthermore, subject to article 8/A, access to the Wikipedia platform had been blocked for 2.5 years upon the request of the Office of the Prime Minister on 29 April, 2017 on the grounds that two articles published on the platform contained content that praises terrorism, incites people to violence and crime, and threatens public order and national security.⁴¹ However, as detailed below, the platform only became available again in Turkey pursuant to a judgment of the Constitutional Court.

³⁹ As part of the EngelliWeb project, the elimination and classification of **10.327 of the 21.756 websites** that were found to be blocked by the end of 2019 under Article 8/A continue. Unlike orders issued subject to Article 9 of the Law No. 5651, 8/A orders are not implemented in a transparent manner; thus, it is not possible to access the details of criminal judgeships of peace access blocking decisions and the impugned content and blocked URL addresses.

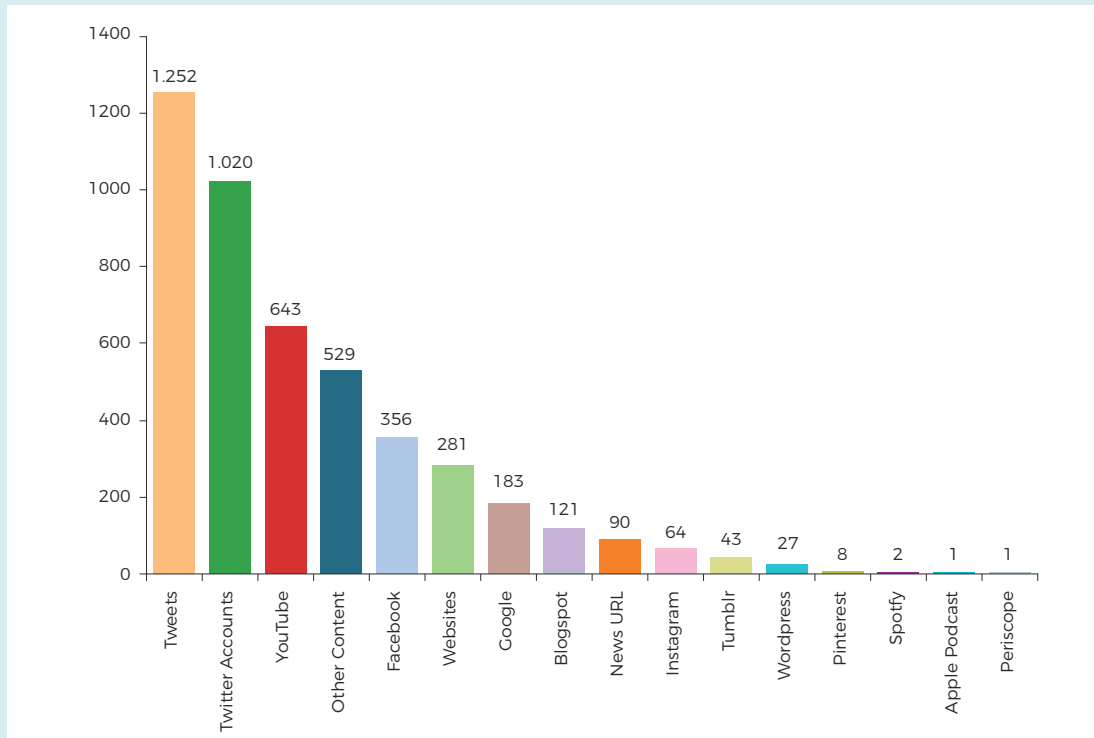
⁴⁰ Between 2015 and 2017, the news website Sendika.Org was blocked 63 times by 7 different Ankara criminal judgeships of peace subject to Article 8/A.

⁴¹ Order of the Ankara 1st Criminal Judgeship of Peace, no. 2017/2956, 29.04.2017 and D. İş (Misc.). The Ankara 1st Criminal Judgeship of Peace rejected the objections with its decision no. 2017/3150 D. İş (Misc.), 4.05.2017 by stating that there was not any consideration requiring the order no. 2017/2956 D. İş (Misc.), 29.04.2017 to be revised. The Ankara 2nd Criminal Judgeship of Peace also rejected the objections with its decision no. 2017/3172 D. İş (Misc.), 7.05.2017. In this decision, it was merely stated that the objection was rejected "since nothing inaccurate was found to exist in the order of the Ankara 1st Criminal Judgeship of Peace no. 2017/3150 D. İş (Misc.)" without any reasoning.

Moreover, 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; **Jiyan.org**;⁴² **Dağ Medya**, one of the first representatives of data journalism in Turkey; **Halkın Sesi TV** and the Twitter account of **Dokuz8haber** were all blocked subject to Article 8/A orders. Furthermore, news articles and URL addresses of press organs such as **Cumhuriyet**, **Sözcü**, **Birgün**, **Evrensel**, **Diken**, **Sendika.org**, **T24**, **BBC**, **Artı Gerçek**, **Gazete Duvar**, **Haber soL**, and **OdaTV**; are frequently blocked subject to Article 8/A orders.

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 are considered as content that disrupt public order, praise terrorism, and incite crime, and are blocked subject to article 8/A.

Figure 11: Type of Content Blocked by 8/A Blocking Decisions in 2019



⁴² Bianet, “Yazarı Gözaltına Alınan Jiyan.org engellendi” [Jiyan.org Was Blocked After Its Columnist Was Detained], 24 October, 2015, <https://m.bianet.org/bianet/toplum/168617-yazari-gozaltina-alinan-jiyan-org-engellendi>

In 2019, **access to more than 4.550 websites**, including approximately **281** news websites, **90** news articles, **1.020** Twitter accounts, **1.252** tweets, **356** Facebook content, **643** YouTube videos, and **529** other content items,⁴³ was blocked pursuant to a total of **61 8/A**⁴⁴ orders mainly issued by the Ankara criminal judgeships of peace

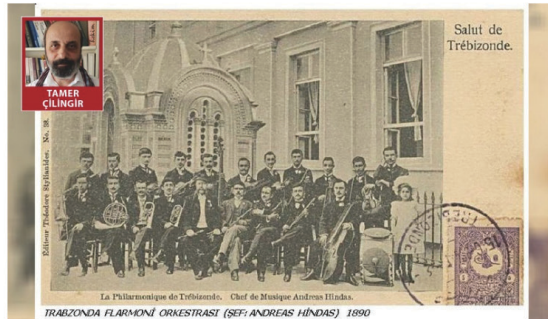
In 2019, access to **90 different news articles**, including the news articles of Cumhuriyet, Diken, Evrensel, Birgün, T24, Gazete Duvar, Artı Gerçek, Bianet, and Sendika. Org, was blocked subject to Article 8/A. The news articles blocked subject to Article 8/A include the article of Tamer Çilingir entitled **“Denizi Kara Olalı Pontos...”** [Pontos Since Its Sea Turned Black], published in Artı Gerçek; the article of Ferhat Tunç entitled **“Ölüm Adın Kalleş Olsun”** [Death, You Should be Called Treacherous], published in Bianet in 2015; the news articles of Evrensel, Diken, Gazete Duvar, Euro News, Artı Gerçek, T24, and İleri Haber on the statement of the Human Rights Centre of the Şanlıurfa Bar Association entitled **“Halfeti’deki gözaltılarda işkence izi var”** [There are traces of torture in detentions in Halfeti]; an article of Cumhuriyet published on 7 March, 2019 and entitled **“Sözcü davası savcısı Asım Ekren’in hüküm giydiğine ilişkin belgeli haberimizi yandaş medya ve savcı yalanlamaya çalıştı”** [Partisan press and the prosecutor tried to deny our documented news article about the conviction of the prosecutor of the Sözcü case]; the news articles published in Evrensel, Birgün, and Sözcü regarding the same issue and the news articles entitled **“FETÖ’yle mücadele biriminin yöneticisi ‘FETÖ’ itirafçısı oldu”** [The head of the unit of the fight against FETO became a FETO confessor], published in the Yurt Gazetesi and T24.

Screen Capture 1: The decision of the Ankara 5th Criminal Judgeship of Peace, no. 2019/3949 D. İş (Misc.), 19 May 2019

artıgerçek

Denizi kara olalı Pontos...

06.05.2019 - 00:54 Güncelleme: 06.05.2019 - 00:54



Bir zamanlar Rumlara bire beş veren toprak artık bire bir bile vermiyor.

T.C. ANKARA 5. SULH CEZA HÂKİMLİĞİ

D. İş. No : 2019/3949 D. İş

10. https://twitter.com/gnc_kdn21/status/1129159142722211840
11. <https://twitter.com/masirozt1/status/112914463296382310>
12. https://twitter.com/mavri_thalassa
13. <https://twitter.com/MunzirHamza7321/status/1128187021355364353>
14. <https://www.artigercek.com/haberler/denizi-kara-olali-pontos>
15. <https://www.facebook.com/devrimci.KARADENIZ>
16. <https://www.facebook.com/Mavri-Thalassa-645371942298078>
17. <https://www.nuceciwan20.com>
18. <https://www.youtube.com/user/devrimcikaradeniz>
19. <https://www.youtube.com/watch?v=iZ4xT5ATI>
20. <https://www.youtube.com/watch?v=Xi-5G7XYFmg>

İnternet adreslerindeki terörü öven şiddette ve suç teşvik eden kamu düzeninin ve milli güvenliği tehdit eden, yaşam hakkı ile kişilerin can ve mal güvenliğinin korunması, suç işlenmesinin önlenmesine bağlı olarak içeriğin çıkarılmasına/erişimin engellenmesine dair tedbir kararının, 5651 sayılı Kararın 8/A maddesinin 2. fıkrası uyarınca ONAYLANMASINA;

Kararın ve evrakların gereği için Bilgi Teknolojileri ve İletişim Kurumuna gönderilmesine,

Dair dosya üzerinde yapılan inceleme sonucunda 7 gün içinde Ankara 6. Sulh Ceza Hakimliğine itirazı kabul olmak üzere evrak üzerinde yapılan inceleme sonunda karar verildi. 19/05/2019

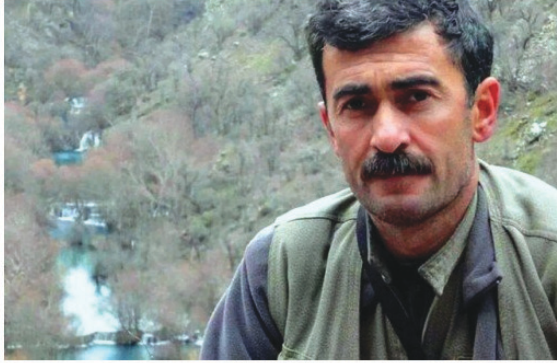
Katip 117996

Hakim 124675

e imzalıdır

⁴³ As part of the EngelliWeb project, the elimination and classification of **529 of the 4.550 websites** that were blocked in 2019 under Article 8/A continue.

⁴⁴ 4 of the 61 8/A blocking orders issued in 2019 were issued by the Ankara 1st Criminal Judgeship of Peace, 11 were issued by the Ankara 2nd Criminal Judgeship of Peace, 9 were issued by the Ankara 3rd Criminal Judgeship of Peace, 9 were issued by the Ankara 4th Criminal Judgeship of Peace, 10 were issued by the Ankara 5th Criminal Judgeship of Peace, 7 were issued by the Ankara 6th Criminal Judgeship of Peace, 9 were issued by the Ankara 7th Criminal Judgeship of Peace, 3 were issued by the Ankara 8th Criminal Judgeship of Peace, and 1 was issued by the Istanbul 10th Criminal Judgeship of Peace.



FERHAT TUNÇ YAZDI

Ölüm Adın Kalles Olsun

Bir Dersim-Pülümür yolculuğu sırasında yola kadar inmiş bir kadın gerilla grubuyla karşılaşmışım. Araçtan inmişler ve tek tek kucaklaştıktan sonra Pülümür Nehri'nin kenarında oturup sohbet etmiştik

Ferhat Tunç

İstanbul - BİA Haber Merkezi

10 Ekim 2015, Cumartesi 09:41

"Çözüm Süreci"nin sağladığı rahatlıkla, halkın kısal alanlarda bulunan gerilla gruplarıyla yakınlaşmasının yolu açıldı. Özellikle Avrupa'da yaşayan insanlarımızın memleketlerine döndüklerinde ilk ziyaret ettikleri mekanlar, gerilla gruplarının bulunduğu alanlar oluyordu.



DİKEN

VİTRİN AKTÜEL ANALİZ DÜNYA MEDYA KEYİF AGORA SANAT GÜNÜN ESERİ

Şanlıurfa Barosu: Halfeti'deki gözaltılarda işkence izi var

21/05/2019 22:51

Şanlıurfa Barosu, Halfeti ilçesinde gözaltına alınan 43 kişide işkence izleri tespit edildiğini ve suç duyurusunda bulunulduğunu açıkladı.

euronews.

Daha fazla ▾

Programlar ▾



Canlı

Ana Sayfa > Haber > Dünya > Şanlıurfa Barosu İHM: Halfeti ilçesinde gözaltında işkence uygulanıyor

TÜRKİYE

Şanlıurfa Barosu İHM: Halfeti ilçesinde gözaltında işkence uygulanıyor

Gizem Sade • Son güncelleme: 21/05/2019

Screen Capture 5: The decision of the Ankara 3rd Criminal Judgship of Peace, no. 2019/5538 D. İş (Misc.), 16 July, 2019 and the decision of the Ankara 8th Criminal Judgship of Peace, no. 2019/7279 D. İş (Misc.), 24 September 2019



Oya Ersoy
@OyaErsoy

Halkevleri Eski Genel Başkanı - HDP İstanbul Milletvekili - TBMM Çevre Komisyonu üyesi facebook.com/Av.OyaErsoy/
youtube.com/channel/UCZLSz...

halkevleri.org.tr Joined August 2012

867 Following 32.7K Followers



Taksim Gezi Parkı
@TaksimGeziParki

27.05.2013 #GeziParkı'na giren ilk kepceyi durduran #AyağaKalk sloganıyla çağrını yapan hesaptır. Ranta,talana ve sansüre karşı AYAĞA KALK! #GeziYaşında

[Beyoğlu, İstanbul](#) twitter.com/TaksimGeziEN Joined May 2013

455 Following 83.9K Followers



Grup Yorum
@Grup_YORUM

Grup Yorum'un resmi twitter hesabıdır.

İLETİŞİM: 0212 238 81 46

[Türkiye](#) facebook.com/grupyorum1985/ Joined March 2011

324 Following 134.2K Followers



#GeziyiSavunuyoruz
@geziyasunmasi

Gezi Davası için açılmış kampanya hesabıdır. #GeziyiSavunuyoruz

For English updates please follow @DefendingGezi

[Gezi Parkı](#) geziyasunuyoruz.org Joined May 2019

2 Following 19.1K Followers

In addition to these blocked articles and news items, access to the Twitter accounts of Leyla Güven (HDP MP), Cansu Özdemir (Co-Chair of the Left Party in the Hamburg Parliament), Grup Yorum, Taksim Gezi Parkı, and #Geziyisavunuyoruz was blocked pursuant to a separate orders subject to 8/A. However, when the content of these news articles and Twitter accounts are examined, it is not possible to understand how they threaten national security or disrupt public order. Therefore, it is observed that article 8/A continues to be applied arbitrarily and for no other reason than political purpose.

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

In 2019, the Constitutional Court gave seven separate judgments involving article 8/A of Law No. 5651. The newspaper 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 armoured car, was shot 28 times] on 5 October, 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 3 October 2015, was tied to an armoured police vehicle, dragged for meters and according to the autopsy report, 17 of these 28 shots were fatal.⁴⁵ Access to Birgün’s article as well as 110 other Internet addresses were blocked by a decision of the Gölbaşı Criminal Judgeship of Peace.⁴⁶ As Birgün’s appeal was rejected, Birgün applied to the Constitutional Court about the access-blocking decision of the Gölbaşı Criminal Judgeship of Peace. The Constitutional Court considered article 8/A for the first time in May 2019 and the General Assembly 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.⁴⁷ 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”⁴⁸ 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 stated that in such circumstances, the **principle of prima facie violation** will

⁴⁵ See <https://www.birgun.net/haber/cansiz-bedeni-zirhli-aracin-arkasinda-suruklenen-haci-birlik-e-28-kursun-sikilmis-91399>

⁴⁶ Decision of the Gölbaşı Criminal Judgeship of Peace, no. 2015/902 D. İş (Misc), 06.10.2015.

⁴⁷ Birgün İletişim ve Yayıncılık Ticaret A.Ş. Application, Application No: 2015/18936, 22.05.2019, §§ 70-75.

