

[illegible]

YAMAN AKDENİZ - OZAN GÜVEN

The Year of the Offended Reputation, Honour and Dignity of High Level Public Personalities

ENGELLİWEB 2021:

**THE YEAR OF THE OFFENDED REPUTATION,
HONOUR AND DIGNITY OF HIGH LEVEL PUBLIC PERSONALITIES**

Prepared by: YAMAN AKDENİZ · OZAN GÜVEN

ENGELLİWEB 8

ISBN: 978-605-69446-9-7

December 2022

© İfade Özgürlüğü Derneği

Hasırcıbaşı Caddesi, No: 24/4, Kadıköy/İstanbul

Certificate No.: 4436

English Translation: Defne Orhun, Yaman Akdeniz

Cover Design: Ozan Güven

Book Design: Kadir Abbas

The Year of the Offended Reputation, Honour and Dignity of High Level Public Personalities

EngelliWeb 2021

YAMAN AKDENİZ-OZAN GÜVEN

• RESEARCH •

Freedom of Expression Association and the 2021 EngelliWeb Report

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

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

Since the foundation of the Freedom of Expression Association, EngelliWeb has continued its activities under the roof of the Association. Within this framework, the 2018,ⁱ 2019,ⁱⁱ and 2020ⁱⁱⁱ EngelliWeb reports were published in June 2019, July 2020 and August 2021, respectively, with regards to the ongoing Internet censorship practices in Türkiye. In addition, as part of the EngelliWeb project, an advisory report was prepared for the United Nations’ 2020 Turkey Report in the context of its Universal Periodic Review (“UPR”) mechanism, and current statistical data as of that date was made available to the public in November 2019.^{iv}

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

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

iii Freedom of Expression Association Turkey, EngelliWeb 2020: Fahrenheit 5651: The Scorching Effect of Censorship, August 2021, https://ifade.org.tr/reports/EngelliWeb_2020_Eng.pdf

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

In particular, the 2018 and the 2019 EngelliWeb reports, published by the Freedom of Expression Association Turkey, had widespread national and international media coverage. In July 2019, 20 HDP MPs submitted a written request to initiate a Parliamentary investigation in accordance with Article 98 of the Constitution and Articles 104 and 105 of the Internal Regulation of the Turkish Grand National Assembly, referring to the EngelliWeb 2018 Report.^v 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.^{vi} At the time of writing this report, the Parliament had not yet responded to these requests, which are still on the agenda of the Assembly. During the amendments made to the Law No. 5651 in July 2020, MPs frequently referred to the 2019 EngelliWeb Report in the Assembly.^{vii}

The EngelliWeb 2021 Report, as a continuation of the EngelliWeb 2018, 2019 and 2020 reports, is entitled *The Year of the Offended Reputation, Honour and Dignity of High Level Public Personalities*. As will be seen in the report, thousands of news articles and content items of public interest are censored and thereby destroyed through access-blocking and removing practices as a result of increasing number of decisions finding “violations of personal rights.” Within this context, as part of the **EngelliWeb** Project, it was found that **28.474** news articles (URLs) were blocked and **22.941** news articles (URLs) were removed or deleted subject to **5.986 separate decisions** issued by **509** separate judgeships for the purposes of “protecting personal rights” subject to article 9 of the Law No. 5651 **from 2014 to 2021**. As in previous years, such decisions were issued by criminal judgeships of peace during 2021 too, mainly upon the requests of high-level public figures, as well as public institutions and companies close to the government or to the President of Türkiye.

As assessed in detail in our 2021 report, considerable number of news articles and other content items were censored during 2021 upon the requests of Üsküdar Municipality, the Provincial Directorate of Security for Istanbul, the General Directorate of Security and the Anti-Cybercrime Department in the Gendarmerie General Command, as well as political and public figures such as President Erdoğan; Bilal Erdoğan, President Erdoğan’s son; Berat Albayrak, President Erdoğan’s son-in-law and former Minister of Treasury and Finance, and his brother, Serhat Albayrak; Mustafa Doğan İnal and Ahmet Özel, the attorneys of President Erdoğan; Adil Karaismailoğlu, the current Minister of Transport; Tolga Ağar, AKP’s MP for Elazığ and the son of Mehmet Ağar, former Minister of Justice and the Interior; Ömer Faruk Aydın, a member of the Court of Cassation; Esat Toklu, a member of the Council of State and former Chief Judge of the Ankara Regional Administrative Court; Zafer Aktaş, Provincial Director of Security for Istanbul; Naci İnci, Rector of Boğaziçi University and Nedim Malkoç, Secretary-General of Boğaziçi University; Mehmet Güder, former District Governor of Çemişgezek; Mustafa Bilgehan Akıncı, the son of Ömer Faruk Akıncı, former Leader of the Confederation of Turkish Nationalist Workers’ Unions (“MİSK”); Ali Uçak, a member of the Central Executive Committee (“CEC”) of the Nationalist Movement Party; Fettah Tamince, Chairman of Rixos Hotels and former co-owner of the newspaper Zaman; Ali Altınbaş and Sofu Altınbaş, business persons and the founders of Altınbaş University; Akif Manaf, a yoga instructor; Gaffar Demir, former Head of the Depart-

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

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

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

ment of Combating Organized Crimes for Istanbul and Ceyda Erem, Chairperson of CNR Holding.

Moreover, the statements of Sedat Peker, the leader of an organized crime organization, made a serious impact during 2021. Public figures as well as public institutions, such as the General Directorate for Security, mentioned in Peker's YouTube videos and social media postings filed claims of "violation of personal rights" regarding Peker's statements and social media posts. Several examples of such claims and related decisions have been provided in our 2021 report.

So far as legal developments are concerned, the General Assembly of the Constitutional Court in its decision of Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others (issued on 27.10.2021 and published in the Official Gazette on 07.01.2022) found structural problems with article 9 of the Law No. 5651 and ruled that the pilot judgment procedure will be implemented.^{viii} The Constitutional Court stated that although the rule in article 9 provides a legitimate reason for the protection of personal rights, it does not "describe how criminal judgeships of peace shall exercise this authority"^{ix} and that the existing rule and structure were not "**capable of preventing arbitrary and disproportionate interference**"^x with freedom of expression and freedom of the press. Basically, the indefinite blocking practice was a severe tool for interference with such fundamental rights. Although the pilot judgment ruling of the Constitutional Court is, "prima facie," of great importance, the Constitutional Court notified the Turkish Grand National Assembly of its judgment and made recommendations for resolving the structural problems. The Court also postponed for a year the review of the applications submitted or to be submitted on article 9 related applications to the Constitutional Court. Therefore, as will be seen in our 2021 report, nothing has changed in the practical sense, and the Constitutional Court's pilot judgment has made no visible impact. On the contrary, as will be revealed in our 2022 report during 2023, censorship practices increasingly continue and the criminal judgeships of peace continue to issues article 9 decisions ignoring the Constitutional Court's pilot judgment.

The main purpose of the publication of this report is to document the extent of Internet censorship in Türkiye with examples and **to ensure that the permanent damage of censorship is not completely erased from the collective memory**, as in previous reports.

As will be seen in detail in our 2021 report, the practices of blocking widespread access to the Internet and removing content continued in Türkiye as in previous years. The amendments introduced in July 2020, particularly the sanction of "**removal of content**" added to article 9 of Law No. 5651, was frequently used during 2021 and social network providers with more than one million daily user access from Türkiye established their legal representative offices in Türkiye, also during 2021.^{xi}

As a result of all these amendments, as part of the EngelliWeb project, it was found that the number of domain names, websites, news articles, social media accounts, and social media content items that have been blocked from Türkiye and/or have been subject to content removal decisions significantly increased in 2021, as in previous years. In this context, **the number of websites blocked from Türkiye**

^{viii} Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application, No: 2018/14884, 27.10.2021, Official Gazette: 07.01.2022-31712.

^{ix} Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application, No: 2018/14884, 27.10.2021, § 131.

^x Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application, No: 2018/14884, 27.10.2021, § 132.

^{xi} See TGNA, Reply to the written Parliamentary question regarding social media platforms that appointed representatives in Türkiye after the entry into force of Law No. 5651, 04.05.2021, <https://www2.tbmm.gov.tr/d27/7/7-42898sgc.pdf>

reached **574.798** by the end of 2021. While the Constitutional Court has issued nearly **40 separate judgments** on Internet and access blocking practices, including its Wikipedia platform related judgment, the principle-based approach of the Constitutional Court had no positive effect on the access-blocking decisions that continued to be issued by criminal judgeships of peace in 2021, as in 2019 and 2020. Just like our 2019 and 2020 reports, our 2021 report provides an assessment of access-blocking decisions issued during 2021, in the light of the judgment of the Constitutional Court on the **Ali Kıdk Application**^{xii} and the “**prima facie violation**” approach that it required for access-blocking decisions to be issued in relation to claims of personal rights violations subject to article 9 of Law No. 5651, as well as the judgment of the Constitutional Court on the **BirGun İletişim ve Yayıncılık Ticaret A.Ş. Application**^{xiii} and the “**prima facie violation**” approach that it required for access-blocking decisions to be issued for reasons such as national security and public order subject to article 8/A.

The **methodology of this study** includes the monthly scanning of approximately **224 million** domain names; the weekly scanning of **16 million** current news articles from 90 different news websites; the monthly scanning of approximately **33 million archived news articles**; the real-time connectivity tracking and monitoring of whether **155 different domain names**, including Wikipedia, YouTube, Twitter, Facebook, and certain news websites that are blocked from Turkiye; the identification of the blocked, removed, or country withheld content including videos, social media accounts and content items from Turkiye by using the YouTube and Twitter Application Programming Interface (“API”); the identification and analysis of access-blocking decisions submitted to the Lumen database by using its Application Programming Interface and the tools developed by Lumen for researchers; as well as the analysis of the access-blocking decisions sent by certain news websites to the İFÖD team.

The website of the Freedom of Expression Association Turkey^{xiv} went live in 2020, and news articles and announcements involving the domain names, websites, news articles, social media accounts, and social media content items that have been blocked from Turkiye and/or have been subject to content removal decisions were shared on the EngelliWeb section of the website^{xv} and on the Twitter account of EngelliWeb^{xvi} since then. In fact, as will be discussed in the report, the Freedom of Expression Association Turkey has also become a target of the requests and decisions of access blocking and content removal due to these posts and announcements. The 2021 EngelliWeb Report is written by Professor **Yaman Akdeniz** (Professor, Faculty of Law, İstanbul Bilgi University) and Expert Researcher **Ozan Guven**, as in previous years. We would like to express our gratitude to the **Lumen database**^{xvii} for its indirect but significant contribution to the study. We would also like to thank **Atty. Dilara Alpan** for her contribution to the analysis of the application of the Constitutional Court’s Ali Kıdk judgment in 2020. We would like to express our eternal gratitude to **Dr. Can Cemgil** for patiently and thoroughly reading the final version of the study from cover to cover and making valuable contributions throughout the project. Lastly, we would like to thank the **Sigrid Rausing Trust** for its support for publishing the English language version of our 2021 report.

^{xii} Ali Kıdk Application, Application No: 2014/5552, 26.10.2017.

^{xiii} BirGun İletişim ve Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019.

^{xiv} <https://ifade.org.tr/en>

^{xv} <https://ifade.org.tr/engelliweb/>

^{xvi} @engelliweb - <https://twitter.com/engelliweb>

^{xvii} <https://www.lumendatabase.org/>

Content

Access to 574.798 Websites Was Blocked From Türkiye by the End of 2021	2
The Power and Legal authority to Block Access From Türkiye	3
Domain Names, URL's, News Articles, and Social Media Content Blocked in 2021	8
General Assessment of Domain Name Blocking Practices	8
Domain Names Blocked Subject to Article 8 of the Law No. 5651	11
Content Blocked Subject to Article 8/A of Law No. 5651	15
Evaluation of 8/A Decisions Based on Criminal Judgements of Peace	17
8/A Decisions Issued in 2020 and 2021 and the Role of the Gendermarie	21
Analysis of the Blocked Content Subject to Article 8/A Decisions	23
Analysis of the Blocked Content Subject to Article 8/A Decisions Issued in 2021	25
The Article 8/A Judgments and the Principle-Based Approach of the Constitutional Court	27
Access-Blocking and Content Removal Practices Subject to Article 9 of Law No.5651	33
Domain Names URL's, News Articles and Social Media Content Blocked or Removed within the Scope of Article 9 of Law No.5651	33
Statistical Information About the Blocked and Removed News Articles (URL-Based)- 2021	35
Examples of Access Blocking and Content Removal Practices in 2021	38
Total Statistics of Blocked and Deleted News Articles (URL-Based) 2014-2021	77
Non-Association of Internet Addresses with Search Engines	83
The Ali Kılık Judgment and the Prima Facie Violation Practice of the Constitutional Court	84
The Prima Facie Violation Assessment of the Criminal Judgements of Peace in 2019	85
The Prima Facie Violation Assessment of the Criminal Judgements of Peace in 2020	85
The Prima Facie Violation Assessment of Criminal Judgements of Peace in 2021	86
Comparison of the Prima Facie Violation Assessment of Criminal Judgements of Peace from 2019 to 2021	87