⁴⁸ 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.

establish a fair balance between freedom of expression and the need to quickly protect the public interest against such online publications.⁴⁹

Similarly, the Constitutional Court also ruled that freedom of expression and freedom of the press were violated in two further Hacı Lokman Birlik related applications. These are the application of the Baran Tursun Worldwide Disarmament, Right to Life, Freedom, Democracy, Peace, and Solidarity Foundation (Baransav) with regards to its Twitter account and that of the news website Diken about its news article involving Hacı Lokman Birlik, both of which were blocked pursuant to the same order of the Gölbaşı Criminal Judgeship of Peace in relation to the Birgün's case.⁵⁰

Following its decisions of violation regarding Birgün and Baransav & Diken, the Constitutional Court consistently ruled that freedom of expression was violated in the applications involving access blocking of the news websites Yüksekova Güncel,⁵¹ Siyasihaber.org and Siyasihaber1.org,⁵² and the Wikipedia platform⁵³ subject to article 8/A. However, despite all these judgments of the Constitutional Court, none of the **26 separate 8/A orders issued by 9 separate criminal judgeships of peace** since 12 July, 2019, when the Birgün judgment was published in the Official Gazette, **referred to the Birgün judgment** or **made an assessment of “prima facie violation.”**

ACCESS BLOCKING SUBJECT TO ARTICLES 9 AND 9/A OF THE LAW NO. 5651

Following 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 January, 2014. 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 the Law No. 5651, amended by the Law No. 6518 dated 6 February, 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.

⁴⁹ Ali Kızık Application, Application No: 2014/5552, 26.10.2017, §§ 62-63.

⁵⁰ Baransav ve Keskin Kalem Yayıncılık ve Ticaret A.Ş., Application No: 2015/18581, 26.09.2019.

⁵¹ Cahit Yiğit Application, No: 2016/2736, 27.11.2019.

⁵² Tahsin Kandamar Application, No: 2016/213, 28.11.2019.

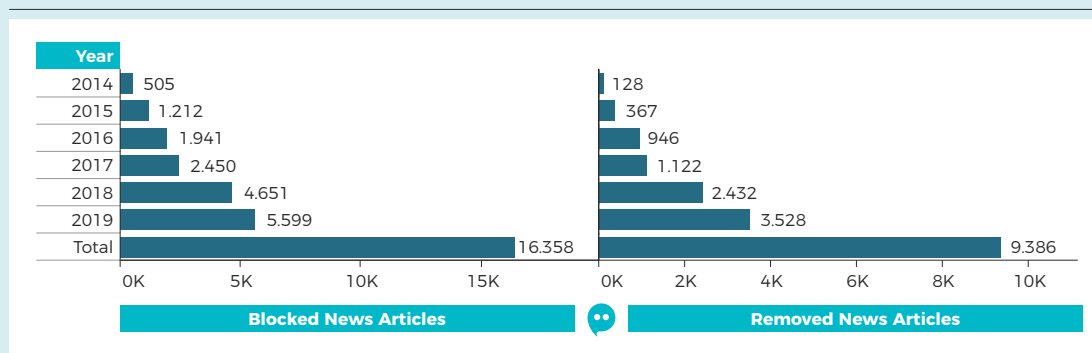
⁵³ Wikimedia Foundation and Others Application, No: 2017/22355, 26.12.2019.

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

Subject to article 9 of the Law No. 5651, real persons, legal entities and institutions and organizations may apply for 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 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 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 of Internet Access Providers, which was 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 orders, approximately 10.000 of which were issued by criminal judgeships of peace across Turkey subject to article 9. By these orders, **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 orders, approximately 14.000 of which were issued subject to article 9, were notified to the Association of Access Providers. **By these orders, 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 orders, approximately 21.000 of which were issued subject to article 9, were notified to the Association of Access Providers. **By these orders, 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.⁵⁴

Figure 12: Blocked and Removed News Articles (URL based) on a Yearly Basis: 2014-2019



⁵⁴ Statistics of 2018 and 2019 had not yet been available as of the date of this report.

As part of the EngelliWeb project, it was determined that, until the end of 2019, **16.358** URLs were blocked in accordance with Article 9 by **4.158 separate orders** issued by **408** separate criminal judgements of peace. The number of URLs blocked was **505** in 2014, **1.212** in 2015, **1.941** in 2016, **2.450** in 2017, **4.651** in 2018, and **5.599** in 2019. As can be seen below, it was found that **9.386** of **16.358** blocked URLs were deleted or removed by content providers.

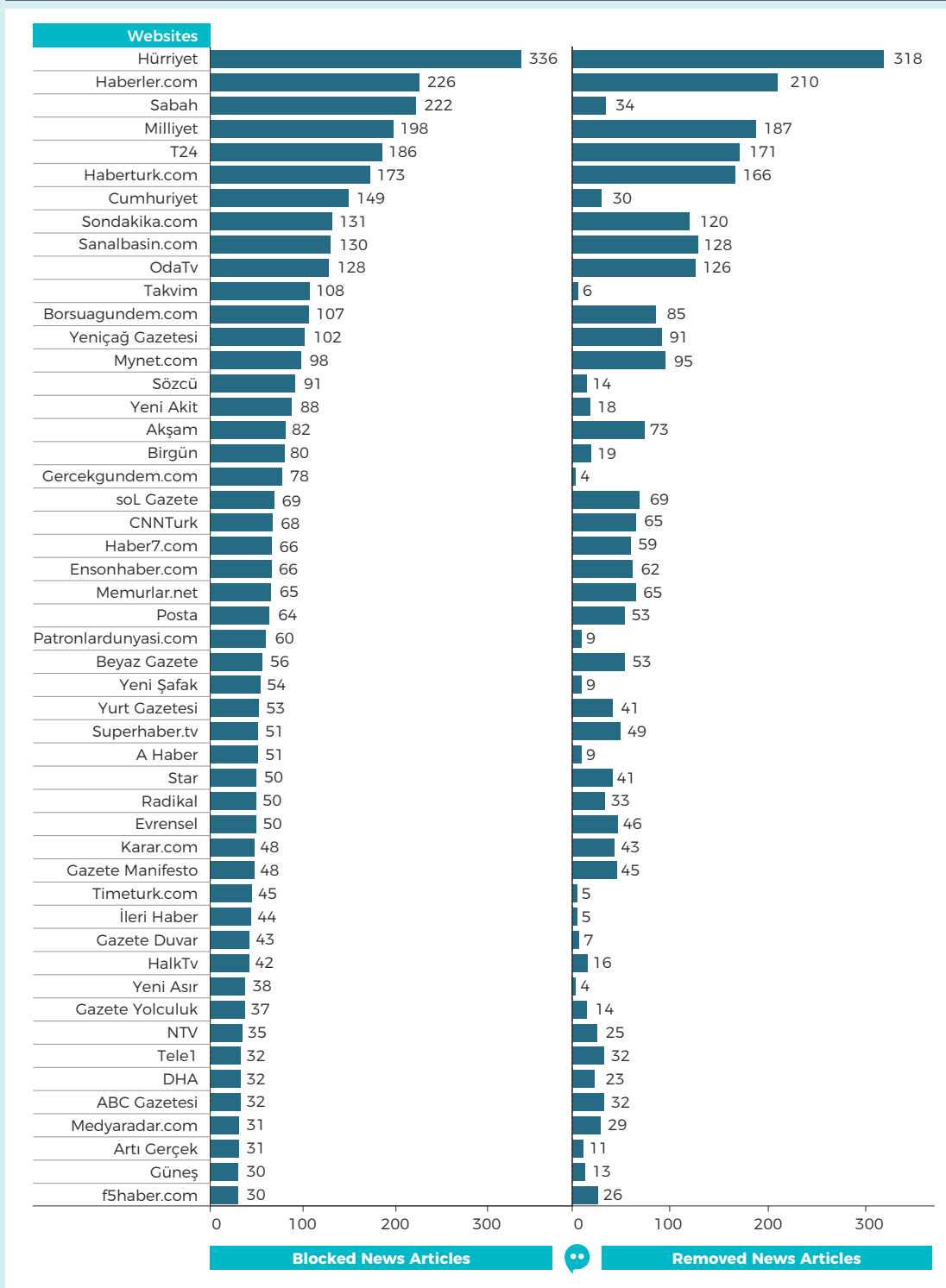
STATISTICAL INFORMATION ABOUT THE BLOCKED NEWS ARTICLES (URL-BASED) - 2019

As part of the EngelliWeb research, it was found that **5.599 news articles** (URL) were blocked in 2019 pursuant to a total of **888 separate orders** issued by **223 separate criminal judgements of peace** subject to article 9 of Law No. 5651. **3.528** of those **5.599** articles were **removed from publication** by news websites (content providers) after they were blocked.

The figure below shows top fifty news websites from Turkey in terms of blocked news articles; how many URLs on these sites were blocked; how many of those blocked URLs have been deleted or removed from the website and the rate of deleted/removed URLs to blocked URLs.

Daily newspaper **Hürriyet** ranked first with **336 news articles** in the category of the “**most blocked news website in terms of news articles (URLs)**” in 2019. **Hürriyet** removed **318**, or **95%**, of those blocked URLs from its website. **Hürriyet** was followed by the news website **Haberler.com** with **226 blocked news articles**. **Haberler.com** removed 210 (**93%**) of 226 blocked URLs from its website. Daily newspaper **Sabah** ranked third with **222 blocked news articles**. **Sabah** removed 34, or **15%**, of those blocked URLs from its website. The website of daily newspaper **Milliyet** ranked fourth with **198 blocked news articles**. **Milliyet** removed 187, or **94%**, of those blocked URLs from its website. In this category, the fifth rank was occupied by the news website **T24** with **186 blocked news articles**. **T24** removed **171**, or **92%**, of those blocked URLs from its website.

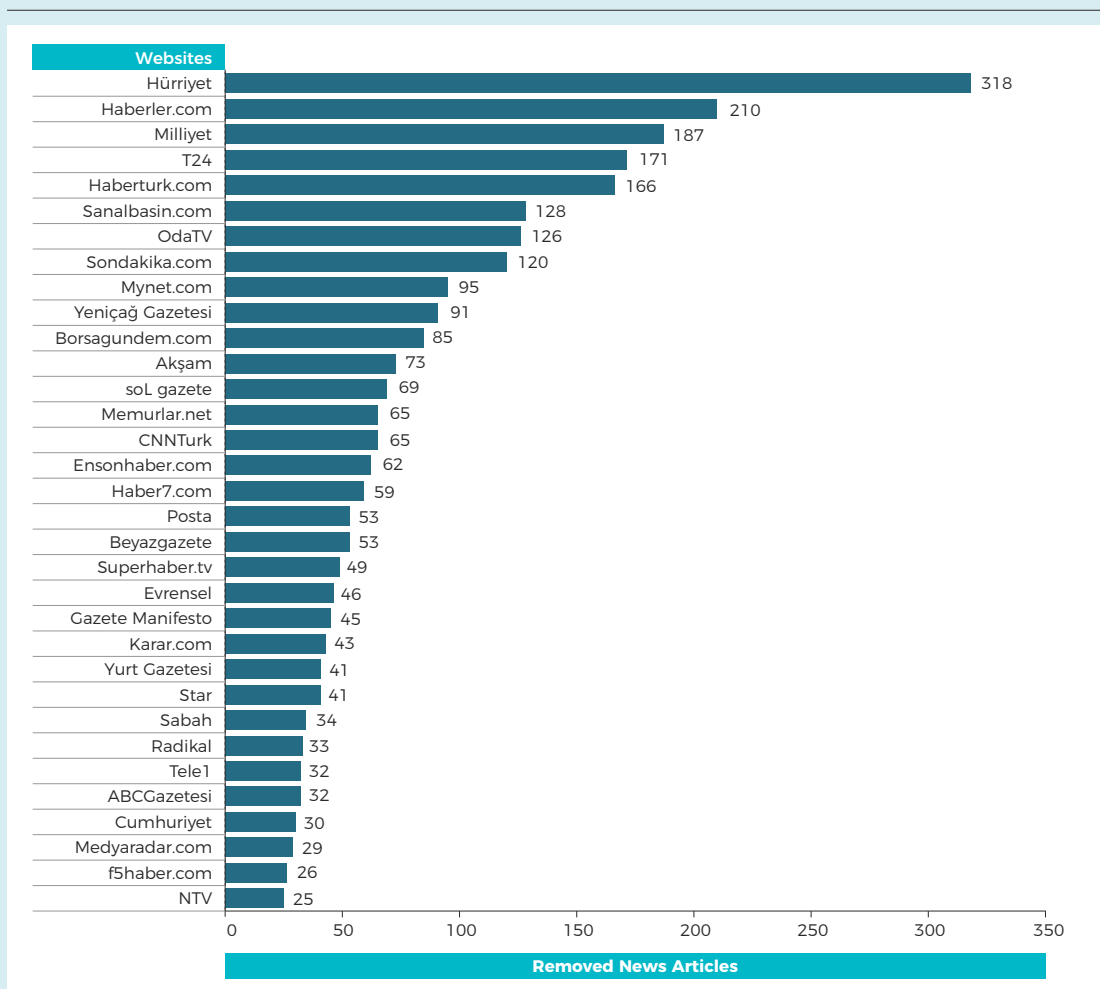
Figure 13: Number of Blocked and Removed News Articles (URL) (2019)



Another category reviewed for the year of 2019 is “**removed and deleted news articles.**” In this category, **Hürriyet** came out on top by removing or deleting **318 (95%) of its 336 blocked news articles.** It was followed by **Haberler.com**, which removed or deleted **210 (93%) of its 226 blocked news articles**, and **Milliyet**, which removed or deleted **187 (94%) of its 198 blocked news articles.** **T24**, which removed or deleted **171 (92%) of its 186 blocked news articles**, ranked fourth, while **Habertürk**, which removed or deleted **166 (96%) of its 173 blocked news articles**, ranked fifth.

Other noteworthy websites were **OdaTV**, which removed or deleted **126 (98%) of its 128 blocked news articles**; **soL Gazete**, which removed or deleted all **(100%) of its 69 blocked news articles**; **Memurlar.net**, which removed or deleted all **(100%) of its 65 blocked news articles**, and **Evrensel**, which removed or deleted **46 (92%) of its 50 blocked news articles.** **Diken**, **Bianet**, and **Sendika.Org** were among the news websites that did not remove any of its blocked news articles.

Figure 14: Number of Removed News Articles (URL) (2019)



The table below shows the top 25 news websites from Turkey in terms of blocked news articles in 2019; including how many URLs on these sites were blocked; how many of those blocked URLs have been deleted or removed from the website; and the rate of deleted/removed URLs to blocked URLs.

Table 1: Access-Blocking League Table for the News Articles (2019)

Rank	News Website	Number of Blocked URL	Number of Deleted URL	The Rate of Deleting
1	Hürriyet	336	318	%95
2	Haberler.com	226	210	%93
3	Sabah	222	34	%15
4	Milliyet	198	187	%94
5	T24	186	171	%92
6	Haberturk.com	173	166	%96
7	Cumhuriyet	149	30	%20
8	Sondakika.com	131	120	%92
9	Sanalbasin.com	130	128	%98
10	OdaTv	128	126	%98
11	Takvim	108	6	%6
12	Borsagundem.com	107	85	%79
13	Yeniçağ Gazetesi	102	91	%89
14	Mynet.com	98	95	%97
15	Sözcü	91	14	%15
16	Yeni Akit	88	18	%20
17	Akşam	82	73	%89
18	Birgün	80	19	%24
19	Gercekundem.com	78	4	%5
20	Hürriyet	336	318	%95
21	soL Gazete	69	69	%100
22	CNNTurk	68	65	%96
23	Ensonhaber.com	66	62	%94
24	Haber7.com	66	59	%89
25	Memurlar.net	65	65	%100

When access-blocking practices in 2019 are assessed, it is seen that news articles about issues that concern the public are blocked the most. For example, considerable number of news articles and social media content items regarding the death of Sevim Tanürek, including a news article published by Bianet, were blocked by the Istanbul Anatolia 2nd Criminal Judgeship of Peace upon the request of Burak Erdoğan, the son of President Erdoğan.⁵⁵ In the decision, it was stated that “the blocked news articles included descriptions and comments that were not useful or relevant, that they used a provocative style that aroused hostility and suspicion among the public and shook their trust, and that the news story regarding the applicant was from 1998 and was not current.”

Screen Capture 6: Bianet Blocked Article



⁵⁵ Istanbul Anatolia 2nd Criminal Judgeship of Peace, 2019/6065, 24.09.2019.

Furthermore, considerable number of news articles and social media content items about how the principal of the Cağaloğlu Anatolian High School obtained a court order for the seizure of the pocket money of the school's students, including the news article of Diken, were blocked by the Kahramanmaraş 1st Criminal Judgeship of Peace upon the request of the principal.⁵⁶

Screen Capture 7: Diken Blocked Article



Moreover, a large number of news articles and social media content items about how Ravza Kavakçı Kan (AKP Istanbul MP) was sent to the USA with the scholarship awarded by the Istanbul Metropolitan Municipality (IMM) on the day she started working for the IMM and about the salary she earned during this period, including the news articles of Birgün and Sendika.Org, were blocked by the Istanbul Anatolia 6th Criminal Judgeship of Peace upon the request of Ravza Kavakçı Kan.⁵⁷

Screen Capture 8: Sendika.org Blocked Article



⁵⁶ Kahramanmaraş 1st Criminal Judgeship of Peace, 2019/2810, 04.09.2019.

⁵⁷ Istanbul Anatolia 6th Criminal Judgeship of Peace, 2019/6291, 27.08.2019.