Sanctions Subject to Article 9/A of Law No.5651	90
RTUK and Access-Blocking Practices	90
Legal Responsibilities and Obligations of Social Network Providers Under Law No.5651	92
Obligation to Respond to Requests and Provide Reasons	95
Enforcement of Access-Blocking and Content Removal Decisions	95
Obligation to Store User Data in Türkiye	96
Reporting Obligation	96
Social Media Accounts and Content Blocked from Türkiye in 2021	97
Ranking of Türkiye in Twitter Transparency Reports	97
Ranking of Türkiye in Twitter Transparency Reports Worldwide	99
Ranking of Türkiye in Facebook Transparency Reports	101
Ranking of Türkiye in Google Transparency Reports	104
Ranking of Türkiye in Wordpress Transparency Reports	114
Ranking of Türkiye in Reddit Transparency Reports	118
Ranking of Türkiye in TikTok Transparency Reports	120
Ranking of Türkiye Linked Transparency Reports	122
Social Media Accounts Investigated in 2021	124
Conclusion and Overall Evaluation	126

List of Tables, Screenshots and Figures

Table 1:	Access-Blocking League Table by the Number of News Articles Blocked in 2021	37
Table 2:	Access-Blocking League Table by the Number of News Articles Blocked (2014-2021)	81
Table 3:	Türkiye in Twitter's Transparency Reports: All Statistics	97

Screenshot 1:	News articles blocked by the Burdur Criminal Judgeship of Peace	23
Screenshot 2:	News Websites Blocked Subject to Article 8/A	26
Screenshot 3:	Access to the website of Sedat Peker was blocked subject to article 8/A	27
Screenshot 4:	News articles sanctioned by the Istanbul Anatolia 3 rd Criminal Judgeship of Peace	38
Screenshot 5:	Diken's article removed by the Istanbul Anatolia 3 rd Criminal Judgeship of Peace	39
Screenshot 6:	News articles blocked by the Antalya 3 rd Criminal Judgeship of Peace	39
Screenshot 7:	News articles blocked by the Association of Access Providers	40
Screenshot 8:	News articles blocked by the Istanbul Anatolia 3 rd Criminal Judgeship of Peace	40
Screenshot 9:	News articles blocked by the Bakırköy 3 rd Criminal Judgeship of Peace	41
Screenshot 10:	News articles blocked by the Istanbul Anatolia 3 rd Criminal Judgeship of Peace	42
Screenshot 11:	İFÖD's page blocked by the Istanbul Anatolia 3 rd Criminal Judgeship of Peace	42
Screenshot 12:	News articles blocked by the Istanbul Anatolia 7 th Criminal Judgeship of Peace	43
Screenshot 13:	News articles sanctioned by the Istanbul Anatolia 4 th Criminal Judgeship of Peace	43
Screenshot 14:	News articles blocked by the Istanbul Anatolia 4 th Criminal Judgeship of Peace	44

Screenshot 15:	News articles blocked by the Istanbul Anatolia 4 th Criminal Judgeship of Peace	45
Screenshot 16:	News articles blocked by the Istanbul Anatolia 7 th Criminal Judgeship of Peace	45
Screenshot 17:	Social media posts blocked by the Istanbul Anatolia 8 th Criminal Judgeship of Peace	46
Screenshot 18:	Social media posts blocked by the Istanbul Anatolia 8 th Criminal Judgeship of Peace	47
Screenshot 19:	News articles blocked by the Istanbul Anatolia 2 nd Criminal Judgeship of Peace	48
Screenshot 20:	İFÖD's page blocked by the Istanbul Anatolia 2 nd Criminal Judgeship of Peace	48
Screenshot 21:	Tweets blocked by the Istanbul Anatolia 4 th Criminal Judgeship of Peace	49
Screenshot 22:	İFÖD's page blocked by the Istanbul Anatolia 3 rd Criminal Judgeship of Peace	50
Screenshot 23:	News articles blocked by the Istanbul Anatolia 4 th Criminal Judgeship of Peace	50
Screenshot 24:	News articles blocked by the Istanbul Anatolia 5 th Criminal Judgeship of Peace	51
Screenshot 25:	İFÖD's page blocked by the Istanbul Anatolia 5 th Criminal Judgeship of Peace	51
Screenshot 26:	News articles referred to in the access-blocking requests dismissed by the Istanbul Anatolia 5th Criminal Judgeship of Peace	52
Screenshot 27:	Videos blocked by the Ankara 6 th Criminal Judgeship of Peace	53
Screenshot 28:	Social media content blocked by the Ankara 6 th Criminal Judgeship of Peace	53
Screenshot 29:	Social media content blocked by the Ankara 6 th Criminal Judgeship of Peace	54
Screenshot 30:	Social media content blocked by the Ankara 6 th Criminal Judgeship of Peace	54
Screenshot 31:	Social media content blocked by the Ankara 1 st Criminal Judgeship of Peace	55
Screenshot 32:	News articles blocked by the Alaşehir Criminal Judgeship of Peace	56
Screenshot 33:	News articles blocked by the Ankara West 2 nd Criminal Judgeship of Peace	57
Screenshot 34:	News articles blocked by the Ankara West 2 nd Criminal Judgeship of Peace	57
Screenshot 35:	Artı Gerçek's news article, made accessible by the Ankara West 2 nd Criminal Judgeship of Peace appeal decision	58
Screenshot 36:	News articles blocked by the Ankara West 2 nd Criminal Judgeship of Peace	58

Screenshot 37:	News articles blocked by the Ankara West 1 st Criminal Judgeship of Peace	59
Screenshot 38:	News articles blocked by the Elazığ 1 st Criminal Judgeship of Peace	60
Screenshot 39:	News articles blocked by the Elazığ 1 st Criminal Judgeship of Peace	61
Screenshot 40:	News articles blocked by the Istanbul 10 th Criminal Judgeship of Peace	62
Screenshot 41:	News articles blocked by the Istanbul 10 th Criminal Judgeship of Peace	62
Screenshot 42:	News articles blocked by the Mudurnu Criminal Judgeship of Peace	63
Screenshot 43:	Sözcü's news article made accessible by the Mudurnu Criminal Judgeship of Peace appeal decision	64
Screenshot 44:	News articles and other content blocked by the Istanbul 8 th Criminal Judgeship of Peace	64
Screenshot 45:	News articles blocked by the Istanbul 4 th Criminal Judgeship of Peace	65
Screenshot 46:	News articles sanctioned by the Çemişgezek Criminal Judgeship of Peace	66
Screenshot 47:	İFÖD announcement sanctioned by the Çemişgezek Criminal Judgeship of Peace	66
Screenshot 48:	News articles blocked by the Istanbul 4 th Criminal Judgeship of Peace	67
Screenshot 49:	News articles blocked by the Istanbul 4 th Criminal Judgeship of Peace	68
Screenshot 50:	News articles blocked by the Istanbul 9 th Criminal Judgeship of Peace	68
Screenshot 51:	News articles blocked by the Bakırköy 2 nd Criminal Judgeship of Peace	69
Screenshot 52:	News articles blocked by the Bakırköy 2 nd Criminal Judgeship of Peace	69
Screenshot 53:	News articles blocked by the Istanbul Anatolia 4 th Criminal Judgeship of Peace	70
Screenshot 54:	News articles and other content blocked by the Istanbul Anatolia 3 rd Criminal Judgeship of Peace	71
Screenshot 55:	News articles blocked by the Istanbul Anatolia 3 rd Criminal Judgeship of Peace	71
Screenshot 56:	News articles blocked by the Silivri Criminal Judgeship of Peace	72
Screenshot 57:	News articles blocked by the Çorlu 1 st Criminal Judgeship of Peace	72
Screenshot 58:	News article blocked by the Istanbul 4 th Criminal Judgeship of Peace	73

Screenshot 59:	News articles blocked by the Istanbul Anatolia 4 th Criminal Judgeship of Peace	74
Screenshot 60:	News articles blocked by the Bakırköy 6 th Criminal Judgeship of Peace	75
Screenshot 61:	News articles blocked by the Association of Access Providers	75
Screenshot 62:	News articles blocked by the Istanbul Anatolia 8 th Criminal Judgeship of Peace	76
Screenshot 63:	News articles blocked by the Istanbul 8 th Criminal Judgeship of Peace	77
Screenshot 64:	Notification to Search Engines	83
Screenshot 65:	Timeline of procedures and sanctions involving social network providers	94
Screenshot 66:	The notification message which appears on the restricted pages of Wordpress	117

Figure 1:	2006-2021: Total Number of Blocked Websites from Türkiye	2
Figure 2:	Number of Blocked Websites by the Blocking Authority (2021)	9
Figure 3:	Total Number of Blocked Websites by the Blocking Authority (2006-2021)	10
Figure 4:	Number of Blocked Websites by the Blocking Authority (Total)	10
Figure 5:	2018-2021: BTK vs. Judgeships: Blocking Decisions Subject to Article 8 (Law No. 5651)	12
Figure 6:	Comparison of Blocking Decisions Issued by BTK and the Judiciary (2017-2021)	13
Figure 7:	2006-2021: Comparison of Blocking Decisions Issued by TIB, BTK and the Judiciary by Year	14
Figure 8:	Number of 8/A Decisions Issued Under Law No. 5651 by Year	16
Figure 9:	2021 8/A Decisions by Issuing City	17
Figure 10:	2015-2021: 8/A Decisions by Issuing City	18
Figure 11:	Criminal Judgeships of Peace Issuing Decisions Subject to Article 8/A of Law No. 5651: 2015-2021	20
Figure 12:	Approximate Number and Breakdown of Internet Content Blocked by 8/A Decisions: 2015-2021	24
Figure 13:	Breakdown of Internet Content Blocked by 8/A Decisions in 2021	25
Figure 14:	Number of Blocked and Removed News Articles Subject to Article 9 (URL Addresses)	34
Figure 15:	Number of Blocked News Articles (URL): 2021	35
Figure 16:	Number of Removed and Deleted News Articles (URL): 2021	36
Figure 17:	Total Number of Blocked and Deleted News Articles (URL Addresses) Subject to Article 9 by Year	78
Figure 18:	Total Number of Blocked News Articles (URL): 2014-2021	79
Figure 19:	Total Number of Deleted News Articles (URL): 2014-2021	80
Figure 20:	Application of the CC's Ali Kırıkcı Judgment by CJPs in 2019	85
Figure 21:	Application of the CC's Ali Kırıkcı Judgment by CJPs in 2020	86
Figure 22:	Application of the CC's Ali Kırıkcı Judgment by CJPs in 2021	87

Figure 23:	Application of the CC's Ali Kıdk Judgment by CJP's from 2019 to 2021	88
Figure 24:	CJP's' Citation and Review of the CC's Ali Kıdk Judgment: 2019-2021	88
Figure 25:	Court Decisions and Other Legal Requests Submitted to Twitter from Turkiye	98
Figure 26:	Twitter Transparency Report 2021: Combined Requests	99
Figure 27:	Twitter Transparency Reports 2012-2021: Combined Requests	100
Figure 28:	Comparison of Turkiye and G8 Countries in Twitter Transparency Reports	101
Figure 29:	Number of Content Items Removed by Facebook from Turkiye by Reporting Period	101
Figure 30:	Number of Content Items Removed by Facebook from Turkiye by Reporting Period: 2013-2021	102
Figure 31:	Total Number of Removed Content Items by Country According to Facebook 2021 Transparency Report	103
Figure 32:	Facebook Transparency Reports 2013-2021: Total Number of Removed Content Items by Country	104
Figure 33:	Turkiye in Google Transparency Reports: Combined Requests for 2009-2021	105
Figure 34:	Turkiye in Google Transparency Reports: Combined Requests for 2021	106
Figure 35:	Google: Action Taken with Regards to Requests Submitted from Turkiye: 2021	107
Figure 36:	Google: Actions Taken with Regards to Requests Submitted from Turkiye: 2020-2021	107
Figure 37:	Total Number of Removal Requests (by Reason) Sent from Turkiye to Google	108
Figure 38:	Turkiye in Google Transparency Reports: Total Number of Requests Involving Defamation	109
Figure 39:	Turkiye in Google Transparency Reports (Total Number of Product Based Requests Involving Defamation): 2016-2021	111
Figure 40:	YouTube: Total Number of Defamation Related Requests	112
Figure 41:	YouTube: Total Number of Government Criticism Related Requests	112
Figure 42:	Requests Related to National Security: YouTube	113
Figure 43:	YouTube: Total Number of National Security Related Requests	113
Figure 44:	Total Number of Requests Sent to Google by Country: 2009-2021	114
Figure 45:	Total Number of Court Decisions in Wordpress Transparency Reports: 2013-2021	115
Figure 46:	Total Number of Other Requests in Wordpress Transparency Reports: 2013-2021	115
Figure 47:	Total Number of Sites Specified for Removal According to Wordpress Transparency Reports (2013-2021)	116
Figure 48:	Court Decisions and Content Removal Requests (by Period) Sent to WordPress from Turkiye	117
Figure 49:	Reddit 2021 Transparency Report: Number of Removal Requests	119
Figure 50:	Reddit 2017-2021 Transparency Reports: Total Number of Removal Requests	120
Figure 51:	TikTok Transparency Reports 2019-2021	121

Figure 52:	TikTok Transparency Report 2021	122
Figure 53:	LinkedIn Transparency Reports 2018-2021	123
Figure 54:	LinkedIn Transparency Report 2021	123
Figure 55:	Data on Social Media Investigations and Judicial Processes by the Ministry of the Interior: 2021	125
Figure 56:	Ministry of Interior Data: Number of Social Media Related Criminal Investigations (2018-2021)	126
Figure 57:	Total Number of Blocked Websites from Türkiye: 2006-2021	127
Figure 58:	Websites Blocked from Türkiye by the Blocking Authority: 2014-2021	128
Figure 59:	Comparison of Japan, Russia, and Türkiye in Twitter Transparency Reports	129



The EngelliWeb Report of the Freedom of Expression Association includes an overview of and considerations on increasing Internet censorship and access blocking practices in Türkiye by the end of 2021. This assessment is predominantly conducted by reference to the application of the Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications, which was enacted about 15 years ago, and also by reference to other subsequent regulations in Türkiye.

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

As the practice of not sharing official statistical data on access blocking with the public has become a governmental policy, the Parliamentary questions regarding statistical data were responded negatively in previous years.¹ In the responses given by the Ministry of Transport and Infrastructure in previous years, the Ministry cited the fact that the disclosure of the number of blocked websites and statistical data **“can cause problems with the prevention of and fight against crime, can especially lead to the deciphering of the content related to child pornography, and can cause information pollution and create an unfair perception of our country on the international level since other countries do not officially and collectively disclose such data”**² as grounds for not disclosing such data. On 25.04.2019, the Ministry of Transport and

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

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

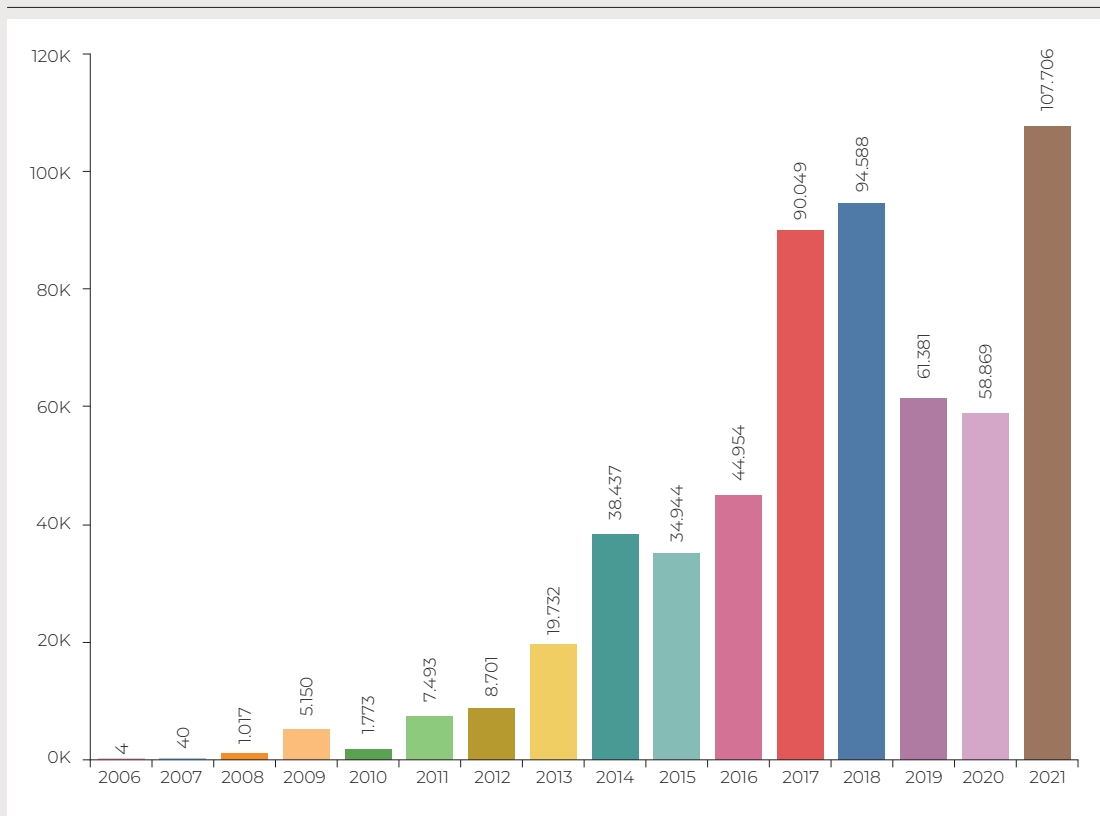
Infrastructure disclosed the proportional (percentages) breakdown of access-blocking decisions issued subject to article 8 of Law No. 5651, but the Ministry did not disclose the total numbers.³ On the other hand, no similar official questions were asked within the Assembly during 2020 or 2021.

The EngelliWeb 2021 Report, prepared by the Freedom of Expression Association, includes detailed statistical information both for the year of 2021 and also provides an overview of websites and domains, news articles (URL-based), social media accounts, and social media content that have been blocked or removed from Türkiye and/or have been subject to blocking and content removal decisions for the 2007-2021 period. It is the intention of İFÖD to continue to share such data and analysis with the general public on a regular basis.

ACCESS TO 574.798 WEBSITES WAS BLOCKED FROM TÜRKİYE BY THE END OF 2021

In the EngelliWeb 2019 Report of the Freedom of Expression Association, it was stated that access to **a total of 347.445 domain names was blocked from Türkiye by the end**

Figure 1: 2006-2021: Total Number of Blocked Websites from Türkiye



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

of 2018, while this number reached **408.494** by the end of 2019 and **467.011** by the end of 2020. 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 107.706** new domain names were blocked from Türkiye during 2021. Along with the **107.706 domain names and websites** blocked in 2021, a total of **574.798** websites and domain names have been blocked from Türkiye by a total of **504.700** separate decisions issued by **789** separate institutions including criminal judgeships of peace by the end of 2021 in accordance with the provisions and authorities to be explained in detail in this report.

When the number of blocked websites is analysed by years, as can be seen in **figure 1**, a substantial increase is observed in 2021 (**107.706**) compared to previous years (2020: **58.869**, 2019: **61.381**, 2018: **94.588**). Therefore, access-blocking practices increasingly continued in 2021, with the number of websites blocked in 2021 significantly exceeding the average (**38.300 websites per year**) for the 15-year period (**2007-2021**) since the Law No. 5651 came into force and access-blocking practices have been deployed.

Moreover, it was found that **150.000** URLs, **8.350** Twitter accounts, **55.500** tweets, **13.500** YouTube videos, **9.500** Facebook content, and **9.000** Instagram content were also blocked subject to Law No. 5651 and other legal provisions by the end of 2021.

While the practices of blocking access to Wikipedia, Sendika.org, and Imgur ended in 2020, news platforms **OdaTV**, **Independent Türkçe**, **JinNews** were blocked subject to consecutive blocking decisions subject to article 8/A of Law No. 5651 during that year. These access-blocking practices continued as of end of 2021. This report includes assessment of these practices and the related judiciary process as of end of 2021.

THE POWER AND LEGAL AUTHORITY TO BLOCK ACCESS FROM TÜRKİYE

As detailed in the EngelliWeb 2018, 2019, and 2020 reports, the authority to issue or request blocking decisions is granted to **judicial organs** (courts, criminal judgeships of peace, and public prosecutors' offices) and **numerous administrative bodies** under various laws and regulations in Türkiye. Although the access-blocking decisions are mainly issued by criminal judgeships of peace subject to **articles 8, 8/A, 9, and 9/A** of the Law No. 5651, public prosecutors may also issue access-blocking decisions during the investigation phase subject to article 8. In addition, **public prosecutors** are vested with a blocking power under supplementary article 4(3) of the Law No. 5846 on Intellectual and Artistic Works with regard to intellectual property infringements.

Administrative bodies are authorized to issue access-blocking decisions by various laws and regulations. The access-blocking authorities added to the list of authorized institutions which can issue or request access-blocking decisions were extended further during 2021 to include access blocking authority subject to Law No. 6361 on Leasing, Factoring, Financing, and Saving Financing Companies, access blocking authority granted to the Turkish Football Federation by the Law No. 5894 on the Establishment and Duties of the Turkish Football Federation and access blocking authority subject to the Juvenile Protection Law No. 5395 in 2021, as well as access-blocking authority under the Regulation on Market Surveillance and Inspection on Fertilizers. In this context, the following institutions and organizations are authorized to issue or request access-blocking decisions as of end of 2021:

- **Office of the President and the relevant ministries**⁴
- **Telecommunications Communication Presidency (“TIB”)**⁵ until its closure⁶
- **President of the Information Technologies and Communication Board**⁷ after the closure of TIB
- **Association of Access Providers (“ESB”)**⁸
- **Turkish Medicines and Medical Devices Agency (“TITCK”)**⁹ of the Ministry of Health
- **Capital Markets Board**¹⁰
- **Ministry of Agriculture and Forestry**¹¹

- 4 Subject to subparagraph (1) of article 8/A, entitled “Removal of the content and/or blocking access in circumstances where delay would entail risk,” of **Law No. 5651**, in circumstances where delay would entail risk, the President of BTK may issue a decision to remove and/or block the relevant Internet content upon the request of the **Office of the President of Türkiye** or the **ministries** related to national security, protection of public order, prevention of crime, or protection of public health. This decision shall then immediately be notified to access providers and the relevant content and hosting providers by the President. Removal and/or blocking decisions shall be executed immediately within a maximum of four hours as from the notification to execute the removal and/or blocking decision. In accordance with sub-paragraph (2) of article 8/A, the President of BTK shall submit the removal and/or blocking decision issued upon the request of the Office of the President of Türkiye 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 decision shall automatically be removed and cancelled.
- 5 The President of BTK is 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 decisions imposed in accordance with articles 8/A and 9/A.
- 6 TIB was closed in accordance with the Emergency Decree-Law No. 671 on Measures to be Taken under the State of Emergency and Arrangements Made on Some Institutions and Organizations in August 2016.
- 7 *Ibid.*
- 8 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.
- 9 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 issued by this Agency is notified to the Information Technologies and Communication Board to be implemented subject to Law No. 1262.
- 10 The **Capital Markets Board** is authorized to request access blocking under article 99 of the **Capital Markets Law** No. 6362, regulating “precautionary measures applicable in unauthorized capital markets activities.” Under paragraph 3 of the referred article, the Board may apply to court subject to applicable laws related to access blocking if and when it is determined that unauthorized capital market activities are carried out via the Internet and that the content and hosting providers are located in Türkiye. If content and hosting providers are located abroad, access may be blocked by the Information Technologies and Communication Board upon the request of the Capital Markets Board. Additionally, subject to paragraph 4 of article 99 (Added by: 17.03.2017 – Decree-Law No. 690/Article 67; Enacted by Amendment: 01.02.2018 – Law No. 7077/Article 57), in case it is found that an amount of money was collected from people through crowdfunding platforms without the permission of the Capital Markets Board or any leveraged transactions, or derivative transactions that are subject to the same provisions as leveraged ones, were offered through the Internet to residents of Türkiye, the Information Technologies and Communication Board may block access to the relevant websites upon the request of the Capital Markets Board.
- 11 Paragraph 10 of article 10 of the **Regulation on Market Surveillance and Inspection on Fertilizers**, titled “General Procedures and Principles on the Inspection of Products,” provides that “in case of online promotion or sale of an unsuitable product newly or previously introduced to the market, the **Ministry of Agriculture and Forestry** 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 Ministry shall **issue a decision to block access to the content** related to the unsuitable product and submit this decision 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 fol-

- **Directorate of Tobacco and Alcohol**¹² of the Ministry of Agriculture and Forestry
- Department of Games of Chance of the **Directorate General of National Lottery Administration**¹³
- **Jockey Club of Türkiye**¹⁴
- **Directorate of Spor Toto Organization**¹⁵
- The **High Board of Religious Affairs** of the Directorate of Religious Affairs¹⁶
- The **Board of Inspection and Recitation of the Quran** of the Directorate of Religious Affairs¹⁷

lowed. The access-blocking decisions under this paragraph shall be issued by blocking access to the content (in the form of URL, etc.).” (Official Gazette, 09.06.2021, No.: 31506 [Repeated]).