Screen Capture 9: Birgün Blocked Article



More than 750 news articles were blocked, including articles published in news websites such as Gazete Duvar, Cumhuriyet, and Sözcü with regards to the allocation of the Atatürk Forest Farm and the TCDD Museum to Medipol University, founded by the Minister of Health, Fahrettin Koca, pursuant to the orders of different criminal judgeships of peace upon the request of Medipol University.⁵⁸

Screen Capture 10: HalkTV Blocked Article



⁵⁸ Istanbul 11th Criminal Judgeship of Peace, 2019/4001, 31.07.2019; Istanbul 11th Criminal Judgeship of Peace, 2019/4020, 02.08.2019; Istanbul 6th Criminal Judgeship of Peace, 2019/3804, 07.08.2019; Istanbul 11th Criminal Judgeship of Peace, 2019/4150, 20.08.2019.


YAZARLAR GÜNDEM SKD HAYAT DÜNYA EKONOMİ SİGORTA DİĞER

Medipol Üniversitesi'nde tahsis bereketi!

Sağlık Bakanı Fahrettin Koca tarafından kurulan Medipol Üniversitesi'nin sahip olduğu toplam alan 8 yılda 64 kat büyüdü. Açıldığı yıl olan 2012'de bin 689 olan öğrencisi sayısı 2019 itibarıyla 30 bin 232'ye çıktı



Ismail ŞAHİN
09:20 - 29 Temmuz 2019

Haberler | Eğitim

Sağlık Bakanı Fahrettin Koca'nın kurucusu olduğu Medipol Üniversitesi son günlerde Ankara'daki gayrimenkul tahsisleri ile gündemde.

Ankara Tren Garı ek binası ve misafirhanesi, 1927 yılında yapılan ve TCDD Müzesi olarak kullanılan binanın Medipol'e verilmesinin ardında dün de Mimarlar Odası, Atatürk Orman Çiftliği (AOÇ) kapsamındaki hazine arazisinden 555 bin metrekarelik alanın da Medipol'un kurucu vakfı TEBA Vakfı'na verildiğini açıkladı.



DOLAR 6,8556 ↑
EURO 7,6842 ↓
ALTIN 392,0674 ↓

🏠 | GÜNDEM | YAZARLAR | DÜNYA | EKONOMİ | YAŞAM | SPOR | SİYASET | BİLİM VE TEKNOLOJİ

CUMHURİYET'İN EGESİ | MARMARA | ANADOLU | KİTAP | PAZAR | KÜLTÜR-SANAT | KORONAVİRÜS

Hedefi 'Medipol'müş

Bakanın açıklamasının ardından 21 vakıf üniversitesine sağlık turizmi yetkisi verildi.

Tweetle Takip et: @cumhuriyetgzt Facebook'ta paylaş WhatsApp E-posta

A+ A-

Şeyma Paşayığıt 11 Ağustos 2019 Pazar, 21:04

Erişim engeli haberine erişim engeli

Medipol Üniversitesi'ne verilen arazilerin haberleri üzerine gelen erişim engeli basında yer almıştı. Medipol Üniversitesi'nin talebiyle erişim engelleme haberlerine de erişim engeli getirildi. Kararda "kuruma hibe edilmeyen, sadece tahsis edilen binaların 'verildi' yüklemi ile haberleştirilmesi" yer aldı.

In another issue with a public interest element, access to 17 different addresses, including the news article of EuroNews entitled “Kayıp KHK’lılar hakkında tutuklama kararı verildi” [Arrest warrant issued for missing Decree Law victims], was blocked by the Ankara 1st Criminal Judgeship of Peace upon the request of an attorney who was not even mentioned in the article.⁵⁹ Although the reasoning behind this decision was stated as “the sharing of content that will damage the reputation and dignity of the applicant,” it was not explained why the content was blocked even though the applicant was not even mentioned in the article of EuroNews.

'Kayıp KHK'lılar' hakkında tutuklama kararı verildi

Gizem Sade • Son güncelleme: 10/08/2019

⁵⁹ Ankara 1st Criminal Judgeship of Peace, 2019/6139, 16.08.2019.

Finally, 125 news articles published in news websites such as Cumhuriyet, OdaTV, Artı Gerçek, and Tele1 involving the fact that PTT was transferred to the Wealth Fund and suffered a loss of 900 million Turkish liras were blocked by the Istanbul 1st Criminal Judgeship of Peace upon the request of the Turkey Wealth Fund.⁶⁰ The judge ruled that the news articles violated the personal rights of the Turkey Wealth Fund as such since they contained accusative statements and expressions that damage the honour and dignity of the claimant and violated the presumption of innocence.

Screen Capture 15: Artıgerçek Blocked Article



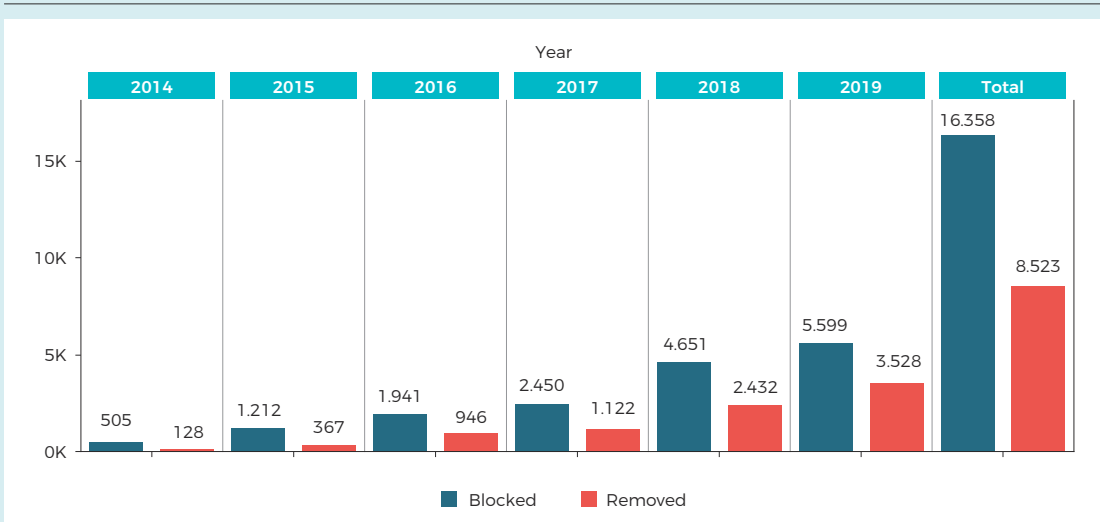
More examples can be provided; however, as can be seen in the above examples, while access to many political news articles that concern the public is blocked by criminal judgeships of peace, the jurisprudence of the Constitutional Court and the European Court of Human Rights with regards to freedom of expression and freedom of the press are usually ignored, as will be detailed below.

⁶⁰ Istanbul 1st Criminal Judgeship of Peace, 2019/5845, 26.12.2019.

TOTAL STATISTICS OF BLOCKED AND DELETED NEWS ARTICLES (URL-BASED) 2014-2019

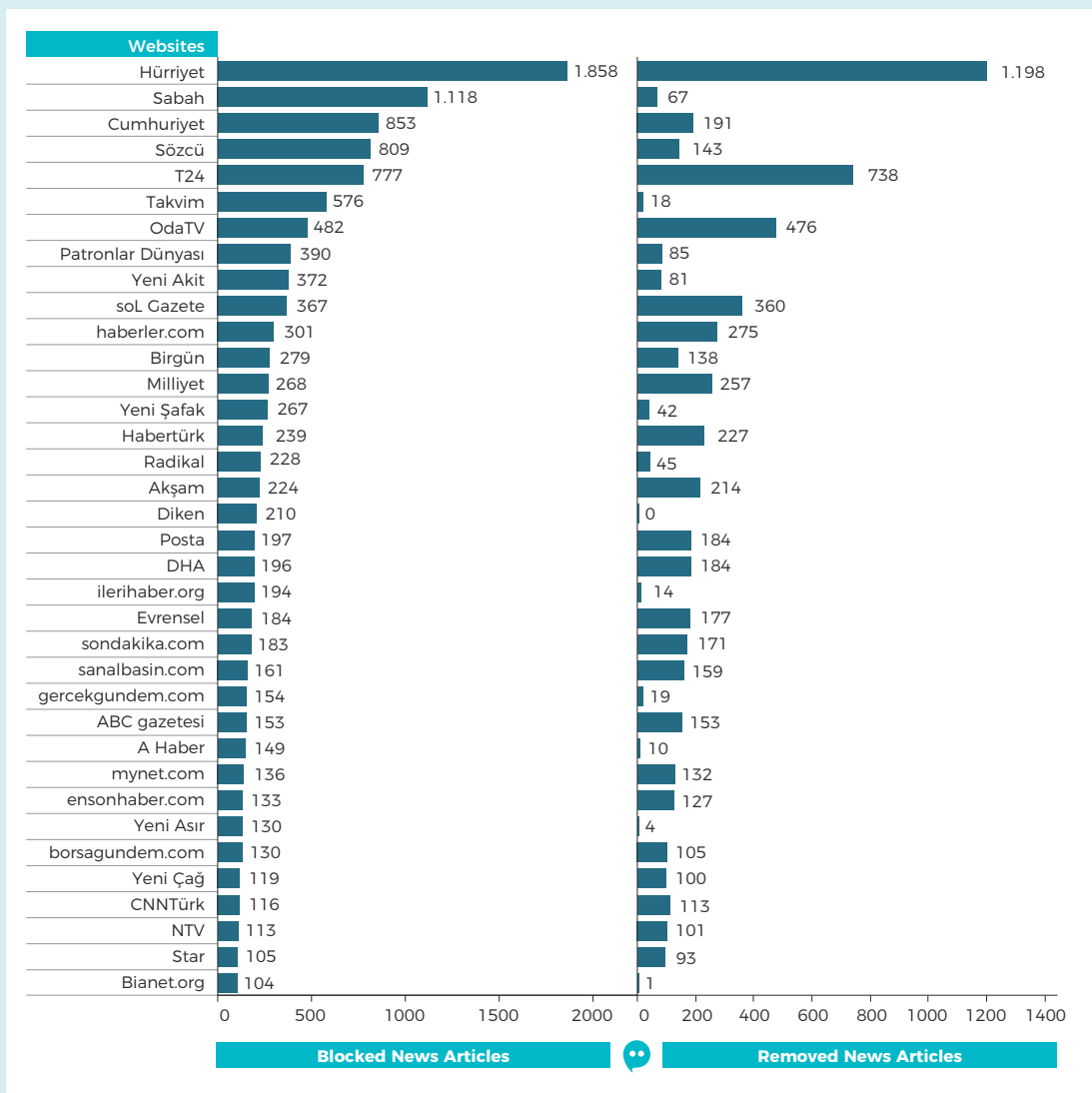
As of 31 December, 2019 and since the URL-based access blocking measure came into force in February 2014 with the amendment of article 9 of Law No. 5651 due to personal rights violations, it was determined that a total of **16.358 news articles** (URL-based) were blocked and that **8.523 news articles (URL)** were deleted or removed. These URLs were blocked pursuant to **4.158 separate orders** issued by **408 separate** criminal judgeships of peace. While 2019 ranked first with a total of **5.599** blocked news articles, it was also the year with the highest number of news articles (**3.528** news articles) which were deleted or removed.

Figure 15: Total Number of Blocked and Removed News Articles (URL) (2014-2019)



By the end of 2019, in the category of “**most blocked news website in terms of news articles (URLs)**,” **Hürriyet** ranked first with **1.858 blocked news articles**, and it was followed by **Sabah** with **1.118 blocked news articles**. While **Cumhuriyet** ranked third with **853 blocked news articles**, **Sözcü** ranked fourth with **809 blocked news articles**, and **T24** ranked fifth with **777 blocked news articles**.

Figure 16: Total Number of Blocked and Removed News Articles (URL) (2014-2019)



By the end of 2019, **Hürriyet** came out on top also in the category of “**removed and deleted news articles**” by removing or deleting **1.198 (64%)** of its **1.858** blocked news articles. It was followed by **T24**, which removed or deleted **738 (95%)** of its **777** blocked news articles and **OdaTV**, which removed or deleted **476 (99%)** of its **482** blocked news articles. **soL Gazetesi**, which removed or deleted **360 (98%)** of its **367** blocked news articles, ranked fourth, while **Haberler.com**, which removed or deleted **275 (91%)** of its **301** blocked news articles, ranked fifth.

The table below shows the top 25 news websites from Turkey in terms of blocked news articles by the end of 2019; including how many URLs on these sites were blocked; how many of those blocked URLs have been deleted or removed from the website; and the rate of deleted/removed URLs to blocked URLs.

Figure 17: Total Number of Removed News Articles (URL) (2014-2019)

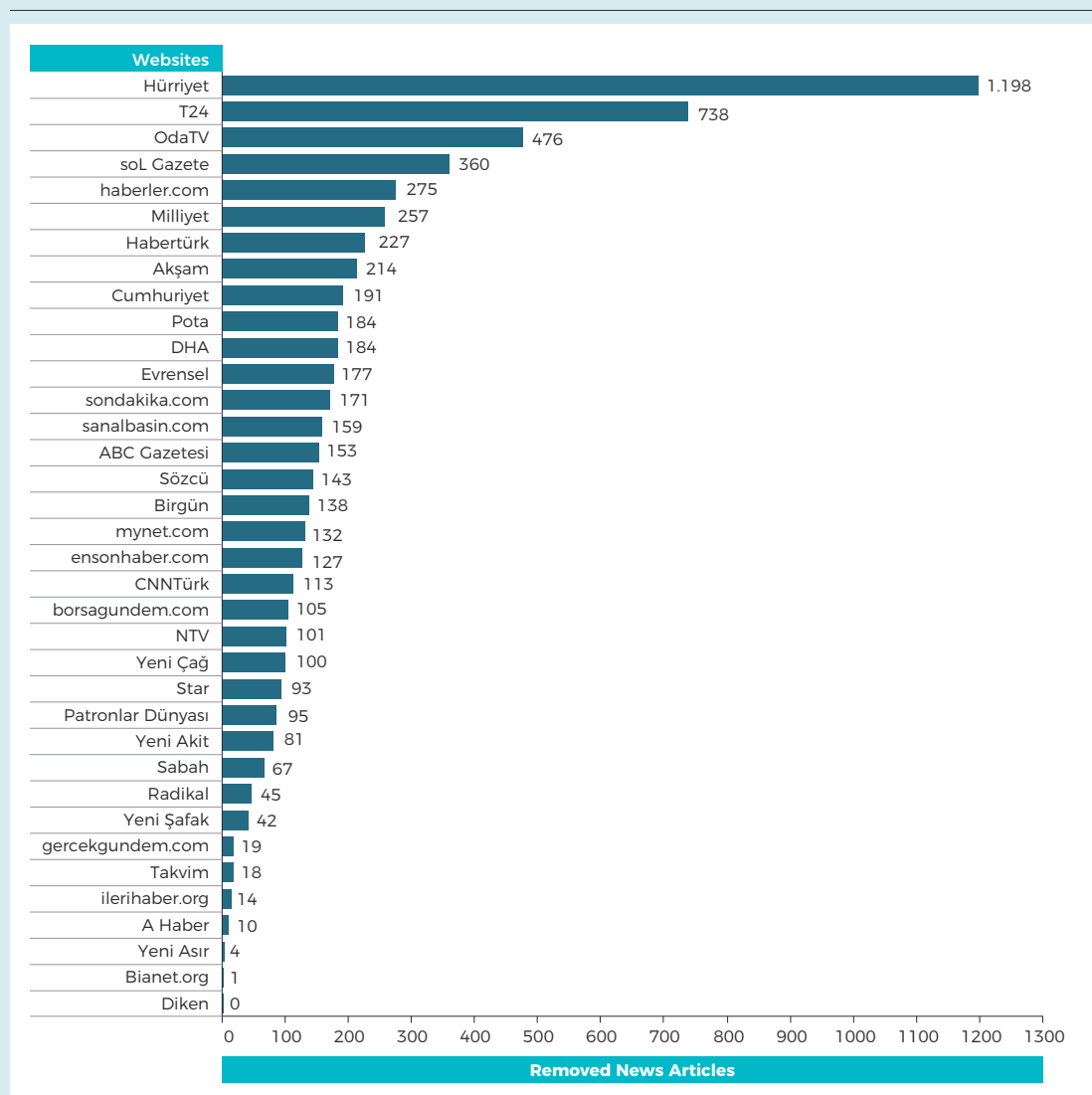


Table 2: 2014-2019 Access-Blocking League Table for the News Articles

Rank	News Website	Number of Blocked URL	Number of Blocked URL	The Rate of Deleting
1	hurriyet.com.tr	1.858	1.198	64%
2	sabah.com.tr	1.118	67	6%
3	cumhuriyet.com.tr	853	191	22%
4	sozcu.com.tr	809	143	18%
5	t24.com.tr	777	738	95%
6	takvim.com.tr	576	18	3%
7	odativ.com	482	476	99%
8	patronlardunyasi.com	390	85	22%
9	yeniakit.com.tr	372	81	22%
10	sol.org.tr	367	360	98%
11	haberler.com	301	275	91%
12	birgun.net	279	138	49%
13	milliyet.com.tr	268	257	96%
14	yenisafak.com	267	42	16%
15	haberturk.com	239	227	95%
16	radikal.com.tr	228	45	20%
17	aksam.com.tr	224	214	96%
18	diken.com.tr	210	0	0%
19	posta.com.tr	197	184	93%
20	dha.com.tr	196	184	94%
21	ilerihaber.org	194	14	7%
22	evrensel.net	184	177	96%
23	sondakika.com	183	171	93%
24	sanalbasin.com	161	159	99%
25	gercekgundem.com	154	19	12%

Subject to article 9(3) of Law No. 5651, the judgeships may only “**decide to block access** within the scope provided hereby in accordance with the requests of victims, whose privacy rights have been violated as a result of content published on the Internet.” However, as seen in the figures above, although criminal judgeships of peace may only decide “**to block access**” subject to article 9 of Law No. 5651, considerable news websites frequently and increasingly remove and delete their news articles and content items which have been blocked subject to the blocking decisions of the criminal judgeships of peace.