- 12 Under sub-paragraph (k) of the second paragraph of article 8, titled “Penal Provisions,” of the Law No. 4733 on Regulation of Tobacco, Tobacco Products, and Alcohol Market, the **Ministry of Agriculture and Forestry** is authorized to block access in accordance with the procedures prescribed by Law No. 5651, in case of online sales of tobacco products or alcoholic beverages; **ethanol; methanol; cigarette tubes; rolling tobacco; and rolling papers** (added by article 13 of the Law No. 7255, 28.10.2020) to consumers. The referred legal provisions shall be applied with regard to the relevant decisions. This power is also included in article 26(1) of the Regulation on Procedures and Principles of Sales and Presentations of Tobacco Products and Alcoholic Beverages (published in the Official Gazette, 07.11.2011, no. 27.808). However, in practice, it is observed that this power is used by the **Directorate of Tobacco and Alcohol**, established under the Ministry of Agriculture and Forestry. In this context, it is also observed that blocking access is executed by the Association of Access Providers rather than the Information Technologies and Communication Board.
- 13 Subject to article 7, titled “**Application to Administrative and Judicial Authorities**,” of the Regulation on Online Games of Chance (Official Gazette, 14.03.2006, no. 26108), the **Department of Games of Chance of the Directorate General of National Lottery Administration** may submit “immediate requests that services and broadcasts of service providers providing services to virtual platforms and/or websites related to the games of chance activities be suspended with respect to the relevant websites and/or virtual platforms and that the prohibited actions be punished” to the relevant judicial authorities. In accordance with article 8 of the same Regulation, in case of any suspension decision issued 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.
- 14 Under the Law No. 6132 on Horseracing, the Ministry of Agriculture and Forestry is authorized to organize horse-racing within the borders of Türkiye and to take bets from Türkiye and abroad in relation to races organized domestically and/or abroad. The Ministry of Agriculture and Forestry transferred the right and power to organize pari-mutuel horse racing betting to the **Jockey Club of Türkiye**. In practice, it is observed that blocking decisions issued by the Jockey Club of Türkiye are executed by the **Information Technologies and Communication Board**.
- 15 The **Directorate of Spor Toto Organization** is also authorized to apply the legal provisions related to access blocking under the Law No. 5651 with respect to the crimes and offences falling under article 5 of the Law No. 7258 (Amended: 12.07.2013 – Law No. 6495/article 3) on Regulation of Betting and Chance Games in Football and Other Sports Competitions. The authorization of the Directorate of Spor Toto Organization is governed by the Regulation on Duties, Authorizations, and Obligations of the Directorate of Spor Toto Organization (Official Gazette, 21.12.2008, no. 27.087).
- 16 The **High Board of Religious Affairs of the Directorate of Religious Affairs** is also authorized to block access with respect to certain content published on the Internet. Subject to a paragraph (Added paragraph: 02.07.2018 – Decree-Law No. 703/article 141) added in 2018 to article 5, defining the function of the **High Board of Religious Affairs**, of the Law No. 633 (Amended: 1 July 2010 – Law No. 6002/article 4) on the Establishment and Duties of the Directorate of Religious Affairs; upon the request of the Directorate submitted to the authorized body, it shall be ordered to suspend the printing and publication of, and/or confiscate and destroy the already published Quran translations, which are found prejudicial by the High Board in terms of the main features of Islam. In the event of online publications, upon the request of the Directorate, the authorized body may block access to those publications. These decisions shall be submitted to the **Information Technologies and Communication Board** for execution (By article 141 of the Decree-Law No. 703, 02.07.2018, the phrases of “civil court of peace” and “Telecommunications Communication Presidency” included in this paragraph were replaced with “the authorized body” and “Information Technologies and Communication Board” respectively).
- 17 In addition, no Qurans, fascicles, translated Qurans as well as audiovisual Qurans and Qurans prepared in electronic environment can be published or broadcast without the approval and seal of the **Board of Inspection and Recitation of the Quran** of the **Directorate of Religious Affairs**. Upon the request of the Directorate submitted to the authorized body, a decision shall be issued to suspend the printing and publication of the Qurans and fascicles, and audiovisual Qurans and Qurans that were prepared in electronic environment and published or broadcast without approval or seal, and/or to confiscate and destroy the already distributed ones. In the event of online pub-

- **Radio and Television Supreme Council**¹⁸
- **Supreme Election Council**¹⁹
- **The Directorate General of Consumer Protection and Market Surveillance of the Ministry of Trade**²⁰
- **Ministry of Treasury and Finance**²¹

lications, upon the request of the Directorate, the authorized body may block access to those publications. These decisions shall be submitted to the **Information Technologies and Communication Board** for execution.

- 18 By article 29/A (Added: 21.03.2018 – Law No. 7103/article 82), the Law No. 6112 on the Establishment of Radio and Television Enterprises and Their Media Services, the **Radio and Television Supreme Council** is authorized to request **blocking access in case of online broadcasting services presented without a broadcasting license**. Within this context, the media service providers that have obtained temporary broadcast right and/or broadcasting license from the Supreme Council may present their media services via the Internet in accordance with the provisions of the referred Law and the Law No. 5651. Media service providers requesting to present radio and television broadcasting services and on-demand media services exclusively via the Internet must obtain broadcasting license from the Supreme Council while the platform operators requesting to transmit those broadcasting services via the Internet must obtain authorization for the transmission of media services from the Supreme Council. In case it is found by the Supreme Council that the broadcasting services of the natural and legal persons who does not have any temporary broadcast right and/or broadcasting license obtained from the Supreme Council, or whose right and/or license was revoked are being transmitted via the Internet, upon the request of the Supreme Council, criminal judgeships of peace may decide to remove the content and/or deny access in respect of the relevant broadcasting service on the Internet. These decisions shall be notified to the Information Technologies and Communication Board for further action. The decisions given subject to the abovementioned article on removing content and/or blocking access shall be governed by the third and fifth paragraphs of article 8/A of 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 Türkiye in relation to the scope of duty of the Supreme Council as well as the provisions of the referred Law, and to the broadcasting services offered in Turkish by the broadcasting enterprises addressing the audience in Türkiye via the Internet or featuring commercial communication broadcasts addressing the audience in Türkiye even though the broadcast language is not Turkish. The preparation of the related regulation on the implementation of article 29/A was completed in 2019, and the Regulation on the Presentation of Radio, Television, and Optional Broadcasts on the Internet was published in the Official Gazette (Official Gazette, 01.08.2019, no. 30.849).
- 19 The **Supreme Election Council** may also request that certain content be blocked subject to article 55(B) of the Law No. 298 on Basic Provisions on Elections and Voter Registers, regulating “Media, communication tools, and propaganda on the Internet” based on the provision stating that during the elections, “[i]n the ten days period before the voting date, it is forbidden by any means to make or distribute publications or broadcasts which include information that may positively or negatively affect the opinions of voters in favor or against a political party or candidate via printed, audio, or visual media and/or under any names such as polls, public inquiry, estimations, or mini referendums.” In practice, it is observed that blocking decisions 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.
- 20 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 decisions 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 Türkiye. These decisions are also notified to the Association of Access Providers for execution, despite lack of any such authorization prescribed by law.
- 21 Subject to the first paragraph of article 7, titled “Tax security,” of the **Law** (Official Gazette, 07.12.2019, no. 30.971) **on the Digital Service Tax and the Amendment of Certain Laws and the Law Decree No. 375**, the tax office authorized to impose digital service tax may give a notice to digital service providers or their authorized representatives in Türkiye that fail to fulfill their obligations to submit declarations regarding the taxes within the scope of the Tax Procedure Law No. 213 dated 4 04.01.1961 or to pay these taxes in a timely manner. The notices in question are communicated via the notification methods listed in the Law No. 213, e-mail, or any other means of communication by using the means of communication on the websites, domain names, IP addresses, and information obtained through other similar sources. This notice is declared on the website of the Revenue Administration. Subject to paragraph 2 of article 7, in case such obligations are not fulfilled within thirty days from the declaration of the Revenue Administration, the **Ministry of Treasury and Finance** shall issue a decision to **block access to the services provided by these digital service providers** until these obligations are fulfilled. These decisions shall be submitted to the Information Technologies and Communication Board to be notified to access

- All “**authorized bodies**” under the Law on Product Safety and Technical Regulations²²
- **Provincial Directors of Industry and Technology in the Ministry of Industry and Technology**²³
- **Governorships and the Ministry of the Interior**²⁴
- **Banking Regulation and Supervision Agency**²⁵

providers. Blocking decisions shall be executed by access providers immediately within a maximum of four hours as from the notification to execute the blocking decision. Also see the General Communiqué on the Implementation of the Digital Services Tax (Official Gazette, 20.03.2020, No. 31074), G. Tax Security.

- 22 Subject to paragraph 2 of article 17, titled “**Other powers of the authorized body regarding audits,**” of the **Law No. 7223 on Product Safety and Technical Regulations** (Official Gazette, 12.03.2020, no. 31.066), in case of online promotion or sale of an unsuitable product newly or previously introduced to the market, the authorized body shall give a notice to the intermediary service provider to remove the content, via e-mail or other means of communication by using the means of communication on the websites, domain names, IP addresses, and information obtained through other similar sources. In the event that the intermediary service provider fails to remove the content within twenty-four hours, **the authorized body shall issue a decision to block access to the content related to the unsuitable product** and submit this decision 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 decisions under this paragraph shall be issued by **blocking access to the content** (in the form of URL, etc.). Subject to article 3, titled “Definitions,” of this Law, the definition of “**authorized body**” covers public institutions that “prepare and execute technical regulations related to products, or inspect products.” This authority shall be exercised as of 12.03.2021. Also see the Framework Regulation on Market Surveillance and Inspection of Goods (Official Gazette, 10.07.2021, No.: 31537), article 16(5): “Authorized bodies shall submit their requests under sub-paragraph (h) of the fourth paragraph to the commercial enterprise through the method prescribed in the second paragraph of article 17 of the Law. In the event that access to the content is not restricted within twenty-four hours, authorized bodies shall issue an access-blocking decision as prescribed in the second paragraph of article 17 of the Law and submit this decision to the Information Technologies and Communication Board for execution.”
- 23 The first paragraph of article 32 of the **Regulation on Market Surveillance and Inspection of the Ministry of Industry and Technology** titled “Access-Blocking Decision” provides that “in the event that the intermediary service provider fails to remove the content within twenty-four hours [from the notification of provincial directorates of industry and technology], the provincial director stationed in the province where the intermediary service provider is headquartered shall **issue a decision to block access to the content related to the unsuitable product** and submit this decision to the **Information Technologies and Communication Board** for execution.” (Official Gazette, 14.07.2021, No.: 31541).
- 24 Under paragraph 3 added to article 6, entitled “Obligation to Obtain Permission,” of the **Fundraising Law** No. 2860 by article 7 of the Law No. 7262, dated 27.12.2020, **in the event that it is found that the unauthorized fundraising activity was carried out online**, the relevant governorship or the Ministry of the Interior shall give a notice to the content and/or hosting provider to remove the content related to the fundraising activity, via email or other means of communication by using the means of communication on the websites, domain names, IP addresses, and information obtained through other similar sources. In the event that the content is not removed by the content and/or hosting provided within twenty-four hours at the latest, that the necessary information about the content and hosting providers could not be obtained, or that no notice could be given due to technical reasons, the relevant governorship or the Ministry of the Interior shall submit a request to the **criminal judgeship of peace to block access to the relevant content**. The judge shall issue a decision on the request within twenty-four hours at the latest without any hearing and send the decision directly to the **Information Technologies and Communication Board** for the necessary action. This decision can be appealed against subject to the Code of Criminal Procedure No. 5271. The access-blocking decisions under this paragraph shall be issued by blocking access to the content (in the form of URL, etc.).
- 25 Subject to paragraph 3 of article 150, entitled “Operating without receiving related permissions,” in the second section of the **Banking Law** No. 5411 related to the offenses; upon the application of the **Banking Regulation and Supervision Agency** to the relevant Chief Public Prosecutor’s Office involving natural persons and legal entities that act as if they were banks or collect deposits or participation funds without obtaining the required permissions, the criminal judgeships of peace or the relevant court, if and when a lawsuit is initiated, shall temporarily suspend the activities and advertisements of the enterprise and issue a decision for the collection of its announcements. In the event that these violations take place on the Internet, the relevant websites **shall be blocked**, in case the content and hosting providers are in Türkiye. These measures shall remain in effect until they are lifted by a judgment. These judgments may be appealed against (Paragraph amended by article 17 of the Law No. 7222 on 20.02.2020). Paragraph 4, which has recently been added to article 150, provides that “[i]n the event that paragraphs 1 and 2 were violated via websites the content and hosting providers of which are located abroad, the **Information Technologies and Communication Board shall block these websites upon the applica-**

- **Turkish Football Federation**²⁶
- **The “relevant persons” under the Juvenile Protection Law**²⁷

As can be seen, **more than 20 institutions and organizations** are authorized to issue or request access-blocking decisions under various regulations, and most of these powers are exercised by submitting “**administrative blocking**” decisions to the Information Technologies and Communication Board or to the Association of Access Providers without the provision of judicial approval.

DOMAIN NAMES, URL'S, NEWS ARTICLES, AND SOCIAL MEDIA CONTENT BLOCKED IN 2021

GENERAL ASSESSMENT OF DOMAIN NAME BLOCKING PRACTICES

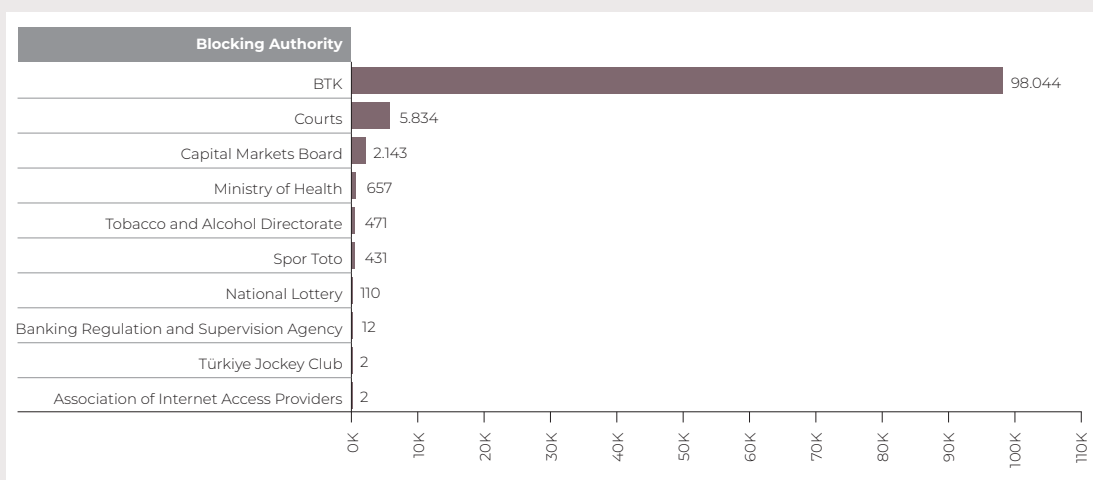
As far as it could be determined by our efforts within the scope of the EngelliWeb project, access to a **total of 107.706** domain names was blocked from Türkiye. As can be seen in figure 2, the vast majority of the blocking decisions involving **98.044 domain names (91%)** were issued by the President of the Information Technologies and Communication Board subject to article 8 of Law No. 5651. It is determined that **5.834**

tion of the Banking Regulation and Supervision Agency” (Supplementary paragraph added by article 17 of the Law No. 7222 on 20.02.2020). The Banking Regulation and Supervision Agency has been vested with a similar authority within the scope of article 46 of the **Law No. 6361 on Leasing, Factoring, Financing, and Saving Financing Companies**, titled “Engaging in an Unauthorized Activity”. The fourth paragraph of this article provides that in the event that leasing, factoring, financing, and saving financing activities are carried out without obtaining the necessary permissions under this article and “that such violations are committed digitally, the Agency may issue a content removal and/or access-blocking decision. This decision shall be submitted to the **Information Technologies and Communication Board** for execution (Added by the Law No. 7292 dated 04.03.2021, article 11).