Consequently, **self-censorship increases** “with content removed” directly by content owners themselves and therefore, the orders issued by the criminal judgeships

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 given by the criminal judgements of peace become void and it is no longer possible to resort to any legal remedy against a null and void judgment.

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

The Constitutional Court, in October 2017, in its Ali Kılık judgment⁶¹ stated that access-blocking orders subject to article 9 of Law No. 5651 are **not penal or administrative sanctions, but protection measures**⁶² 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 orders subject to article 9 of Law No. 5651 may be issued by criminal judgements of peace only in circumstances where violations of personal rights can be recognized **at first sight**⁶³ 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.⁶⁴

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

The Constitutional Court has so far referred to the Ali Kılık judgment and the principle of prima facie violation in 15 different applications.⁶⁵ The Ali Kılık judgment issued by the Constitutional Court in October 2017 is binding on the lower courts including the criminal judgements of peace. It is therefore required for the criminal judgements of peace to make a prima facie violation assessment when evaluating the requests made under Article 9 of the Law No. 5651 and prior to issuing access blocking related decisions.

⁶¹ Ali Kılık Application, No: 2014/5552, 26.10.2017.

⁶² A.A. Application, No: 2014/7244, 12.09.2018, para. 20.

⁶³ 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 the Freedom of Expression: Evaluation of Article 9 of the Law No.5651 in Terms of the 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>.

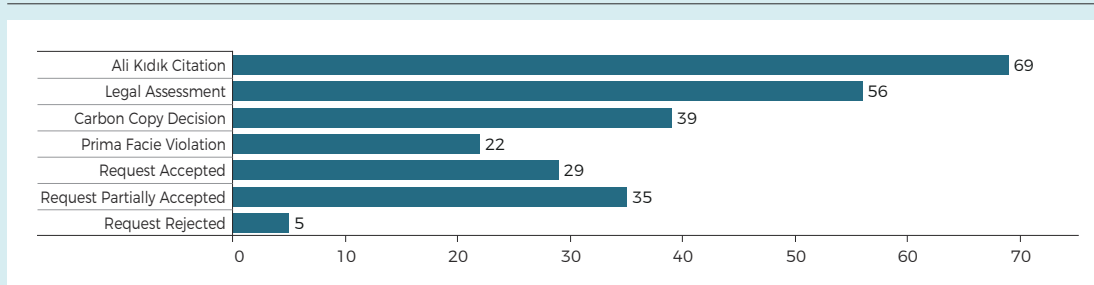
⁶⁴ Ali Kılık Application, No: 2014/5552, 26.10.2017, para. 63

⁶⁵ 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 Küçükaya Application (No: 2014/15916, 09.01.2020).

As part of the EngelliWeb project, approximately 6.200 access-blocking orders 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 orders examined, only **69 (0.011%) orders** issued by 17 different judgeships and 19 different judges referred to the Ali Kıdk judgment of the Constitutional Court. Therefore, it was found that more than 6.000 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.

When the **69 decisions** referring to the Ali Kıdk judgment in 2019 were examined in detail, it was seen that a legal assessment was made only in 56 decisions but 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 access blocking requests were accepted in 29 of the 69 decisions, while they were partially accepted in 35 decisions. On the other hand, only 5 requests were rejected. The remaining 47 decisions only referred to the application number of the Ali Kıdk 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 at all in 13 of the 39 decisions that referred to the Ali Kıdk.

Figure 18: Performance of the Criminal Judgeships of Peace in Relation to the Constitutional Court’s Ali Kıdk Decision in 2019



As stated above, “prima facie violation” assessment required since the Ali Kıdk judgment of the Constitutional Court, was only found in 11/1000 of the 6.200 decisions assessed. The decision of the Constitutional Court was therefore referred to in only a small number of decisions. More strikingly and worryingly, it is found that a prima facie violation assessment was only made in 22 (3/1000) of the 69 decisions referring to the Ali Kıdk judgment out of 6.200 decisions assessed. This is clearly **not a coincidence** and criminal judgeships of peace completely and systematically ignore the Ali Kıdk judgment and the subsequent 15 similar judgments issued by the Constitutional Court. Therefore, the Ali Kıdk judgment of the Constitutional Court does not resolve the problems with the enforcement of article 9 and the Constitutional Court **ignores the structural problems related to article 9**. In nearly three years from the publication of the Ali Kıdk Judgment in the Official Gazette, the prima facie violation approach has become part of the structural problems in-

stead of resolving them.⁶⁶ It is clear that article 9 of Law No. 5651, which does not stipulate 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 required** by Article 13 of the Constitution. The rule, as such, does not possess the qualifications that a law should possess such as being clear and predictable or providing assurance against arbitrary interventions.

URL'S, NEWS ARTICLES AND SOCIAL MEDIA CONTENT BLOCKED UNDER ARTICLE 9/A OF THE 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 procedure prescribed by article 9/A has not been preferred as much as 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 application of article 9/A.⁶⁷ 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 form 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 9 in 2017, were issued by the criminal judgeships of peace upon requests of citizens subject to article 9/A. These numbers are very small compared to thousands of orders issued by criminal judgeships of peace subject to article 9 of Law No. 5651.

⁶⁶ Also see 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).

⁶⁷ See <https://www.ihbarweb.org.tr/ohg/>

Upon the request of the satellite broadcaster Digiturk with regards to Twitter-owned Periscope TV, the Istanbul 1st Intellectual and Industrial Property Rights Court blocked access to the Periscope TV domain names of pscp.tv, proxsee.pscp.tv, prod-assets.pscp.tv, prod-video-eu-central-1.pscp.tv limited for the duration of Spor Toto Super League football matches by an injunction issued on 17 July, 2018 (decision no. 2018/85). Since the 2018-19 Super League football season, access to the Periscope TV addresses specified above is blocked from Turkey during the football matches. This order has been executed by the Association of Access Providers. The 17-week second half of the 2018-2019 Super League season and the 17-week first half of the 2019-2020 Super League season were completed in 2019. During this period, Periscope TV was blocked a total of 130 times.

aşağıdaki karara istinaden 5651 sayılı Kanun uyarınca Erişim Sağlayıcıları Birliği tarafından erişime engellenmiştir.

- İFADE ÖZGÜRLÜĞÜ DERNEĞİ 41

SOCIAL MEDIA ACCOUNTS AND CONTENT BLOCKED FROM TURKEY IN 2019

TURKEY'S INTERNET CENSORSHIP PRACTICES IN THE TWITTER TRANSPARENCY REPORTS

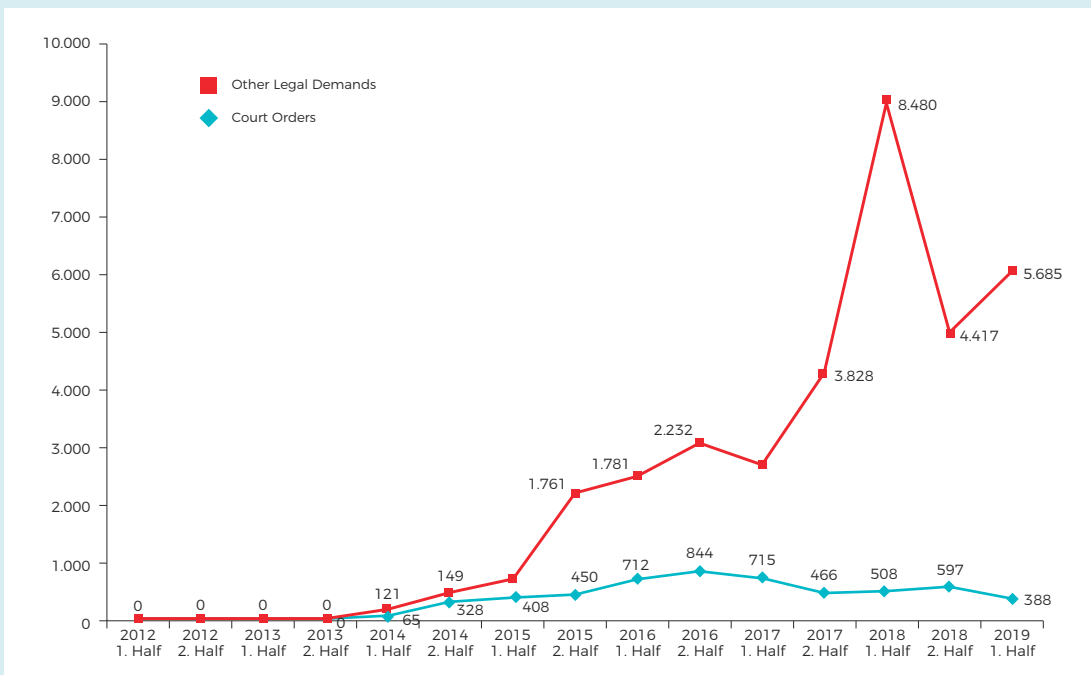
Twitter has been publishing biannual Transparency Reports since 2012. In these reports, Twitter reveals the number of removal orders received from local courts; the removal requests sent by government bodies and other real persons or legal entities; removal rates; the number of accounts specified in 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	Account Withheld	Tweets Withheld Turkey	Tweets Withheld Global	Tweets Withheld Other Countries
2012: 1. Half	1	0	%0	7	0	0	0	0
2012: 2. Half	0	6	%0	9	0	0	44	44
2013: 1. Half	3	4	%0	30	0	0	73	73
2013: 2. Half	2	0	%0	2	0	0	191	191
2014: 1. Half	65	121	%30	304	17	183	251	68
2014: 2. Half	328	149	%50	2.642	62	1.820	1.982	162
2015: 1. Half	408	310	%34	1.978	125	1.667	2.534	867
2015: 2. Half	450	1.761	%23	8.092	414	3.003	3.353	350
2016: 1. Half	712	1.781	-	14.953	222	1.571	2.599	1.028
2016: 2. Half	844	2.232	%19	8.417	290	489	1.113	624
2017: 1. Half	715	1.995	%11	9.289	104	497	1.463	966
2017: 2. Half	466	3.828	%3	6.544	148	322	1.122	800
2018: 1. Half	508	8.480	%18	13.843	425	1.464	2.656	1.192
2018: 2. Half	597	4.417	%0	9.155	72	355	2.471	2.116
2019: 1. Half	388	5.685	-	8993	264	230	2.103	1.873
Total	5.487	30.769	-	84.258	2.243	11.601	21.955	10.354

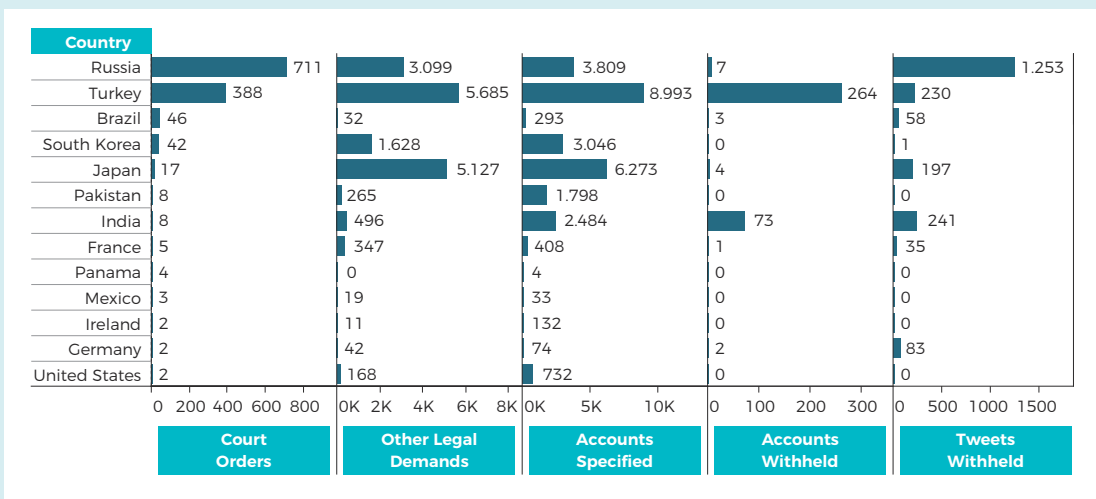
In the first half of 2019, **388** court orders and **5.685** other removal requests were sent to Twitter from Turkey, and **8.993** Twitter accounts were specified in withholding/removal requests. Nonetheless, Twitter announced that it withheld/removed only **264 accounts and 230 tweets** from Turkey in the first half of 2019. As part of the EngelliWeb Project, **1.484 Twitter accounts** were identified to be blocked from Turkey in 2019 by the orders of the criminal judgeships of peace.

Figure 19: Court Orders and Other Legal Requests Sent to Twitter from Turkey



711 of the 1,243 court orders sent to Twitter in the **First Half of 2019** were sent from **Russia**. When compared to other countries, **Turkey** ranked second with **388** court orders and was followed by **Brazil** with **46** court orders. In terms of other removal requests, a total of **17,510** requests were submitted to Twitter. In this category, **Turkey** ranked first with **5,685** requests and was followed by **Japan** with **5,127** requests and **Russia** with **3,099** requests. In the first half of 2019, a total of **50,757** accounts were specified in removal requests. **Turkey** ranked second with **8,993** requests while **Indonesia** had 17,003 requests. **Japan** was in the third place with **6,273** requests in this category. While **Turkey** has become the country where Twitter removed or withheld the highest number of accounts (**264** accounts), **India** ranked second with **73** accounts, and **Russia** ranked third with **7** accounts. Finally, in the category of withheld/removed tweets in this period, **Russia** ranked first with **1,253** tweets, while **India** ranked second with **241** tweets, and **Turkey** ranked third with **230** tweets.

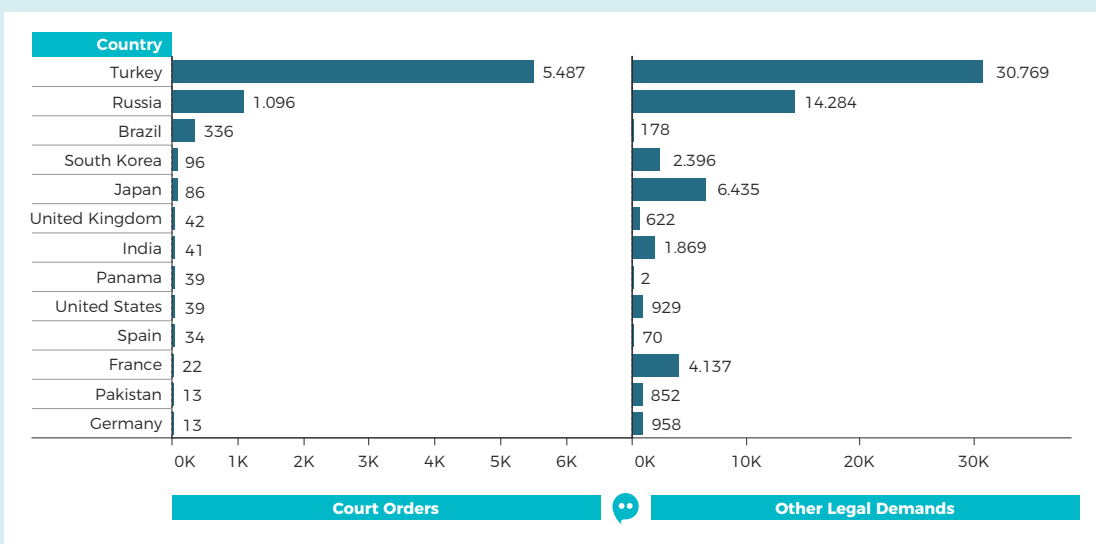
Figure 20: Twitter Transparency Report: 2019 First Half Statistics



RANKING OF TURKEY IN TWITTER TRANSPARENCY REPORTS WORLDWIDE

The 2012-2019 First Half Twitter Transparency Reports present a grim picture of Turkey when compared to other countries, as shown in the figures below. While **7,396 court orders** sent to Twitter from the beginning of 2012 to the end of the first half of 2019, **5,487 (74%)** were sent from **Turkey**, which is the undisputed leader in this category. **Russia** ranked second with **1,096** court orders and **Brazil** ranked third with **336**

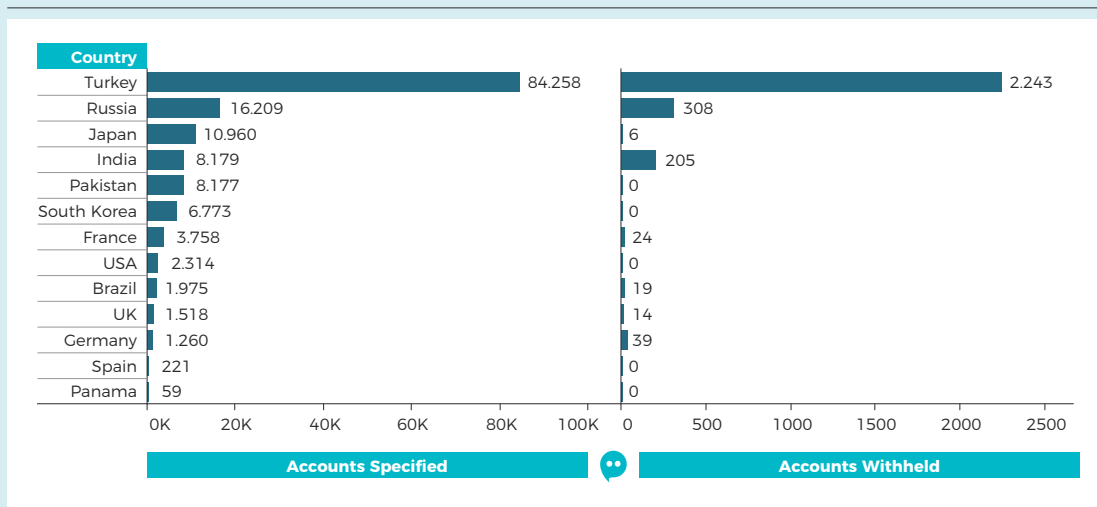
Figure 21: Total Number of Court Orders and Other Legal Demands in the Twitter Transparency Reports (2012-2019-I)



court orders. When **other removal requests** are examined, it is seen that a total of **66.007** requests were submitted to Twitter. The highest number of requests were submitted from **Turkey** with **30.769 (46%)** requests, while **Russia** ranked second with **14.284** requests, and **Japan** ranked third with **6.435** requests.

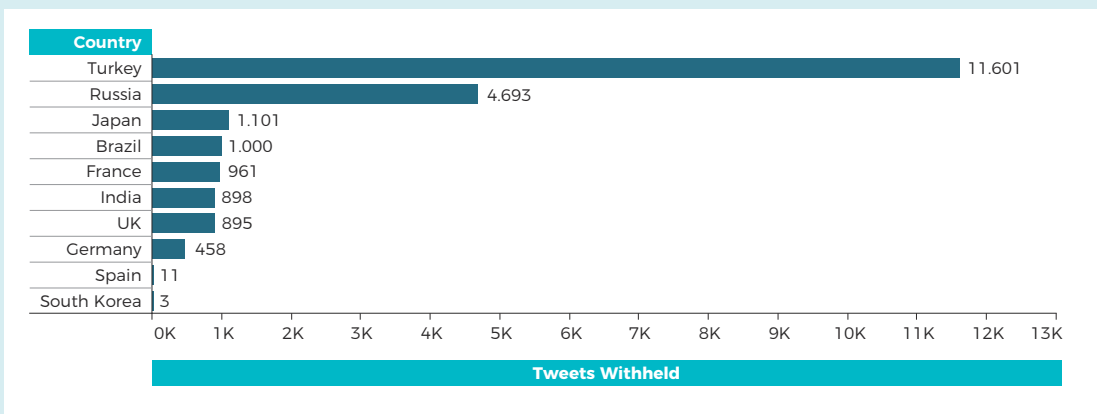
While a total of **181.271** accounts were specified in withholding/removal requests worldwide, Twitter only removed or withheld a total **2.877** accounts. In the category of the number of accounts reported, **Turkey** ranked first with **84.258 (46%)** accounts and was followed by Indonesia with 23.673 accounts, **Russia** with **16.209** accounts and **Japan** with **10.960** accounts. In the category of the number of accounts removed or withheld, **Turkey** ranked first with **2.243 (77%)** accounts and was followed by **Russia** with **308** accounts and **India** with **205** accounts.

Figure 22: Twitter Transparency Report: 2012-2019 First Half Statistics



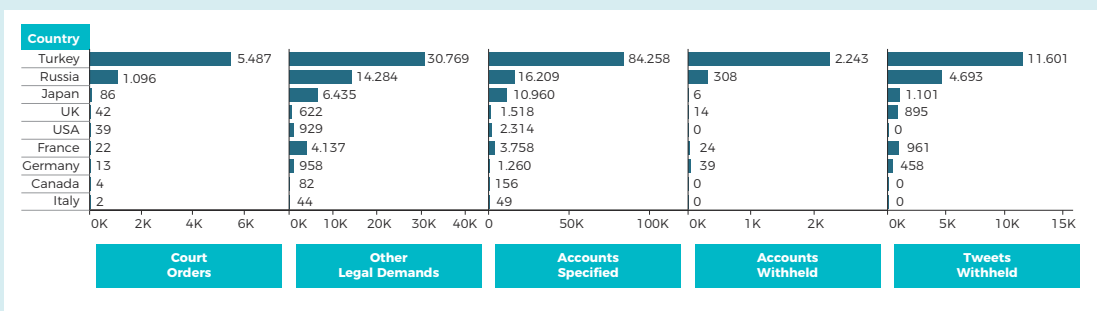
When the tweets removed or withheld by Twitter are examined, it is noted that Twitter does not disclose the number of tweets specified in removal or withholding requests but only discloses the number of tweets removed or withheld. Twitter removed or withheld **21.674** tweets worldwide by the end of the First Half of 2019. In the category of the number of tweets removed or withheld, **Turkey** ranked first with **11.601 (53%)** tweets and was followed by **Russia** with **4.693** tweets and **Japan** with **1.101** tweets.

Figure 23: Twitter Transparency Report: 2012-2019 First Half Statistics



In the figure below, 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 Transparency Reports is shown transparently and clearly. In all the categories, including submitted court orders, other removal requests, accounts specified for removal, accounts withheld or removed and tweets removed; Turkey is way ahead of the G8 countries.

Figure 24: Comparison of Turkey and G8 Countries in the Twitter Transparency Reports



TURKEY'S INTERNET CENSORSHIP PRACTICES IN THE 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 2019.⁶⁸ Facebook removed a total of 23.002 content items from Turkey from the second half of 2013 to the end of 2018 and 1.135 further content items were removed in 2019, totalling the number of content items removed from Turkey to 24.137. While Facebook removed 2.381 content items in 2018, a decrease of 47% is observed in 2019,

Figure 25: Number of Removed Content from Facebook: Turkey

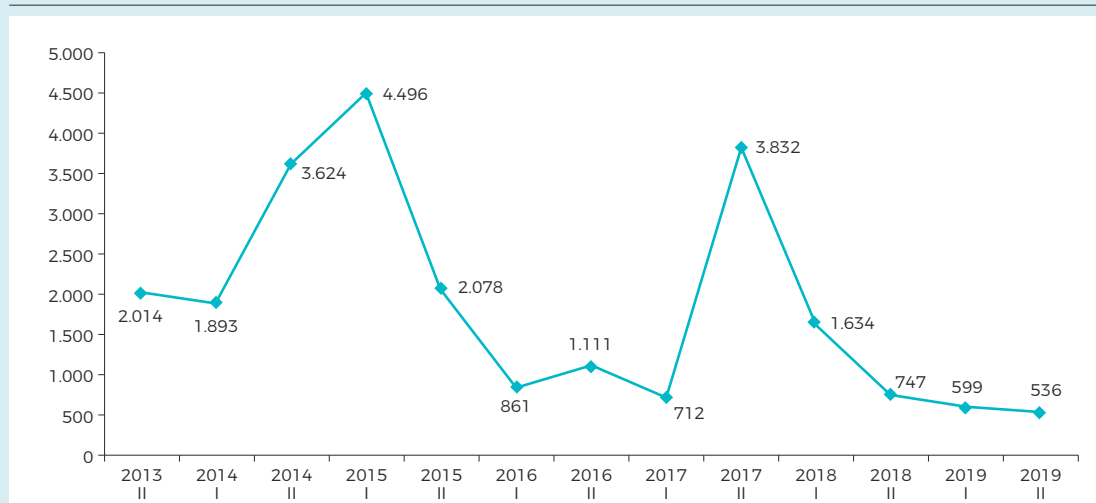
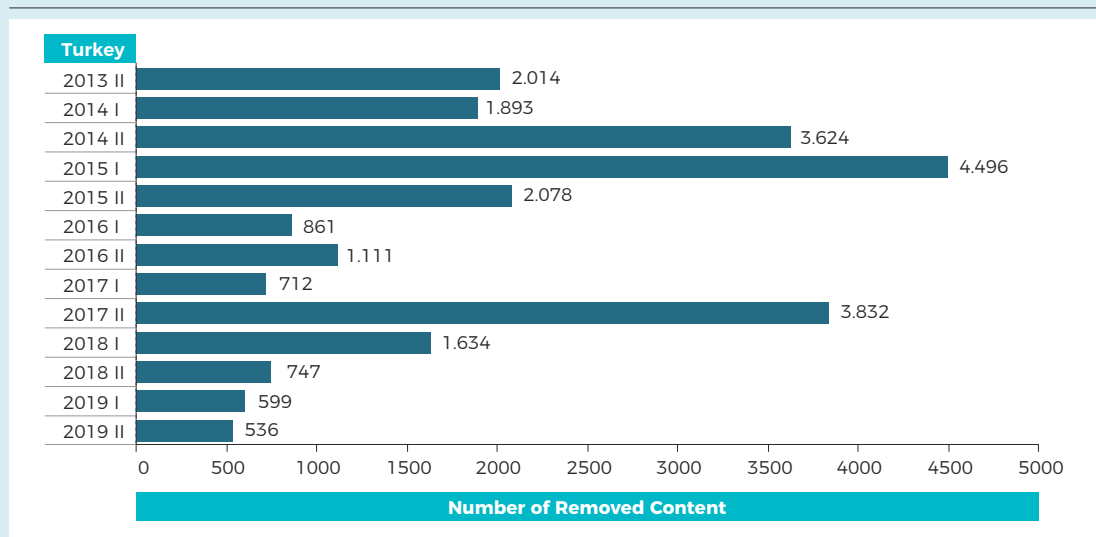


Figure 26: Facebook: Number of Removed Content from Turkey Based on Reporting Period (2013-2019)

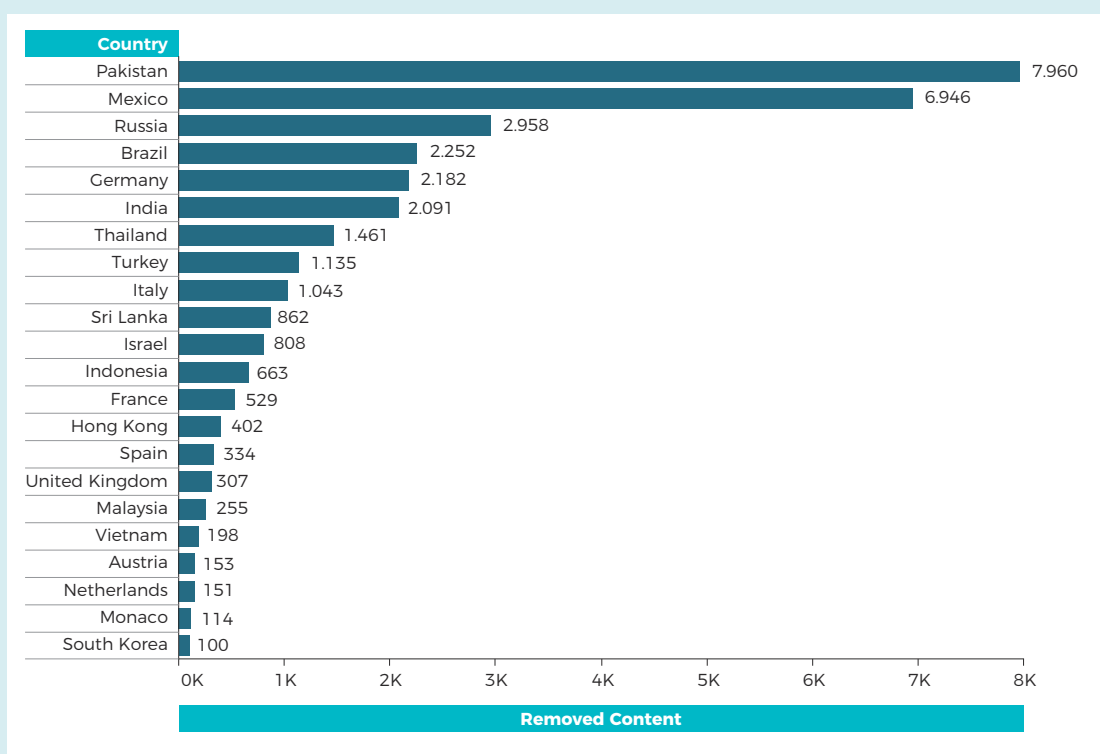


⁶⁸ See <https://transparency.facebook.com/content-restrictions>

when compared to 2018 as will be seen in the below figures. The cause of the decrease was not explained in the Facebook Transparency reports. However, it is considered that the number of requests sent to Facebook from Turkey also decreased.

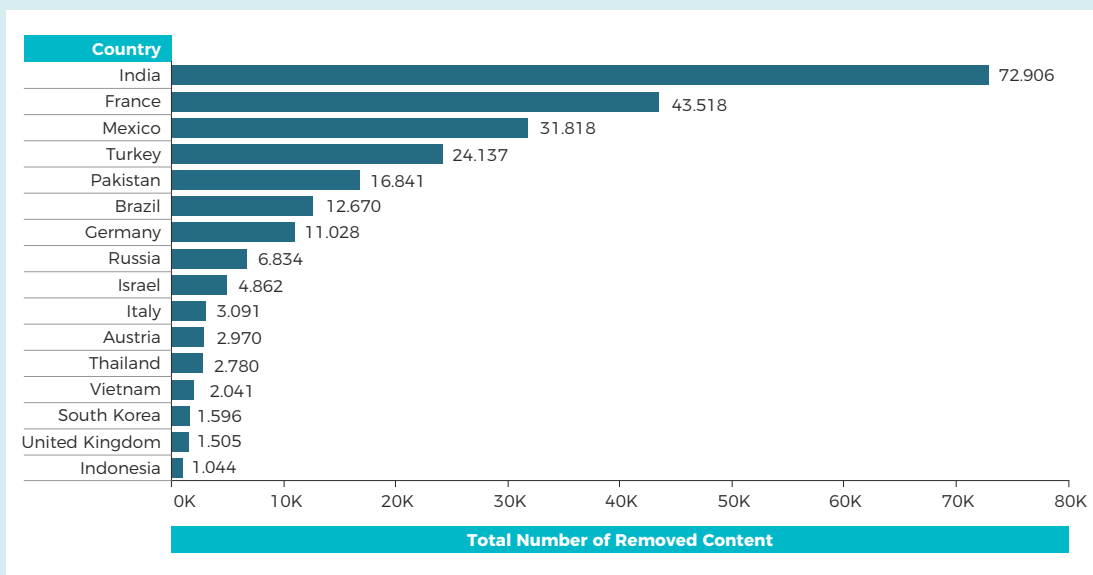
According to the 2019 statistics, **Turkey** ranks **eighth** with **1.135** content items removed, while **Pakistan** ranked **first** with **7.960** removed items and was followed by **Mexico** with **6.946** items removed and **Russia** with **2.958** items removed.

Figure 27: Total Number of Removed Content From Facebook: 2019



When the Facebook worldwide statistics are assessed, it is seen that Facebook restricted access to a total of **246.129** content items on its platform by the end of 2019, while this figure is **33.633** for 2019. **Turkey** ranked **fourth** in the category of restricted items on the Facebook platform with **24.137 content items**, while **India** ranked **first** with 72.906 items, **France** ranked **second** with 43.518 items, and **Mexico** ranked **third** with **31.818** items.

Figure 28: Total Number of Removed Content From Facebook: 2013-2019



Unlike Twitter, Facebook does not provide more detailed information or disclose the details of restriction demands or requesting organisations. So far as Turkey is concerned, Facebook has stated that 436 of the 1.135 items restricted in Turkey in 2019 were removed in response to the requests of BTK, courts, the Association of Access Providers, the Ministry of Health and the Ministry of Trade pursuant to Law No. 5651. According to Facebook, 699 other items were restricted in response to private reports related to a range of offences including privacy rights violations.