- 26 Subject to supplementary article 1 of the Law No. 5894 on the Establishment and Duties of the Turkish Football Federation, regarding the protection of broadcasting rights, the **Turkish Football Federation (“TFF”)** has been vested with the following authority: **(1)** In the event of a finding that broadcasts of **football matches played in the Republic of Türkiye** are unlawfully made available on the Internet, the **Board of Executives** shall issue a decision blocking access to the breaching broadcast, part, or episode (in the form of URL, etc.). However, when it is not possible for technical reasons or the violation cannot be prevented by way of blocking the relevant content, the Board may decide to block access to the entire website. This administrative decision shall be submitted to the Association of Access Providers for execution, in accordance with article 6/A of the Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications dated 4.5.2007. This decision can be appealed against to a criminal judgeship of peace within one week. An administrative unit shall be established within TFF to perform the actions and procedures for blocking access. **The Board of Executives may delegate its authority under this article to the members of the administrative unit. (2)** In the event of a finding that broadcasts of football matches played outside the Republic of Türkiye are unlawfully made available on the Internet, the action set out in the first paragraph is taken upon the request of the broadcasting rights holder. However, in order to submit a request, the broadcasting contract must be submitted to TFF and the establishment of the rights must be proven. **(3)** The procedures and principles regarding the implementation of this article shall be set out by the directive to be issued by the Board of Executives (Added by article 29, Law No. 7346 on 21.12.2021).
- 27 Subject to the first paragraph of article 41/G, entitled “Content Removal or Access Blocking,” of the **Juvenile Protection Law** No. 5395, the relevant persons **who allege that a child’s personal rights have been violated due to the publication of the audio or video content recorded** while the child was being picked up by a specialist or by a teacher from the address of the liable party or the claimant or dropped off to the address of the liable party or the claimant within the scope of the drop-off of the child and the establishment of a personal relationship with the child may request that the content be removed or the access to it be blocked pursuant to article 9 of the Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications dated 4.5.2007” (Added by article 45, Law No. 7343 on 24.11.2021). See further Regulation the Execution of Injunctions and Decisions Regarding the Drop-off of the Child and the Establishment of a Personal Relationship with the Child (Official Gazette, 04.08.2022, No. 31913), article 53.

domain names were blocked with decisions issued by criminal judgeships of peace, public prosecutors' offices and by the courts; **2.143** domain names were blocked by the Capital Markets Board; **657** domain names were blocked by the Ministry of Health and the Turkish Medicines and Medical Devices Agency; **471** domain names were blocked by the Directorate of Tobacco and Alcohol (Ministry of Agriculture and Forestry); **431** domain names were blocked by the Directorate of Spor Toto Organization; **110** domain names were blocked by the Directorate General of National Lottery Administration; **12** domain names were blocked by the Banking Regulation and Supervision Agency ("BDDK"); **2** domain names were blocked by the Jockey Club of Türkiye ("TJK"); and **2** domain names were blocked by the Association of Access Providers.

Figure 2: Number of Blocked Websites by the Blocking Authority (2021)



Together with these figures, **by the end of 2021, access to a total of 574.798 domain names** was blocked from Türkiye. As can be seen in **figures 3 and 4**, a total of **516.577 websites** were blocked from Türkiye **by administrative blocking decisions subject to article 8 of Law No. 5651**, including **129.160** domain names blocked by TIB until its closure and **387.417** domain names blocked by the **President of BTK**, since the closure of TIB. Access to **40.917 domain names and websites** was blocked by the **judicial organs** (criminal judgeships of peace, public prosecutors' offices and by the courts). Additionally, a total of **9.700** websites were blocked by the Ministry of Health, **4.255** were blocked by the Capital Markets Board, **1.277** were blocked by the Directorate of Spor Toto Organization, **725** were blocked by the Directorate General of National Lottery Administration, **596** were blocked by the Directorate of Tobacco and Alcohol (Ministry of Agriculture and Forestry), **306** were blocked by the Ministry of Agriculture and Forestry, **220** were blocked by the Ministry of Customs and Trade, **101** were blocked by the Jockey Club of Türkiye, **67** were blocked by execution offices, **34** were blocked by the Association of Access Providers, **13** were blocked by BDDK, **5** were blocked by the Supreme Election Council ("YSK"), and **5** were blocked by the Ministry of Finance.

Figure 3: Total Number of Blocked Websites by the Blocking Authority (2006-2021)

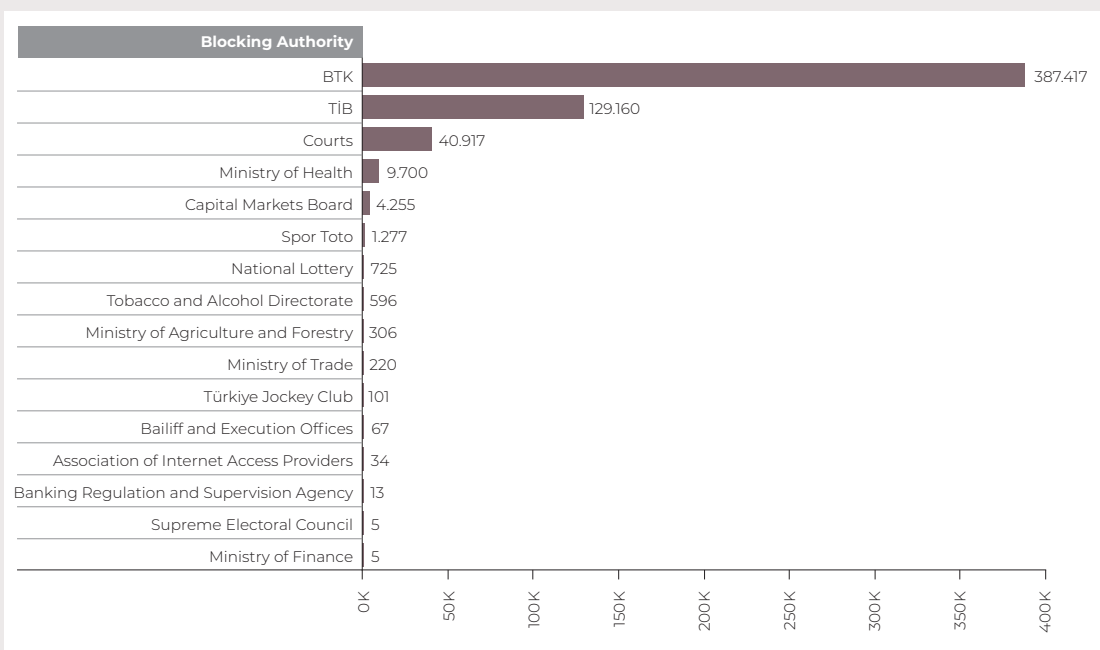
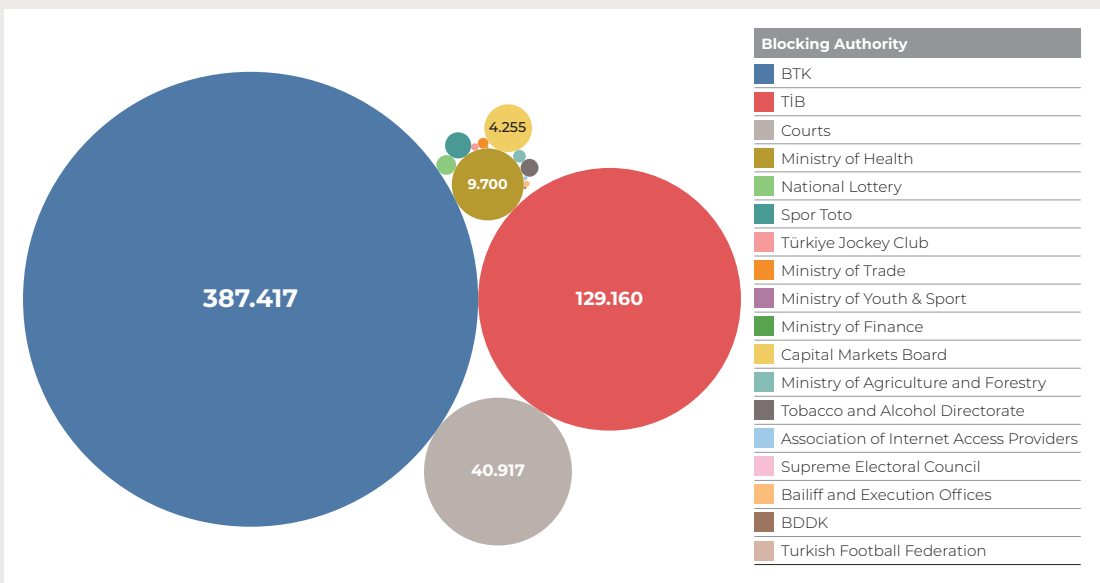


Figure 4: Number of Blocked Websites by the Blocking Authority (Total)



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

The Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications was enacted on 4 May 2007. Amendments made to article 8 of the Law No. 5651 in July 2020²⁸ introduced the sanction of “removal of content,” in addition to the existing sanction of access blocking. In its amended version, article 8 provides that “[i]t shall be decided to remove the online content and/or block access to it if there is sufficient suspicion that the content constitutes any of the crimes and offences” as defined under the Turkish Criminal Code: encouragement and incitement of suicide;²⁹ sexual exploitation and abuse of children;³⁰ facilitation of the use of drugs;³¹ provision of substances dangerous for health;³² obscenity;³³ prostitution;³⁴ gambling;³⁵ crimes committed against Atatürk as provided under the Law No. 5816; and offenses specified in the Law No. 7258 on the Regulation of Betting and Lottery Games in Football and Other Sports.³⁶

While decisions of removal of content and/or access blocking are issued through two different methods for the crimes listed under article 8, “**Precautionary Injunction Decisions**” for removal of content and/or access blocking may be issued by the judges during the investigation phase of a criminal investigation and by the courts during the prosecution/trial phase. Nevertheless, decisions of removal of content and/or access blocking under article 8 were mainly issued as “**Administrative Blocking Decisions**” by TIB, until its closure, and since then by the President of BTK, based on the provision stating that measures may be ex officio ordered by the latter if the content or hosting provider of the websites that carry content in breach of article 8 is located abroad, or even if the content or hosting provider is domestically located, when content contains sexual abuse of children, prostitution, or providing a place and opportunity for gambling.³⁷

The blocking power of the President of BTK with regard to foreign-hosted websites containing **obscene** content was annulled by the Constitutional Court with a judgment published in the Official Gazette on 07.02.2018. As examined in our Engelli-Web 2018, 2019 and 2020 reports, subject to a constitutionality review application made through the 13th Chamber of the Council of State, the Constitutional Court found by a majority vote that the power to block access to “**obscene**” websites hosted outside Türkiye (article 8/1(5)) vested with the President of BTK subject to article 8(4) of the Law No. 5651 was **incompatible with the Constitution. Therefore, the Court annulled the relevant measure.**³⁸ The Constitutional Court stated that the annulled

²⁸ With the amendments made to article 8 by article 4 of Law No. 7253 on 29.07.2020, the title of the article was changed to “**Decisions of removal of content or access blocking and their implementation.**”

²⁹ Article 84, Turkish Penal Code.

³⁰ Article 103/1, Turkish Penal Code.

³¹ Article 190, Turkish Penal Code.

³² Article 194, Turkish Penal Code.

³³ Article 226, Turkish Penal Code.

³⁴ Article 227, Turkish Penal Code.

³⁵ Article 228, Turkish Penal Code.