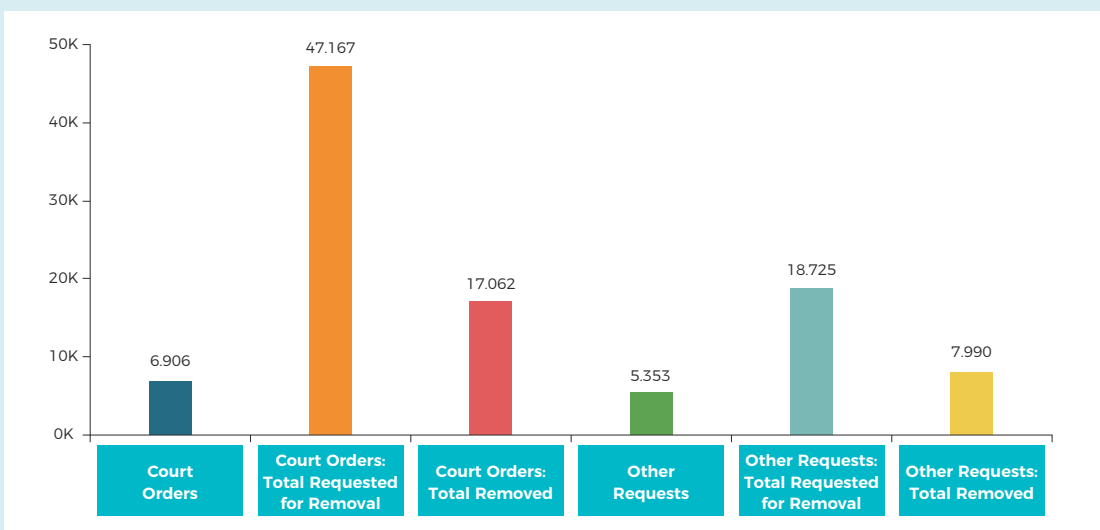
TURKEY'S INTERNET CENSORSHIP PRACTICES IN THE GOOGLE TRANSPARENCY REPORTS

Google started to publish transparency reports since the second half of 2009 and 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 to the **end of the First Half of 2019**, a total of **12.259** requests were submitted to Google from Turkey, including **6.906 court orders** and **5.353 other removal requests** (BTK, police units, public institutions, and real persons or legal entities). A total of **65.973 content items** for removal were specified in these **12.259** requests.

Of the **65.973** items specified in removal requests, **47.167** were requested subject to court orders, and **Google removed** or restricted access to **17.062 items** from Turkey in accordance with court orders. **18.725 social media content items** were specified in **5.353** requests other than court orders, and Google **removed** or restricted access to **7.989 items** from Turkey in accordance with those other requests. Thus, by the end

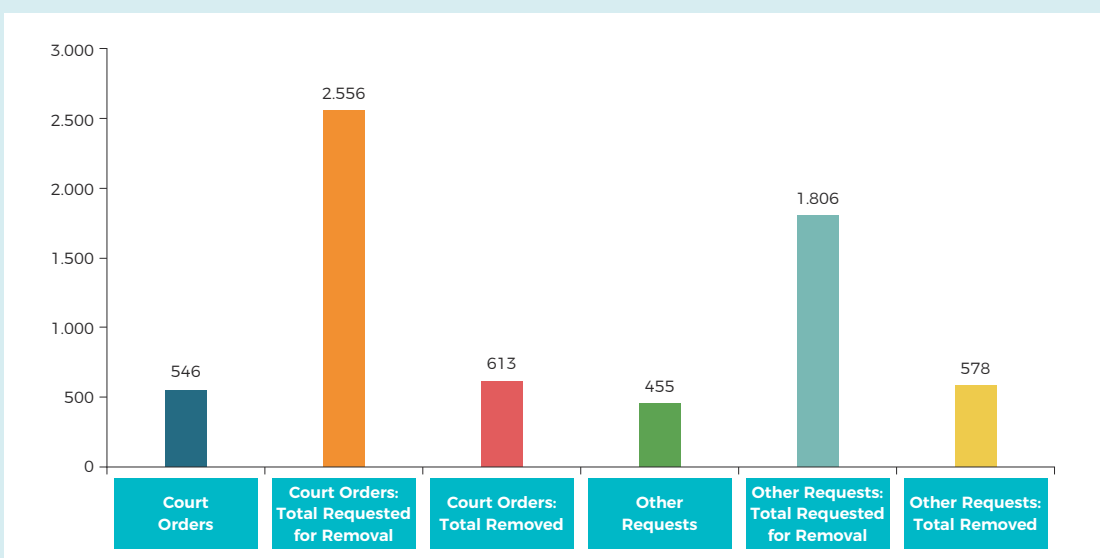
Figure 29: Turkey in Google Transparency Reports (2009-2019 First Half)



of the **First Half of 2019**, **25,051 (37%)** of the **65,973 items** specified in removal or restriction requests were **removed** or restricted from Turkey.

So far as 2019 is concerned, in the **first half of 2019**, a **total of 1,001 requests** were sent from Turkey to Google; including **546 court orders** and **455 other removal orders**. **4,362 content items** were specified in these removal requests, out of which **2,556** were based on court orders, while **1,806** were based on other requests. In its last transparency report, Google announced that it removed or restricted access to a total of **1,191 items**, including 613 content items subject to court orders and 578 content items subject to other requests.

Figure 30: Turkey in Google Transparency Reports (2019 First Half)



The reasons provided by the Turkish authorities for the removal requests mainly include defamation, national security, privacy and security, drug abuse, as well as obscenity. In an example provided in the [Google's report for the first half of 2019](#), it was stated that the Information Technologies and Communication Board submitted a request for the restriction of 70 YouTube videos involving the terrorist attacks in two mosques in Christchurch, New Zealand, during Friday Prayer. It was added that Google removed the 8 videos specified in this request as they violated the Community Guidelines of YouTube and that the remaining 62 videos had been removed by YouTube prior to the request by BTK. However, as will be recalled, even though the videos of the terrorist attack in New Zealand were removed from YouTube as well as from Facebook and other social media platforms, President Erdoğan showed the Christchurch terrorist attack video at the rallies in Tekirdağ and Gaziosmanpaşa, Istanbul, before the 2019 Local Elections.⁶⁹

Screen Capture 17: EuroNews Blocked Article

euronews.

TÜRKİYE

Erdoğan seçim mitinginde sosyal medyada kaldırılan Yeni Zelanda cami katliamı görüntülerini paylaştı

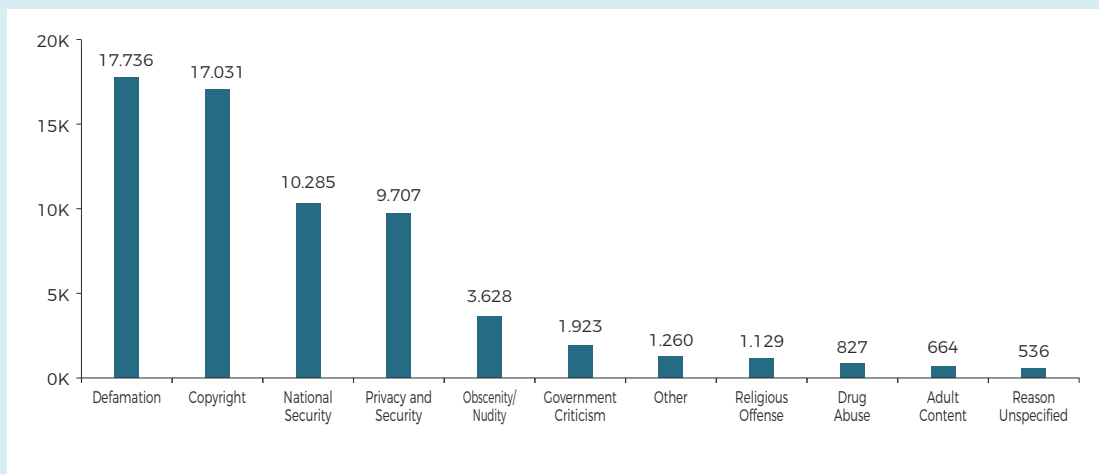
Beraat Gokkus • 16/03/2019



⁶⁹ EuroNews, Erdoğan seçim mitinginde sosyal medyada kaldırılan Yeni Zelanda cami katliamı görüntülerini paylaştı [Erdoğan showed the videos of the mosque massacre in New Zealand at his campaign rally, even though they were removed from the social media], 16.03.2019, <https://tr.euronews.com/2019/03/16/erdogan-secim-mitinginde-sosyal-medyada-kaldirilan-cami-katliami-goruntulerini-yayinladi>

In general, as can be seen in the 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 offence, drug abuse and adult content.

Figure 31: Total Number of Removal Requests (By Reason) Sent from Turkey to Google



As can be seen in **Figure 31**, the most frequent reason sent to Google from Turkey was defamation. The breakdown of the last 10 years is provided below in **Figure 32**. **By the end of the First Half of 2019**, Turkish authorities requested the removal of **17,736** allegedly defamatory content items with a total of **4,042** court orders and **428** other requests. The examples provided by Google include the rejection of the request of a high-ranking government official for the removal of a Google Drive file that contained an image of a book that criticizes the Turkish government;⁷⁰ the rejection of the requests for the removal of two Google Groups posts, two Blogger posts, a Blogger image, and an entire Blogger blog which published political caricatures of a senior Government official of Turkey, despite a court order;⁷¹ and the rejection of a request for the removal of four Blogger posts that contain criticism of a prominent political figure in Turkey, despite a court order.⁷² 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 regarding the post.⁷³

⁷⁰ July-December 2018.

⁷¹ July-December 2016.

⁷² July-December 2015.

⁷³ January-June 2015.

Figure 32: Turkey in Google Transparency Reports (Total Number of Requests in Relation to Defamation)

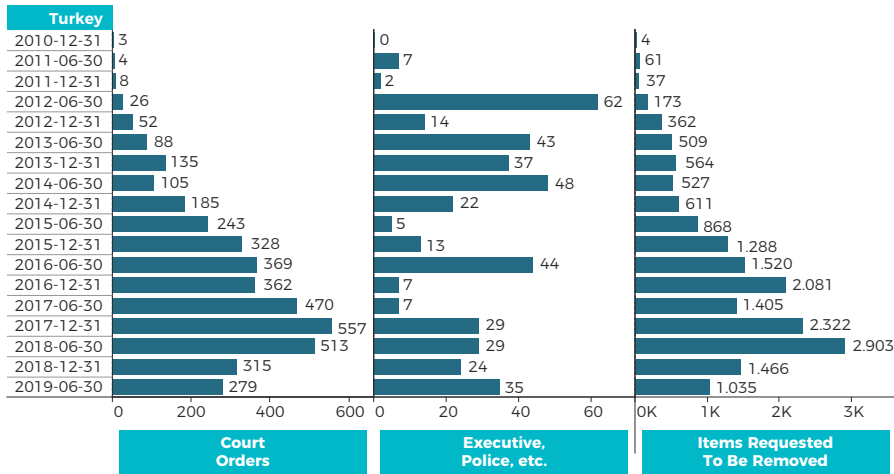
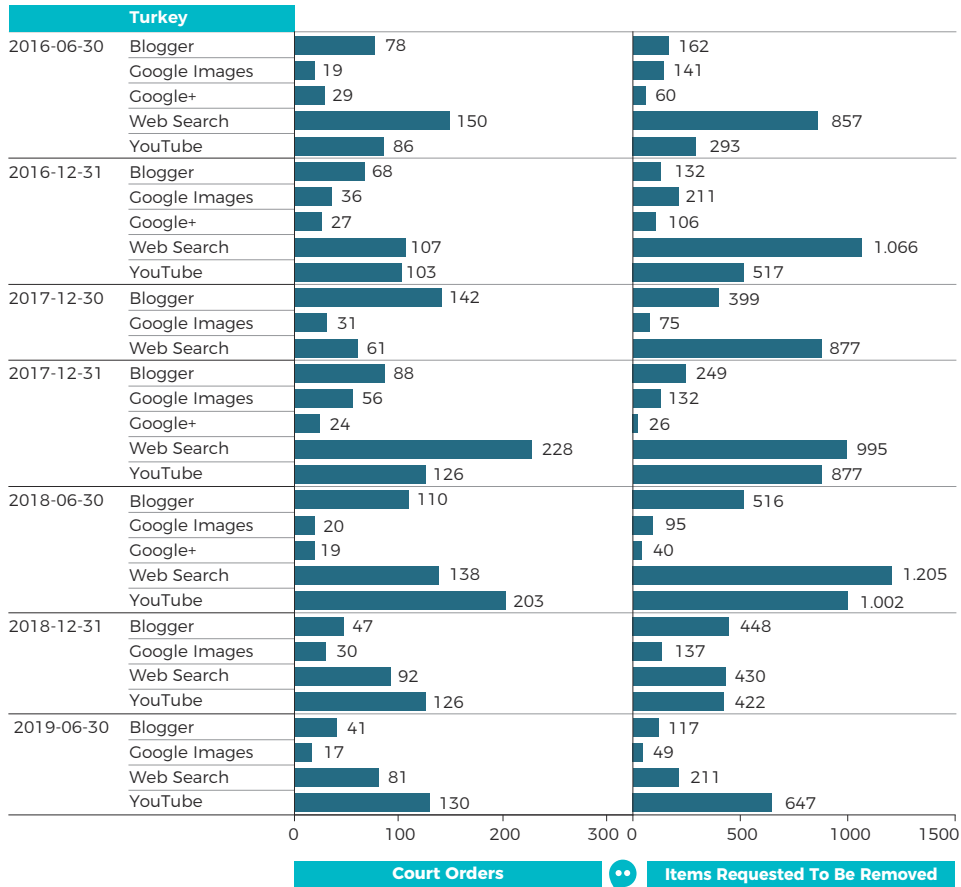
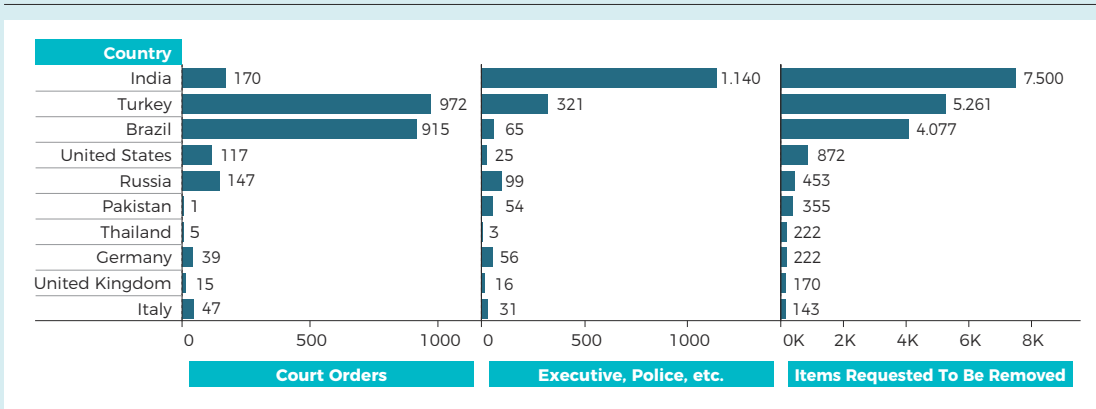


Figure 33: Turkey in Google Transparency Reports
(Total Number of Product Based Requests in Relation to Defamation)



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 the First Half of 2019**, the highest number of requested items for removal were sent from **India** with **7.500** requests. **Turkey** ranked second with **5.261** requested items for removal. However, **Turkey** ranked first in this category with the highest number of court orders sent to Google with **972** court orders, followed by **915** courts orders sent from Brazil and **170** orders sent from **India**.

Figure 34: Youtube: Defamation Related Requests



Similarly, when 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 **25.373** requested items for removal followed by **Vietnam** with **6.296** items for removal by **Turkey** was ranked third with **1.396** such requests as can be seen in **Figure 35**.