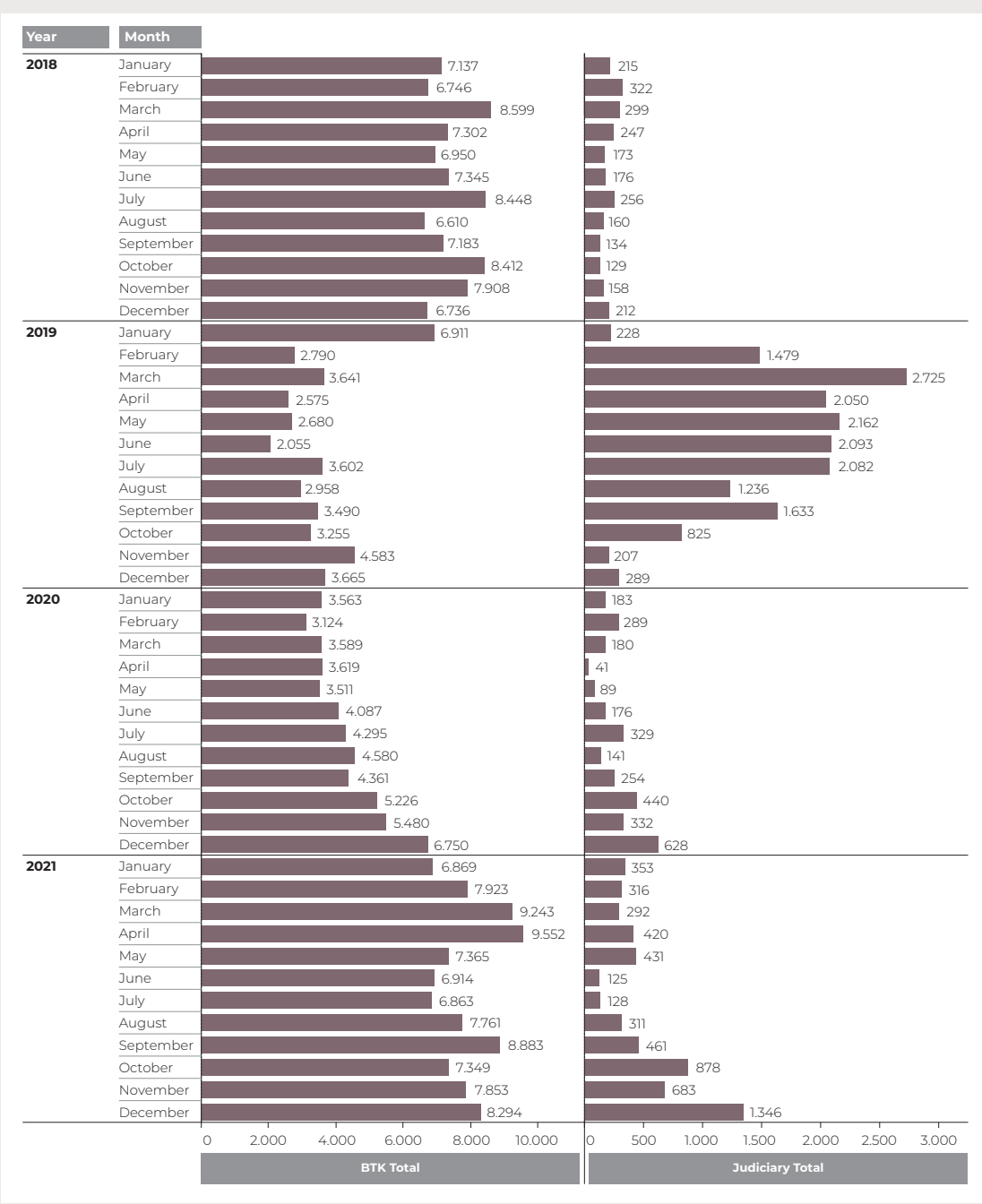
³⁶ Offenses specified in Law No. 7258 on the Regulation of Betting and Lottery Games in Football and Other Sports dated 29.04.1959 were added to Law No. 5651 by article 32 of Law No. 7226, 25.03.2020.

³⁷ See article 8/4, Law No. 5651.

³⁸ Constitutional Court Judgment, E. 2015/76., K. 2017/153, 15.11.2017, Official Gazette, 07.02.2018, no. 30.325.

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 with this kind of *ex officio* decisions issued by the President of BTK without any judicial approval by find-

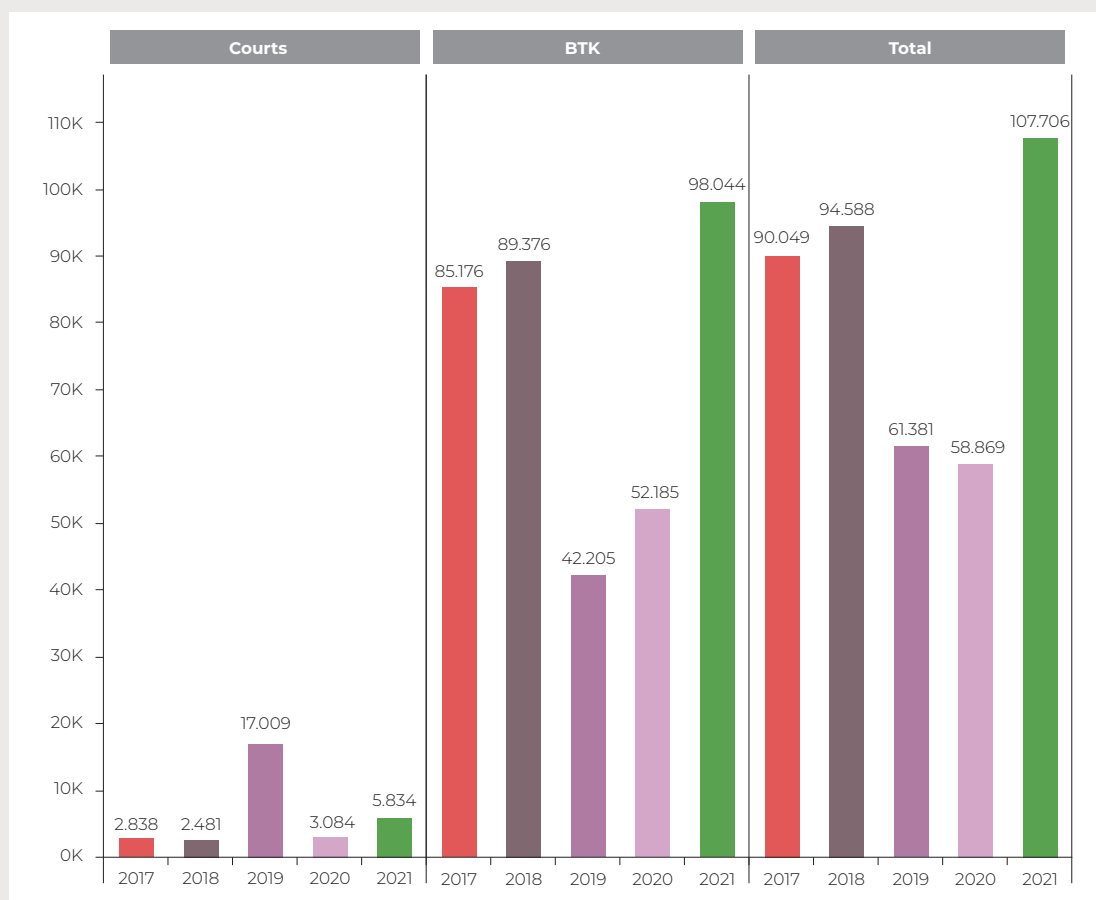
Figure 5: 2018-2021: BTK vs. Judgeships: Blocking Decisions Subject to Article 8 (Law No. 5651)



ing 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 public and for administration and that it must prevent arbitrary use of state power by public authorities.

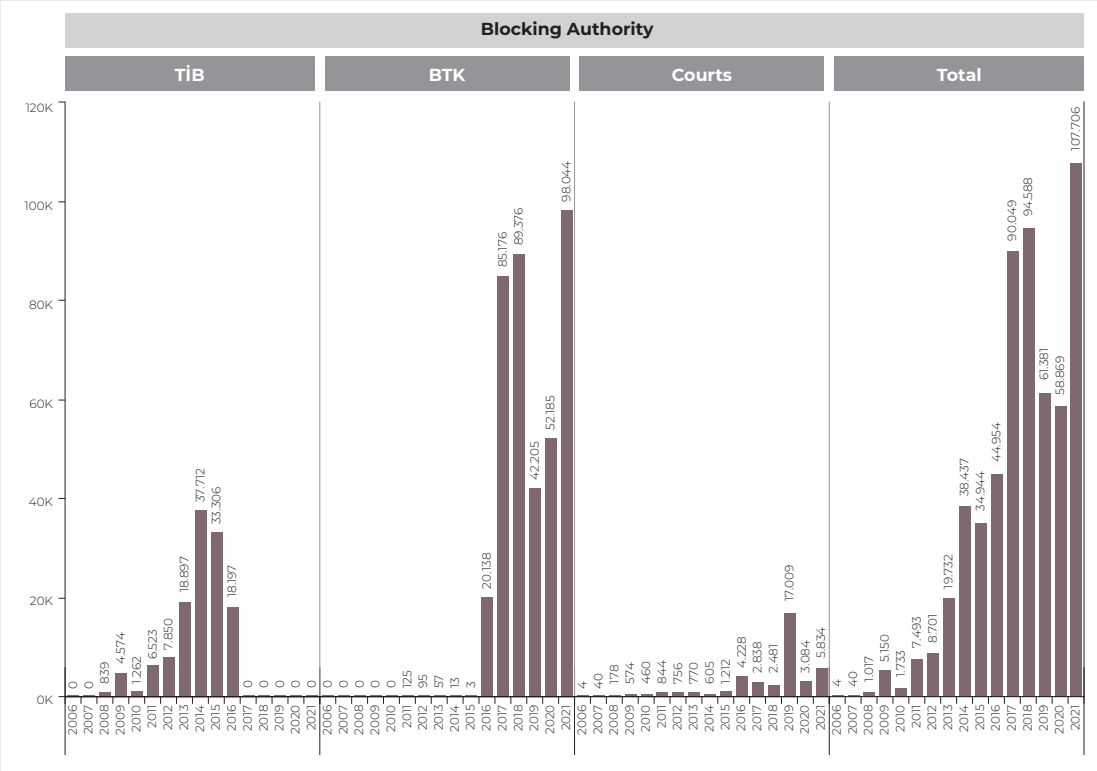
The Constitutional Court decided that the judgment shall enter into force one year after its publication in Official Gazette on 07.02.2018; which made the effective date of annulment as **07.02.2019**. Since no recent amendments were introduced to the Law No. 5651 by 07.02.2019, the authority granted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

Figure 6: Comparison of Blocking Decisions Issued by BTK and the Judiciary (2017-2021)



al during 2021 by continuing to disregard the annulment judgment of the Constitutional Court. As can be seen in **figures 5-7**, when the statistical data on access-blocking decisions issued subject to article 8 of the Law No. 5651 was evaluated focusing on the authorities that issued these decisions, even though the annulment judgment of the Constitutional Court was complied with from February to October 2019, and the President of BTK received judicial approval from criminal judgeships of peace for administrative decisions during this period, a significant increase was observed in the domain names blocked by the President of BTK from November 2019 until the end of 2021, while the number of domain names blocked by the judiciary decreased significantly during the same period. Considering that obscene websites made up the majority of the websites blocked by the President of BTK, it is believed that the President of BTK continued to issue decisions unlawfully, disregarding the annulment judgment of the Constitutional Court. In other words, administrative decisions issued for websites considered to be obscene by the President of BTK are unlawful in the absence of judicial approval. In short, this unlawful practice continued during 2021.

Figure 7: 2006-2021: Comparison of Blocking Decisions Issued by TİB, BTK and the Judiciary by Year



During 2021, as far as it could be determined by our efforts, access to **98.044 domain names and websites was blocked subject to 98.039 administrative blocking decisions** issued by the President of BTK. Of those blocked in 2021, **67.805** domain names (approximately **63%**) were related to gambling and betting sites.

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

The Constitutional Court annulled³⁹ article 8(16), which was added to article 8 of Law No. 5651 and which provided further blocking powers to TIB with respect to national security and protection of public order. However, subsequently, on 27.03.2015; article 8/A, entitled “*Removing content and/or blocking access in circumstances where delay would entail risk*,” was added to the Law No. 5651. By virtue of article 8/A, the power to 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 and/or removal of such Internet content could also be requested from the President of BTK by the **Office of the Prime Minister** between the dates of 27.03.2015 and 02.07.2018, and then by the **Office of the President of Türkiye** as the Prime Ministry has been closed down after the June 2018 General Elections. Also, the executive organs referred as “**the relevant ministries**” are authorized to request from the President of BTK to remove Internet content or block access to it for the purposes of national security and protection of public order, prevention of crimes, or protection of public health.