Figure 35: Youtube: Government Criticism Related Requests

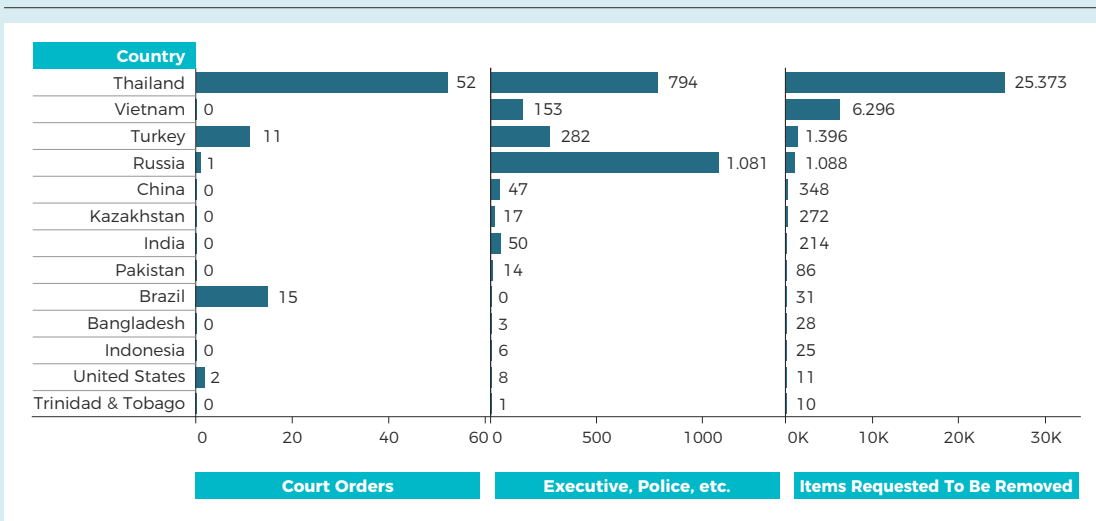
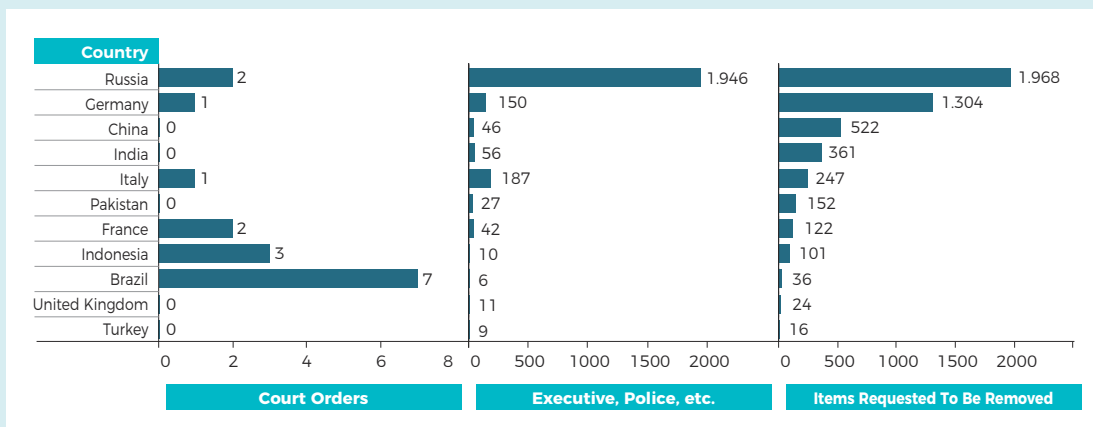


Figure 36: Youtube: National Security Related Requests



Although the leading countries change in the category of “**national security**” in requests for removal from the YouTube platform, Turkey’s ranking remains similar and **Turkey** is ranked third with **9.478** requests for removal, after **Kazakhstan** and **Russia** as can be seen in **Figure 36**.

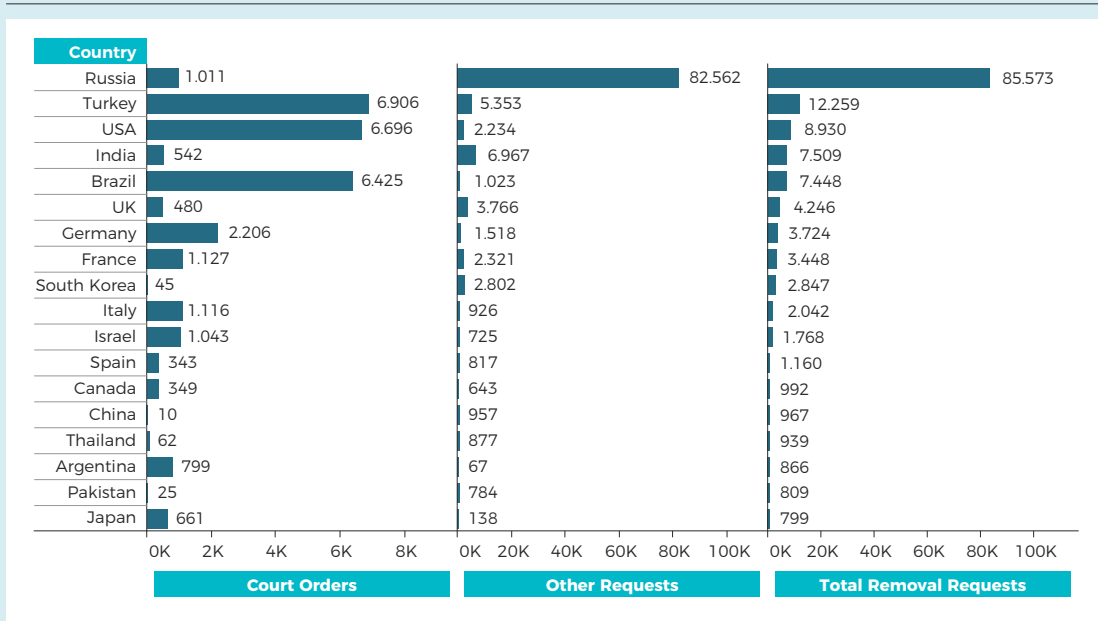
Figure 37: Youtube: Hate Speech Related Requests



Moreover, when the “**hate speech**” related requests for the removal of content from the YouTube platform are assessed, a completely different picture 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 for removal with only 9 other requests and no court orders sent as can be seen in **Figure 37**.

By the **end of the First Half of 2019**, a total of **147.799** requests were sent to Google worldwide, including **30.535 court orders** and **117.264 other requests**. As can be seen in **Figure 38**, **Russia** ranked first in submitting content removal requests to Google with **83.573** requests. Most of the requests sent from Russia (**82.562**) were categorized under “**other requests**” rather than court orders. Only **1.011** court orders were sent by Russia to Google. **Turkey** ranked second with **12.259** removal requests; out of which **6.906** were based on court orders, while **5.353** were other requests. Among the countries sending the highest number of court orders, Turkey ranked first with **6.906** orders and was followed by the USA with **6.696** orders and Brazil with **6.425** requests. In the category of other requests, Turkey came third after Russia and India.

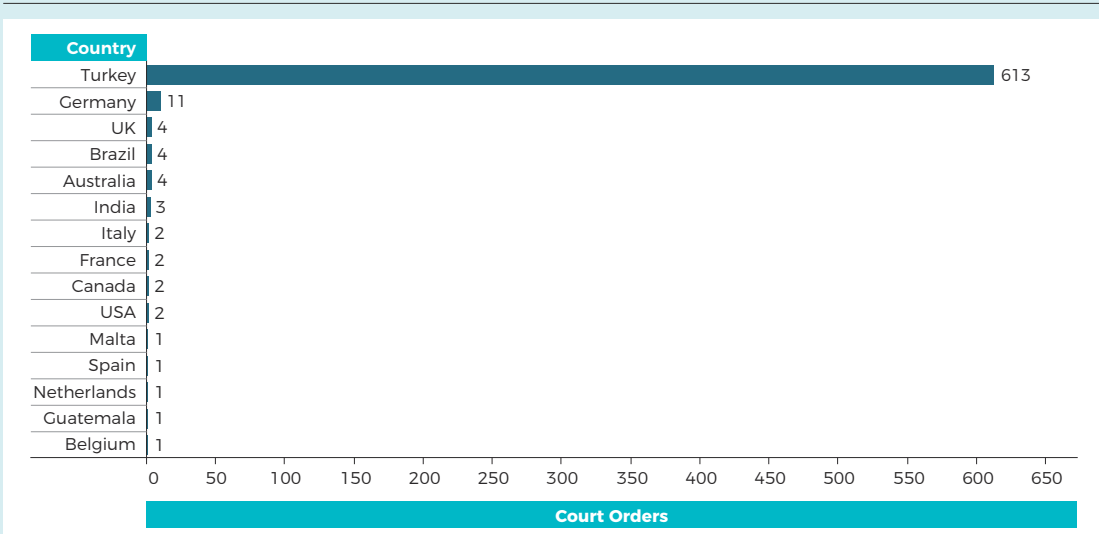
Figure 38: Total Removal Requests Sent to Google by Country



TURKEY’S INTERNET CENSORSHIP PRACTICES IN THE WORDPRESS TRANSPARENCY REPORTS

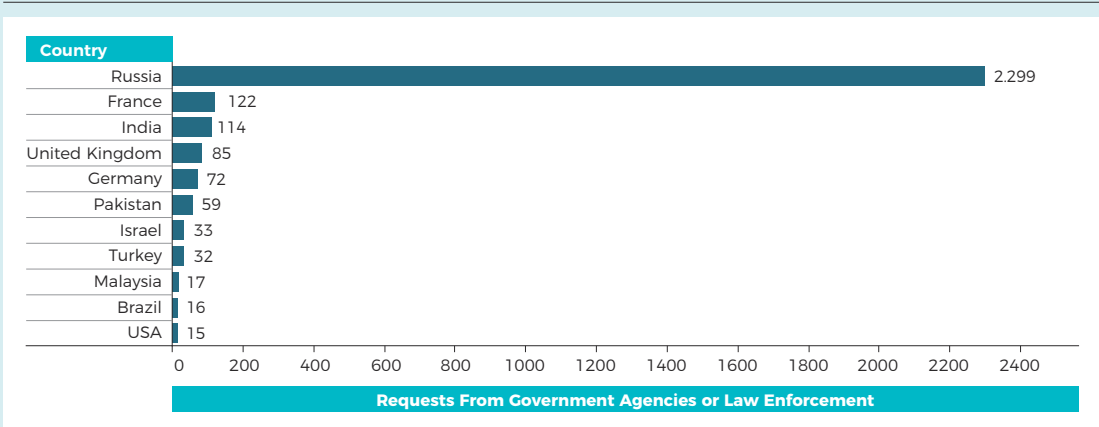
The Wordpress blogging platform also publishes regular transparency reports since 2014. Figure 39 below shows that between 2014 and 2019, **613 of the 652 court orders** that were sent to Wordpress worldwide were submitted from **Turkey**. Turkey is followed by **Germany** with only 11 court orders and then the **United Kingdom, Brazil,** and **Australia** with 4 court orders sent each. In 2019, **72 of the 75 court orders** sent to Wordpress worldwide were sent **from Turkey**.

Figure 39: Turkey in the Wordpress Transparency Reports



In the category of “**other takedown requests**”, **Russia** comes first with 2.299 requests, while there were only 32 other requests sent from **Turkey** to Wordpress. 27 out of these 32 requests were sent in 2019.

Figure 40: Turkey in the Wordpress Transparency Reports



A total of 4.108 content items for removal were specified in 652 court orders and 2.988 other requests. In total, **865 requests were sent from Turkey**. Turkey came second in this category, while **Russia** ranked first with **1.634** items. According to the Wordpress data, 42% of these takedown requests were met affirmatively.

Figure 41: Turkey in the Wordpress Transparency Reports

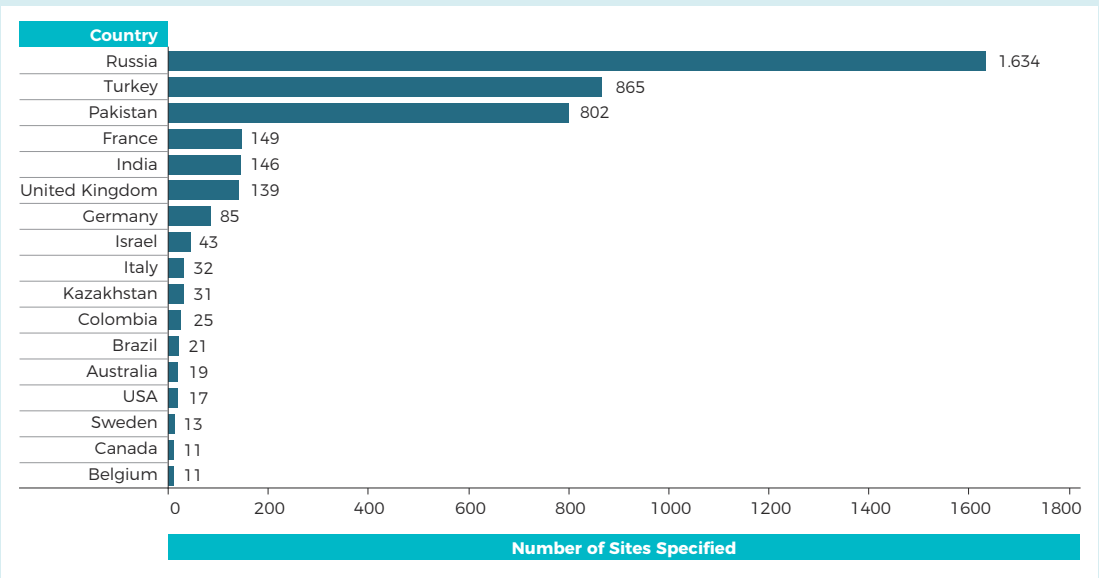
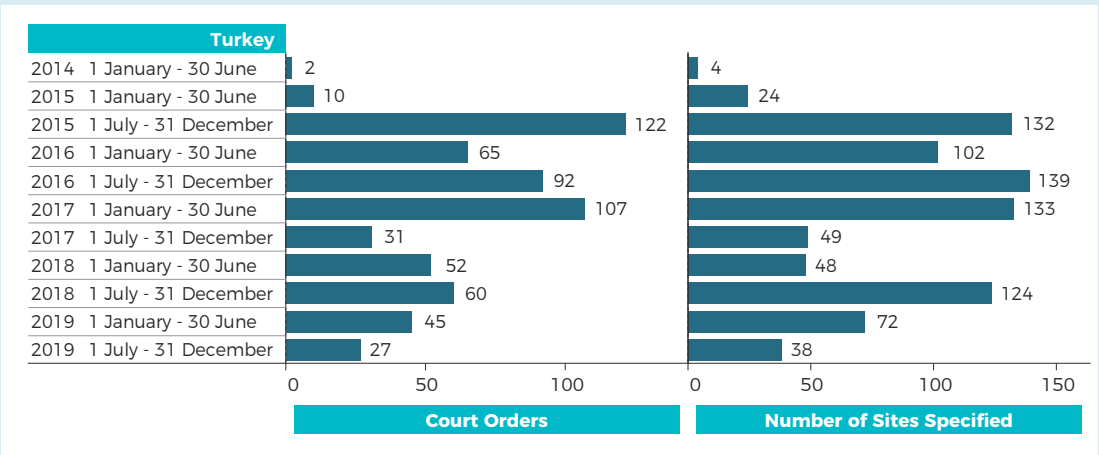


Figure 42 shows the number of court orders sent by Turkey and the number of items and Wordpress pages specified in takedown requests during each period since 2014 and until end of 2019. It is observed that court orders were submitted most frequently in the second half of 2015, while takedown requests were made most commonly in the year following the 15 July, 2016 coup attempt. These court orders were

Figure 42: Number of Content Removal Requests (by Period) from Turkey in the Wordpress Transparency Reports



issued by criminal judgeships of peace subject to articles 8/A and 9 of Law No. 5651 and sent to Wordpress.

In 2019, a total of 72 court orders and 27 other requests were sent from Turkey specifying a total of 110 Wordpress pages for removal. In 2019, other than Turkey, court orders were sent only from Germany (2 orders) and Australia (1 order).

Upon those requests, by the end of 2019, **out of 1.184 Wordpress blog pages blocked in countries worldwide, 461 (38%) were blocked from Turkey** with their subpages.⁷⁴ In practice, Wordpress blocked those items through “geoblocking” technology, and users attempting to access the blocked pages are greeted with the following notification message:

Screen Capture 18: 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.

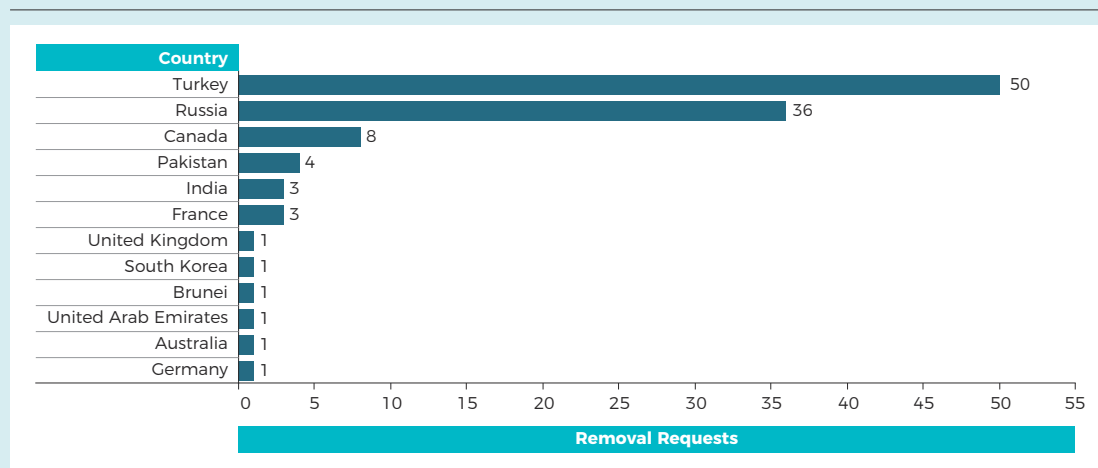
In 2019, a total of 59 different Wordpress blog addresses were blocked from Turkey through the geoblocking method subject to court orders. On 16 July, 2018, 116 separate Wordpress blog addresses and content items (URL-based) were blocked and withheld from Turkey subject to a single blocking order of 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.”