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

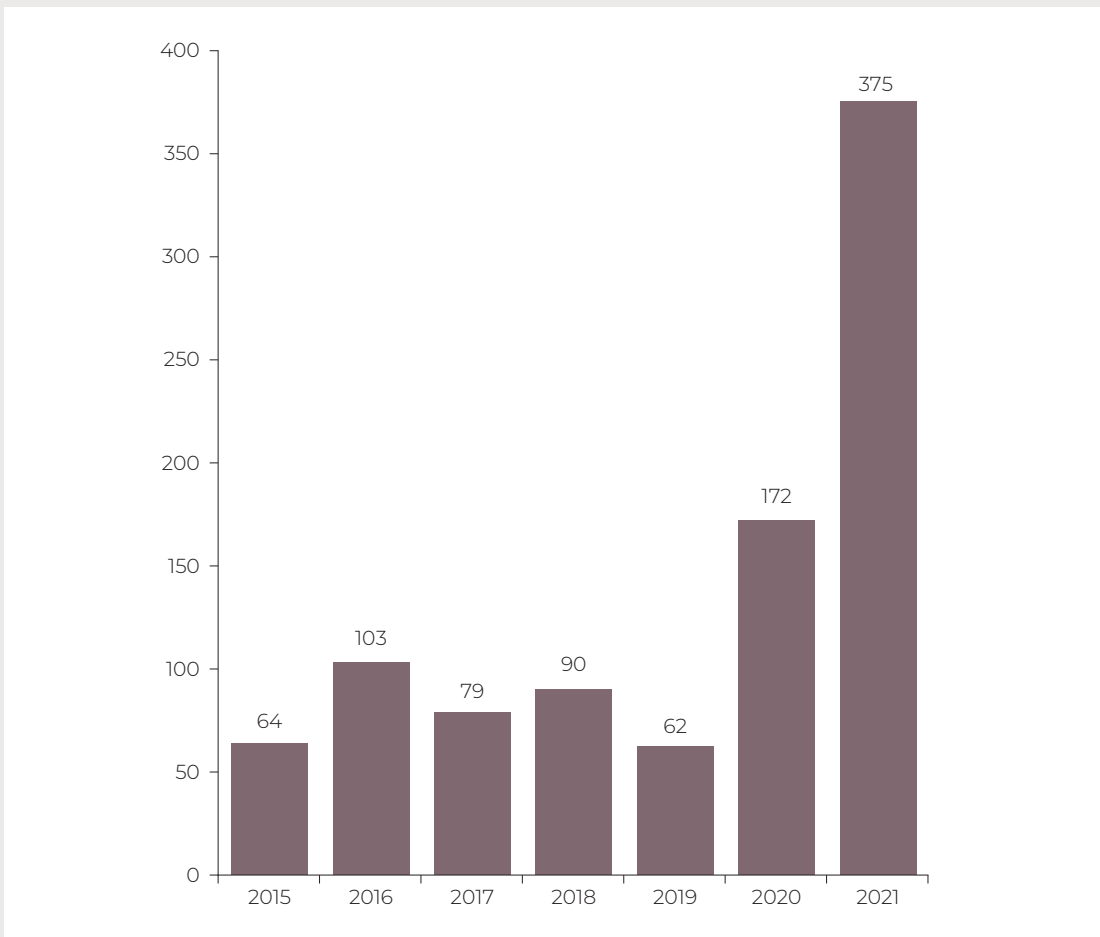
According to article 8/A, when a blocking decision is issued upon request, the President of BTK shall submit this administrative decision to a criminal judgeship of peace for approval within **24 hours**, and the judge shall review this submission and issue his/her decision within **48 hours**. The blocking decisions subject to this article shall be issued by way of blocking of a specific publication/section (in the form of URL, etc.). However, when it is not possible for technical reasons or the violation cannot be prevented by way of blocking the relevant content, the judge may decide 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 **07.06.2015**. Between **22.07.2015** and **12.12.2016**, **153** access-blocking decisions were issued regarding the websites that were blocked by TIB upon the request of the Office of the Prime Minister and were submitted to the approval of the Gölbaşı Criminal Judgeship of Peace.⁴⁰ As of **13.12.2016**, the administrative blocking

³⁹ Constitutional Court Judgment E. 2014/149, K. 2014/151, 02.10.2014.

⁴⁰ See the decisions of the Gölbaşı Criminal Judgeship of Peace nos. 2015/609, 2015/631, 2015/645, 2015/646, 2015/647, 2015/648, 2015/650, 2015/662, 2015/672, 2015/682, 2015/691, 2015/705, 2015/710, 2015/713, 2015/720, 2015/723, 2015/728, 2015/751, 2015/759, 2015/763, 2015/765, 2015/769, 2015/771, 2015/774, 2015/778, 2015/779, 2015/790, 2015/792, 2015/810, 2015/828, 2015/829, 2015/837, 2015/839, 2015/840, 2015/845, 2015/860, 2015/861, 2015/871, 2015/878, 2015/887, 2015/891, 2015/897, 2015/898, 2015/899, 2015/902, 2015/903, 2015/915, 2015/930,

Figure 8: Number of 8/A Decisions Issued Under Law No. 5651 by Year



decisions 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 **02.07.2018**, **nine separate criminal judgeships of peace** in Ankara issued **151 blocking decisions** based on article 8/A.

A total of **64** 8/A decisions were issued in 2015, while this figure reached **103** in 2016, **79** in 2017, **90** in 2018. A total of **62** and **172** 8/A decisions were issued in 2019 and 2020, respectively. The number of 8/A decisions issued increased significantly and reached **375** in **2021**. By the end of 2021, a total of **945 separate** decisions involv-

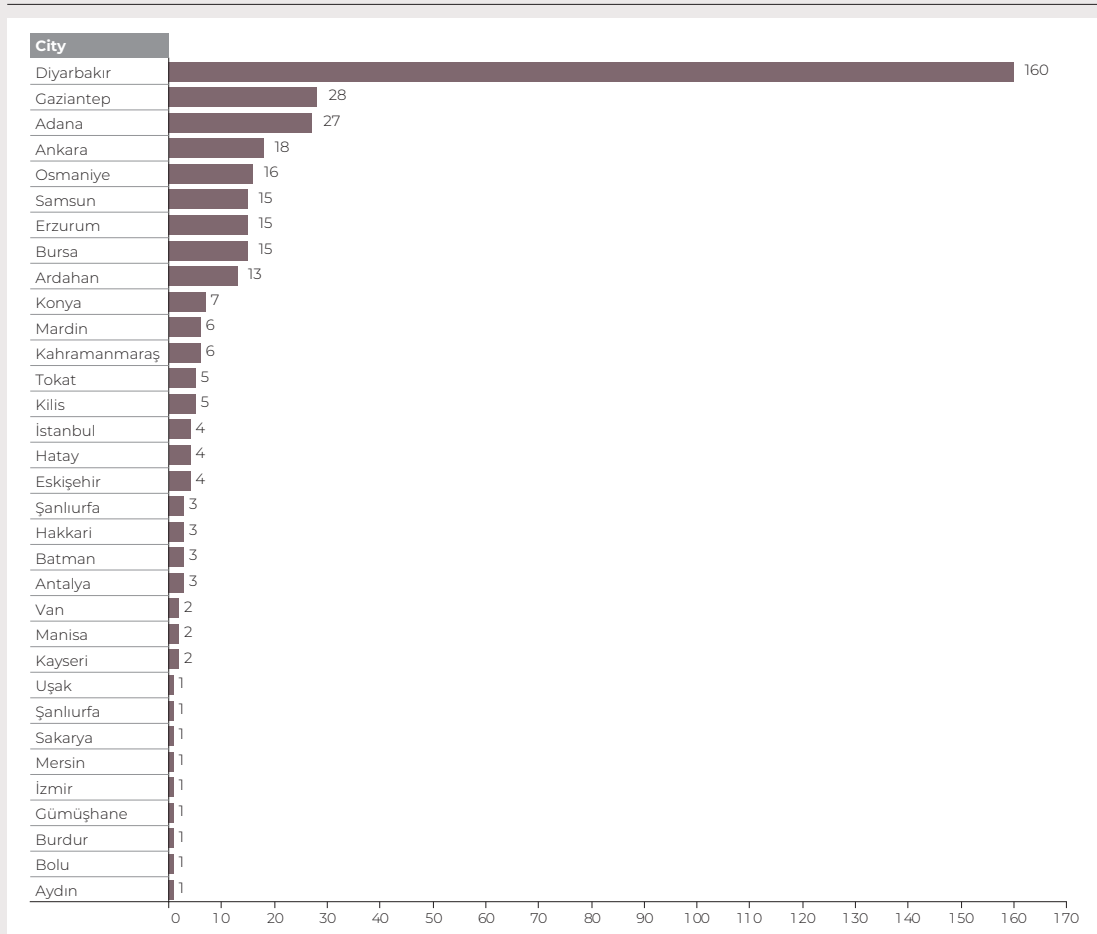
2015/931, 2015/937, 2015/947, 2015/955, 2015/958, 2015/960, 2015/972, 2015/1003, 2015/1012, 2015/1015, 2015/1021, 2015/1107, 2015/1169, 2015/1197, 2016/01, 2016/02, 2016/28, 2016/53, 2016/57, 2016/65, 2016/74, 2016/129, 2016/205, 2016/219, 2016/293, 2016/311, 2016/320, 2016/328, 2016/329, 2016/354, 2016/374,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

ing content removal and/or access blocking were issued by criminal judgeships of peace upon requests submitted within the scope of article 8/A. 2021 was also the year during which the highest number of article 8/A decisions (**375 decisions**) were issued. As will be explained below in detail, **approximately 23.905 websites⁴¹** were blocked subject to these decisions.

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

When 8/A decisions are evaluated on the basis of the criminal judgeships of peace issuing such decisions, it is observed that a total of **945** decisions were issued by the end of 2021, including **153 consecutive decisions issued by the Gölbaşı Criminal Judgeship of Peace** between 13.07.2015 and 07.12.2016 due to the fact that the Telecommunications Communication Presidency was located at the Gölbaşı facilities prior to its closure. The majority of the requests were submitted by the Office of the Prime Minister during this period. After the closure of the Telecommunications Com-

Figure 9: 2021 8/A Decisions by Issuing City

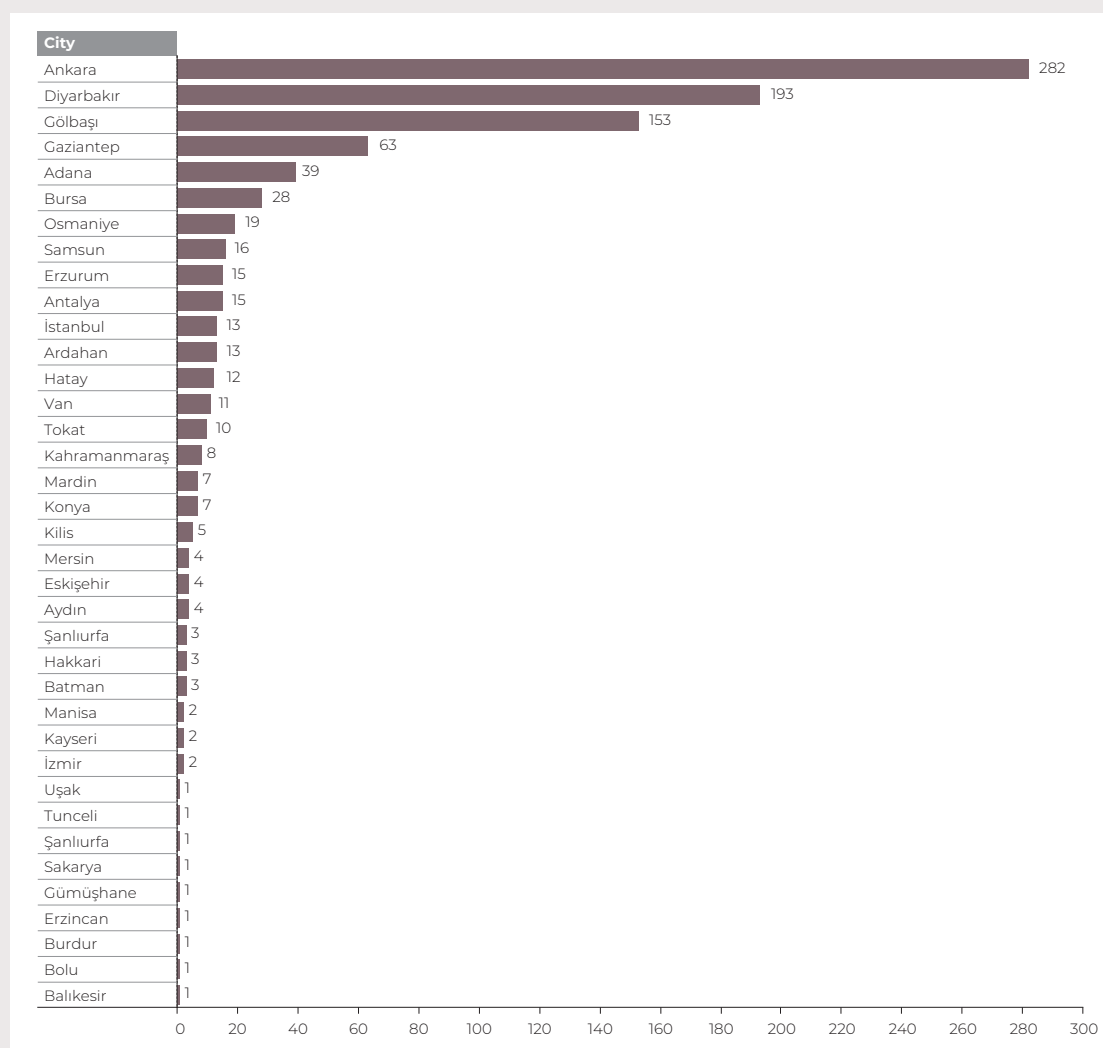


41 Domain names, news articles, news websites, and social media content.

munication Presidency, the majority of 8/A decisions were issued by the criminal judgements of peace in Ankara by the end of 2019. As a result, the President of BTK started to submit requests to the criminal judgements of peace in Ankara in December 2016, and the criminal judgements of peace in Ankara issued a total of **233 8/A decisions** by the end of 2019.