⁷⁴ See <https://transparency.automattic.com/country-block-list-february-2020/#turkey>

TURKEY'S INTERNET CENSORSHIP PRACTICES IN THE REDDIT TRANSPARENCY REPORTS

Among popular social media platforms, Reddit also included Turkey in its Transparency Report for 2019, as in 2018.⁷⁵ 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 for the reason for the brief block.⁷⁶ In its 2019 report, it was stated that a total of **110** content removal requests were submitted from foreign countries. In this category, **Turkey** ranked first with **50** requests and was followed by **Russia** with **36** requests and **Canada** with **8** requests. Although Reddit did not disclose the details, the report stated that Reddit approved and fulfilled **41** (37.3%) of these **110** requests and that it did not take any action for **69** (62.7%) of them. Reddit reported that it removed or withheld some of these content items, especially in circumstances where a court order was submitted. Reddit also stated that it rejected some of these requests on the ground of inconsistency with international law. Reddit also noted that **459** other requests were submitted by real persons and legal entities and that there were no requests from Turkey in this category.

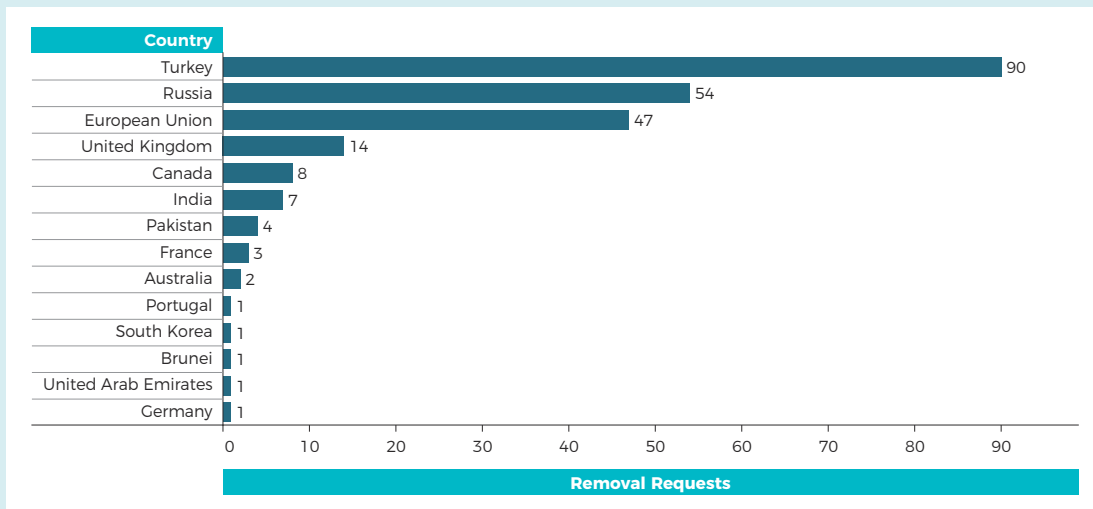
Figure 43: 2019 Reddit Transparency Report: Total Number of Removal Requests



⁷⁵ For the 2019 Reddit Transparency report, see <https://www.redditinc.com/policies/transparency-report-2019> and for the 2018 Reddit Transparency report, see <https://www.redditinc.com/policies/transparency-report-2018>

⁷⁶ See <https://www.reddit.com/wiki/transparency/2015>

Figure 44: 2016-2019 Reddit Transparency Reports: Total Number of Removal Requests



A total of **234** content removal requests were submitted since 2016, when Reddit released its first transparency report, until the end of 2019. While **Turkey** ranked first with **90 requests**, **Russia** ranked second with **54 requests** in the overall ranking.

SOCIAL MEDIA ACCOUNTS INVESTIGATED IN 2019

The criminal investigations into several social media accounts 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, threatening the safety of the nation, and hate speech were shared by the Ministry of Interior on a weekly basis in 2018. Since 2019, the statistical data 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 action was taken against **13.544 accounts**. However, in the statement of the Ministry of Interior dated 31 December, 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 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 actions were taken against 18.376 people**.⁷⁷

⁷⁷ 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>

According to monthly data released in 2019, it is observed that **44.424 social media accounts** were investigated, and legal action was taken against **22.728 accounts**.⁷⁸ 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 actions were taken against 24.224 people**.

Figure 45: Statistical data announced by the Ministry of Interior



Thus, the monthly statements are inconsistent with the statistical data announced at the end of the year and show some discrepancy. According to the annual statistics, more than 50.000 social media accounts were investigated, while approximately 24.000 people were subjected to legal action. 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 were identified for allegedly making propaganda for a terrorist organization, 452 people were detained and 78 people were arrested.⁷⁹

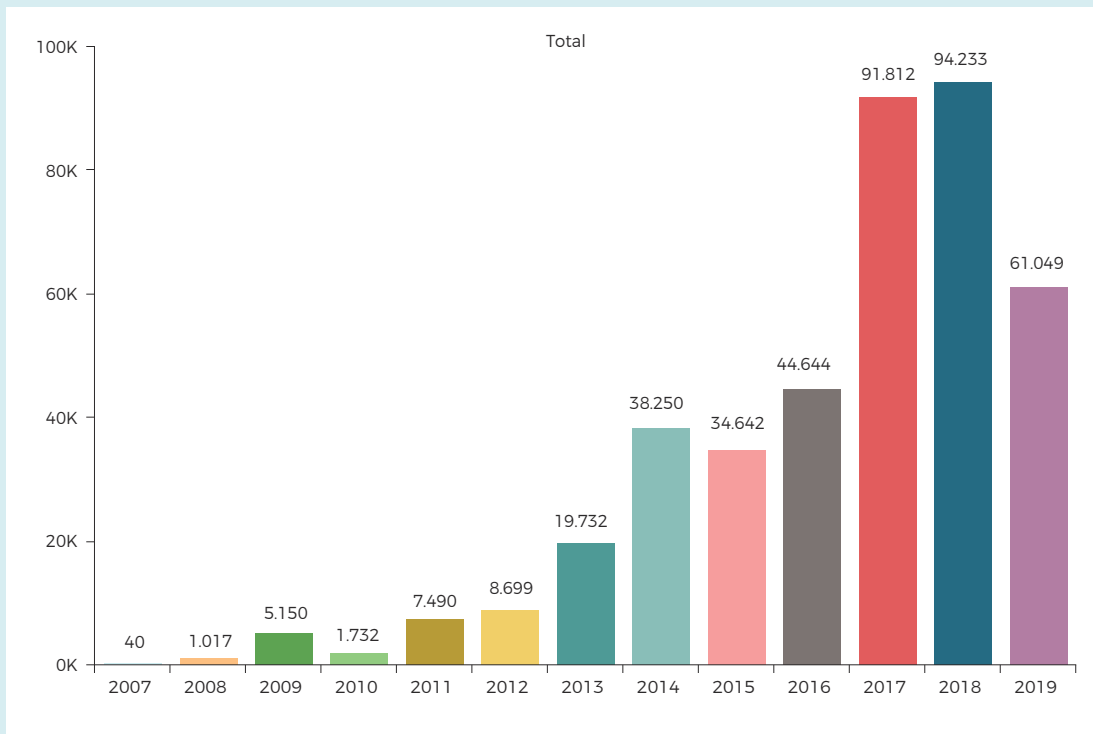
⁷⁸ The Ministry of Interior did not share the data for February and December 2019. The average figures of the other 10 months were used for these two months for the purposes of this study.

⁷⁹ Press Release: “Emniyet Genel Müdürlüğümüz Sayın Mehmet Aktaş Başkanlığında Koordinasyon Toplantısı Düzenlendi” [A Coordination Meeting Was Held under the Chairmanship of Mr. Mehmet Aktaş, General Director of Security], 30 October 2019, <https://www.egm.gov.tr/emniyet-genel-mudurumuz-sayin-mehmet-aktas-baskanliginda-koordinasyon-toplantisi>

CONCLUSION AND OVERALL EVALUATION

Within the scope of the 2019 EngelliWeb report, prepared by the Freedom of Expression Association, it is determined that by the end of 2019, **408.494 websites and domain names** were blocked from Turkey. As can be seen in the figure below, 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**, **7.490** in **2011**, **8.699** in **2012**, **19.732** in **2013**, **38.250** in **2014**, **34.642** in **2015**, **44.644** in **2016**, **91.812** in **2017**, **94.233** in **2018**, and **61.049** in **2019**.

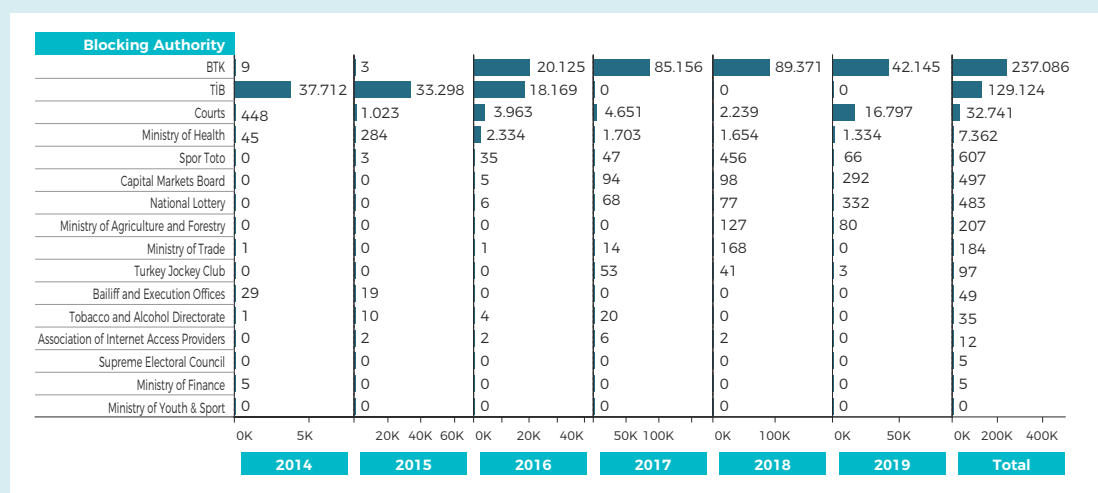
Figure 46: Total Number of Blocked Websites from Turkey (2007-2019)



The **408.494** websites and domain names that were blocked from Turkey by the end of 2019 were blocked pursuant to **350.769** separate blocking orders issued by **689** separate authorities. By the end of 2019, a total of **366.210 websites were blocked from Turkey by administrative blocking orders subject to Article 8 of Law No. 5651**, including **129.124** blocked by TIB until its closure and **237.086** blocked by the President of BTK following the closure of TIB. Access to **32.741 domain names and websites** was blocked by **judicial organs** (criminal judgeships of peace, public prosecutors' offices, and courts). In general, a total of **7.362** websites were blocked by the Ministry of Health, **607** were blocked by the Directorate of Spor Toto Organization, **497** were blocked by the Capital Markets Board, **483** were blocked by the Directorate General of National Lottery Administration, **207** were blocked by the Ministry of Agricul-

ture and Forestry, **184** were blocked by the Ministry of Customs and Trade, **97** were blocked by the Jockey Club of Turkey, **49** were blocked by directorates of execution, **35** were blocked by the Directorate of Tobacco and Alcohol, **12** were blocked by the Association of Access Providers, **5** were blocked by the Supreme Election Council, and **5** were blocked by the Ministry of Finance.

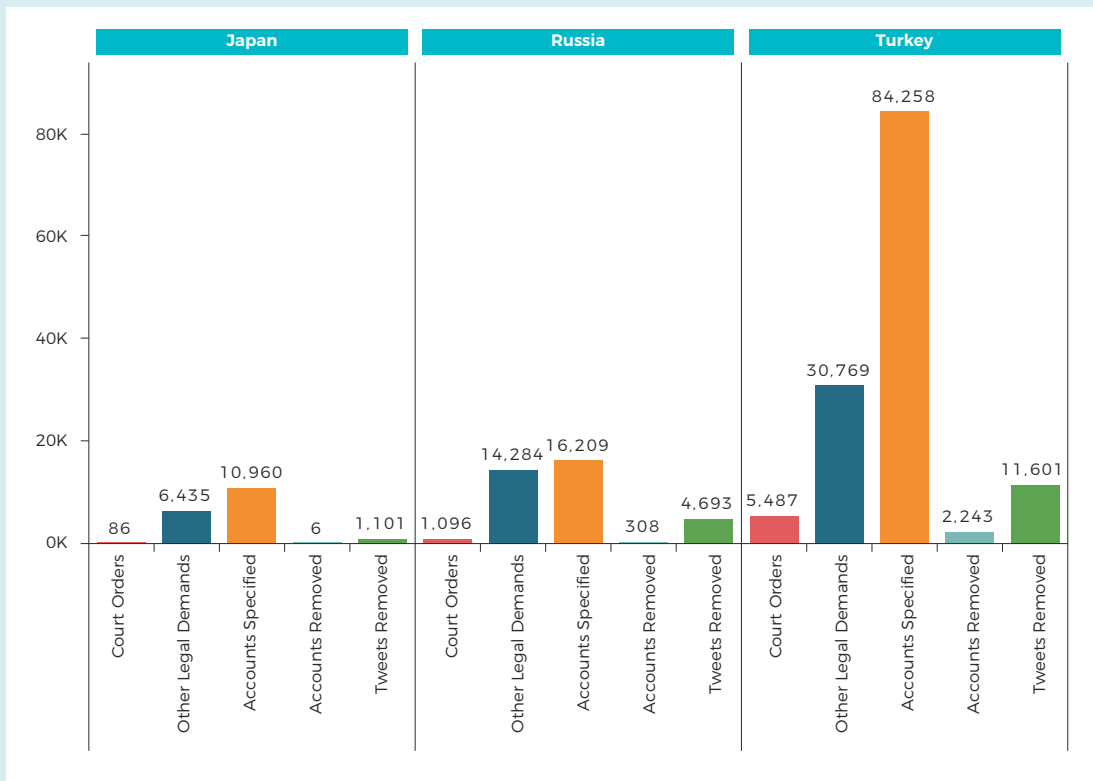
Figure 47: Websites Blocked from Turkey 2014-2019: By the Blocking Authority



On the other hand, as part of the EngelliWeb project, it was determined that a total of **16,358 news articles** (URL-based) were blocked in accordance with article 9 of the Law No. 5651 and that **8,523 news articles (URL)** were deleted or removed by the content providers subsequently. These URLs were blocked pursuant to **4,158 separate orders** issued by **408 separate** criminal judgeships of peace. While 2019 ranked first with a total of **5,599** blocked news articles, it was also the year with the highest number of news articles deleted or removed (**3,528** news articles). Thus, self-censorship, which was a common practice among news websites in 2018, increased significantly in 2019.

This report also showed that the rise in censorship in Turkey has reached to 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 debate and expressions is higher in Twitter than in any other social media platforms in Turkey, the total number of removal and withholding requests for accounts and tweets is much higher in Turkey than in Russia and Japan, its immediate followers, as shown in the figure below.

Figure 48: Comparison of Japan, Russia and Turkey in the Twitter Transparency Reports



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 2019 report. When the performance of the Constitutional Court is assessed, it is observed that the Court decided 17 different applications related to access-blocking at the level of relevant departments and General Assembly in 2019 and that the Court ruled that freedom of expression and/or freedom of the press were violated in 13 separate applications. 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. 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, this report established that 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.

However, 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 2019. The Court repeatedly stated that access-blocking orders 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 orders. Therefore, in 2019, only 11% of the decisions issued by the criminal judgeships of peace referred to the Ali Kılık judgment,⁸⁰ where the Constitutional Court introduced the principle of “**prima facie violation**” with regard to article 9 of Law No. 5651. These principles were adopted only in one third of those decisions. Thus, the principle of “**prima facie violation**” was adopted only in 22 decisions out of nearly 6.200 decisions blocking decisions issued during 2019. On the other hand, no criminal judgeships of peace decisions issued in 2019 subject to Article 8/A referred to either the Ali Kılık judgment or the Birgün judgment,⁸¹ which was decided by the Constitutional Court adopting the Ali Kılık judgment to article 8/A.

In brief, in the 14th 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. It is predicted that Radio and Television Supreme Council will also exercise its authority with regards to audio-visual Internet transmissions in 2020. Finally, even though each step taken during the COVID-19 pandemic in order to control social media further with the aim of “**turning the crisis into an opportunity**” were taken back, it is predicted that more restrictive amendments will be introduced to Law No. 5651 during 2020.

⁸⁰ Ali Kılık Application, No: 2014/5552, 26.10.2017.

⁸¹ Birgün İletişim ve Yayıncılık Ticaret A.Ş. Application, Application No: 2015/18936, 22.05.2019.



The 2019 EngelliWeb Report of the İfade Özgürlüğü Derneği (İFÖD - Freedom of Expression Association) includes a detailed assessment of increasing Internet censorship and access blocking practices in Turkey by the end of 2019. This assessment is predominantly conducted by reference to the application of Law No. 5651 on Regulation of Publications on the Internet and Suppression of Crimes Committed by Means of Such Publications, which was enacted about 13 years ago. The Report also includes a broad overview of other subsequent regulations in Turkey.

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 2019 Report entitled **An Iceberg of Unseen Internet Censorship in Turkey** includes detailed statistical information in relation to blocked websites, news articles (URL-based), social media accounts and social media content for the 2007-2019 period. The Report also provides detailed statistical information for 2019. It is the intention of İFÖD to share statistical data on an annual basis to inform the public. Please follow 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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