While **38** of the **233 8/A** blocking decisions issued by Ankara criminal judgements of peace by the end of 2019 were issued by the Ankara 1st Criminal Judgement of Peace; **35** were issued by the Ankara 5th Criminal Judgement of Peace **34** were issued by the Ankara 3rd Criminal Judgement of Peace, **34** were issued by the Ankara 6th Criminal Judgement of Peace, **30** were issued by the Ankara 7th Criminal Judgement of Peace, **28** were issued by the Ankara 2nd Criminal Judgement of Peace, **25** were issued by the Ankara 4th Criminal Judgement of Peace, **8** were issued by the Ankara 8th Criminal Judgement of Peace, and **1** was issued by the Ankara 9th Criminal Judgement of Peace. Fur-

Figure 10: 2015-2021: 8/A Decisions by Issuing City



thermore, it was found that **11 8/A decisions** were issued by courts other than the Ankara criminal judgeships of peace by the end of 2019.⁴²

Subsequently, a total of **168 8/A decisions** were issued in **2020**. However, a difference was observed in the breakdown of these decisions and it was found that a large number of 8/A decisions were issued by the criminal judgeships of peace outside of Ankara compared to previous years. The highest number of **8/A decisions** were issued by the criminal judgeships of peace in **Gaziantep (35 decisions)** in **2020**, while the criminal judgeships of peace in **Ankara** ranked second (**30 decisions**), and the criminal judgeships of peace in **Diyarbakır** ranked third (**28 decisions**). In **2021**, the **highest number of 8/A decisions** were issued by the criminal judgeships of peace in **Diyarbakır (160 decisions)**, while the criminal judgeships of peace in **Gaziantep** ranked second (**28 decisions**), and the criminal judgeships of peace in **Adana** ranked third (**27 decisions**).

Overall, criminal judgeships of peace based in **Ankara** ranked first with **282 8/A decisions**, which were then followed by criminal judgeships of peace based in **Diyarbakır**, which ranked second with **193 8/A decisions**; the **Gölbaşı Criminal Judgeship of Peace**, which ranked third with **153 8/A decisions**; and criminal judgeships of peace based in **Gaziantep**, which ranked fourth with **63 8/A decisions**. **435 (46%)** of **945 8/A decisions** issued from 2015 to 2021 were issued by the Gölbaşı Criminal Judgeship of Peace and other criminal judgeships of peace based in Ankara upon the requests submitted by the Office of the Prime Minister, and subsequently, by the Presidency.

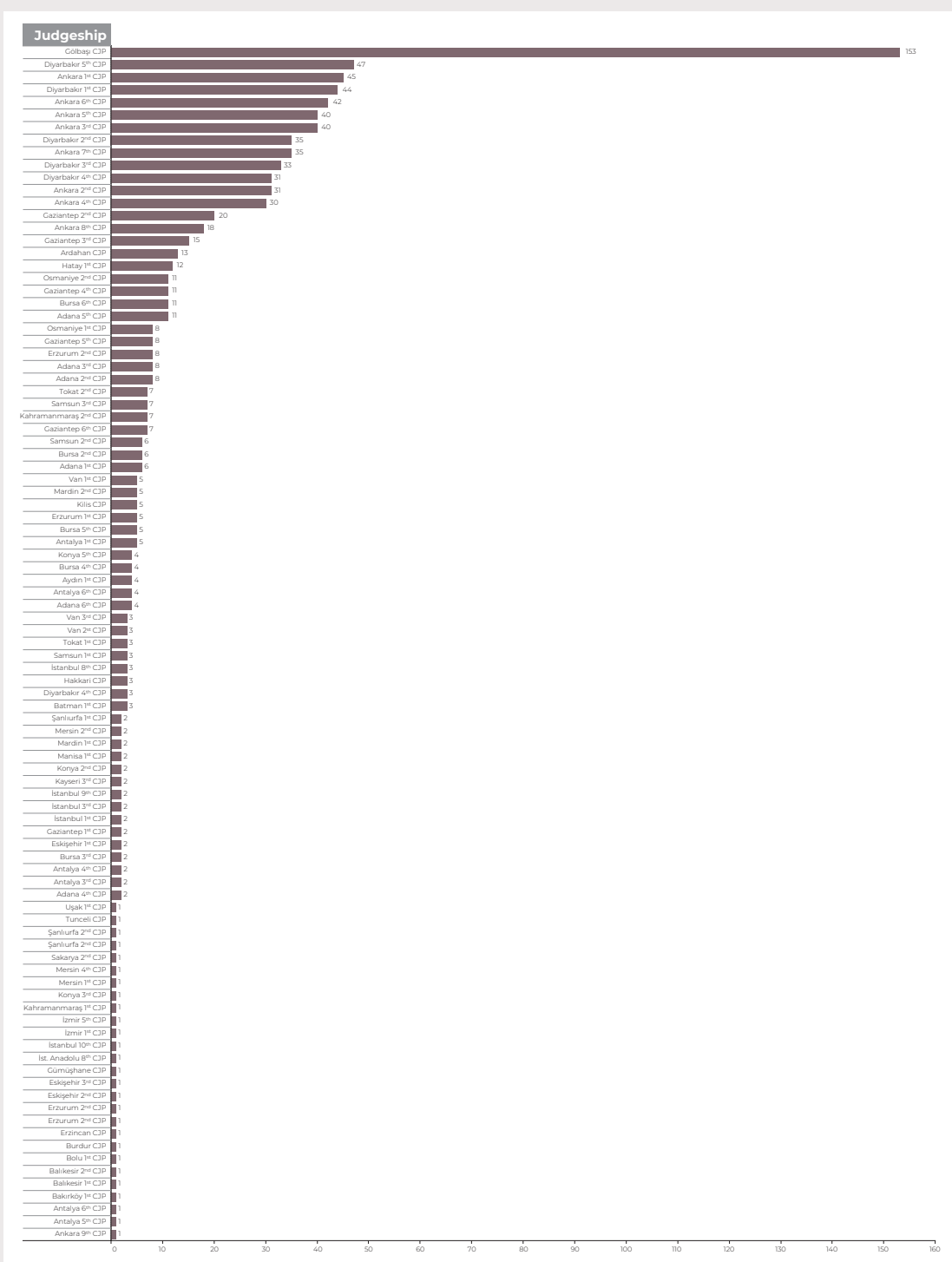
As stated above, it was found that several criminal judgeships of peace outside Ankara issued 8/A decisions for the first time during 2020. In this context, criminal judgeships of peace in Gaziantep, Bursa, Adana, Antalya, Van, Hatay, Tokat, Mersin, Aydın, Kahramanmaraş, Tunceli, Samsun, Osmaniye, Mardin, İzmir, and Balıkesir started to issue 8/A decisions for the first time during 2020. In 2021, criminal judgeships of peace in Bolu, Burdur, Istanbul, Ardahan, Kayseri, Gümüşhane, Sakarya, Şanlıurfa, Uşak, Manisa, Batman, Hakkari, Eskişehir, Kilis, Konya, and Erzincan were added to the list of criminal judgeships of peace issuing 8/A decisions. As will be explained below, these blocking decisions were issued upon the requests submitted within the scope of the activities and operations carried out by the provincial gendarmerie commands regarding the Internet.

When the criminal judgeships of peace issuing 8/A decisions were examined, it was found that the criminal judgeship of peace that has issued the highest number of 8/A decisions by the end of 2021 was the **Gölbaşı Criminal Judgeship of Peace (153 decisions)**. These decisions started to be issued in July 2015, around the time article 8/A came into force and continued even after the closure of TIB until the end of December 2016. The **Diyarbakır 5th Criminal Judgeship of Peace** ranked second with **47 8/A decisions**, **39** of which were issued in 2021. The **Ankara 1st Criminal Judgeship of Peace** ranked third with **45 8/A decisions** and was followed by the **Diyarbakır 1st Criminal Judgeship of Peace (44 8/A decisions)**. **39** of the 44 8/A decisions issued by

⁴² These decisions were issued by 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.

the **Diyarbakır 1st Criminal Judgeship of Peace** were issued in 2021. Lastly, the **Ankara 6th Criminal Judgeship of Peace** ranked fifth with **42** 8/A decisions.

Figure 11: Criminal Judgeships of Peace Issuing Decisions Subject to Article 8/A of Law No. 5651: 2015-2021



8/A DECISIONS ISSUED IN 2020 AND 2021 AND THE ROLE OF THE GENDARMERIE

A large number of 8/A decisions have been issued by criminal judgeships of peace outside Ankara by 2020 after the **Anti-Cybercrime Department in the Gendarmerie General Command** began its operations during August 2019.⁴³ While **only 10** 8/A decisions had been issued outside Ankara before 2020, **138 8/A decisions** were issued by criminal judgeships of peace outside Ankara in 2020. While only 11 of these decisions were issued in the first 6 months of 2020, 132 decisions were issued in the second half of 2020. During the second half of 2020, provincial gendarmerie commands rose to prominence with their requests to block access to foreign-based betting websites that were found to violate the Law No. 7258 on the Regulation of Betting and Lottery Games in Football and Other Sports. Several news articles reported that the gendarmerie carried out operations against not only betting websites, but also obscene websites,⁴⁴ websites selling narcotic substances and stimulants and websites “**making propaganda for a terrorist organization**” and that access to such websites was blocked.⁴⁵ It was found that the **127 decisions** were issued upon the requests of various provincial gendarmerie commands subject to article 8/A during 2020.

During the analysis conducted for the 2020 EngelliWeb Report, **confusion of demand, evaluation and judgment** was observed in part of these decisions, which were requested by the Gendarmerie General Command and also by the provincial gendarmerie commands and decisions issued in particular by criminal judgeships of peace outside Ankara. Within the scope of the EngelliWeb research, it was found out that **70** decisions that were **considered to be flawed** were issued by criminal judgeships of peace upon the requests of the gendarmerie within the framework of the activities carried out by various provincial gendarmerie commands regarding the Internet. These **70 decisions** were examined in detail.

Number of Requests	Article 8/A Requests	Reference to Article 8/A	Article 8/A Decisions	Article 8 Decisions	Article 9 Decisions
70	12	32	0	1	69

Only 12 of the 70 decisions were issued upon requests subject to article 8/A. In **32** of these decisions, criminal judgeships of peace **referred to article 8/A** and took it into consideration during their review. However, **none** of these 70 decisions were issued **with reference to article 8/A. Regardless of the requests of the gendarmerie**, criminal judgeships of peace issued **69** of the 70 decisions subject to **article 9**, in rela-

⁴³ See Ministry of the Interior, Budget Presentation 2022, TGNA's Plan and Budget Committee, 22.11.2021, https://www.icisleri.gov.tr/kurumlar/icisleri.gov.tr/icerikYonetimi/haberler/2021/11/2022_butce_final_kucuk.pdf

⁴⁴ Sabah, “Müstehcen yayın yapan 88 siteye erişim engellendi” [88 obscene websites were blocked], 19.12.2020, <https://www.sabah.com.tr/yasam/2020/12/19/mustehcen-yayin-yapan-88-siteye-erisim-engellendi>; Sabah, “Jandarmadan siber operasyon: 204 siteye erişim engeli” [Cyber operation by the Gendarmerie: Access to 204 websites was blocked], 31.12.2020, <https://www.sabah.com.tr/yasam/jandarmadan-siber-operasyon-204-site-erisim-engeli-5310468>

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

tion to the **violation of personal rights**, and one decision subject to **article 8**, involving **content considered to be harmful for children**.

As stated in our 2020 report, it was found that 43 of these decisions should have been issued subject to article 8/A, 13 of them should have been issued subject to article 8, and 14 of them should have been issued subject to article 9. This different evaluation is based on the examination of the websites and content requested to be blocked subject to the 70 separate blocking decisions.

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

Subsequently, this problem and flawed legal assessment also continued during 2021. Our research identified **51 decisions** that were considered to be flawed which were issued by criminal judgeships of peace with reference to **article 8/A** upon the requests of the Gendarmerie General Command and provincial gendarmerie commands in **2021**. These **51 decisions** were examined in detail.

Number of Requests	Article 8/A Requests	Reference to Article 8/A	Article 8/A Decisions	Article 8 Decisions	Article 9 Decisions
51	33	29	1	0	50

Only 33 of these 51 decisions were issued upon requests subject to **article 8/A** during 2021. In **29** of these decisions, criminal judgeships of peace **referred to article 8/A** and took it into consideration during their review. However, **50** of these **51** decisions were not issued **by reference to article 8/A**. **Regardless of the requests of the gendarmerie**, criminal judgeships of peace issued 50 of the 51 decisions subject to **article 9**, in relation to the **violation of personal rights**.

İFÖD instead evaluated that these 51 decisions should have been issued subject to article 8/A. This different evaluation is based on the examination of the websites and content requested to be blocked subject to the 51 separate blocking decisions.

İFÖD Evaluation	51 Decisions
Article 8/A	51
Article 9	0

By way of example, the Burdur Criminal Judgeship of Peace blocked access to three separate news articles published in 2015 by Evrensel, a daily newspaper, upon the request of the Provincial Gendarmerie Command of the Governorship of Burdur, which noted in its request that there were posts that publicly and intensely “spread propaganda for terrorist organizations PKK/YPG” and created misleading, false, and negative perception against the Republic of Türkiye” at the website “**Evrensel**” and that therefore, national security and public order should be protected.”

Screenshot 1: News articles blocked by the Burdur Criminal Judgeship of Peace



In its decision, the judgeship used a stereotypical formula, stating that it found that “the content published on the website stated in the request was against the abovementioned article (article 8/A), violated the said article, insulted the Republic of Türkiye and the Institutions and Organs of the State, was misleading, false, and negative, and constituted propaganda for a terrorist organization.” However, the Burdur judgeship ruled that the request shall be granted subject to article 9/1 of Law No. 5651. Accordingly, a request based on article 8/A turned into a claim of violation of “personal rights” within the scope of article 9. However, the judgeship did not state whose personal rights as well as which personal rights were violated. Finally, it has not been explained how the three different news articles published by Evrensel exceeded the limits of freedom of expression and freedom of press.

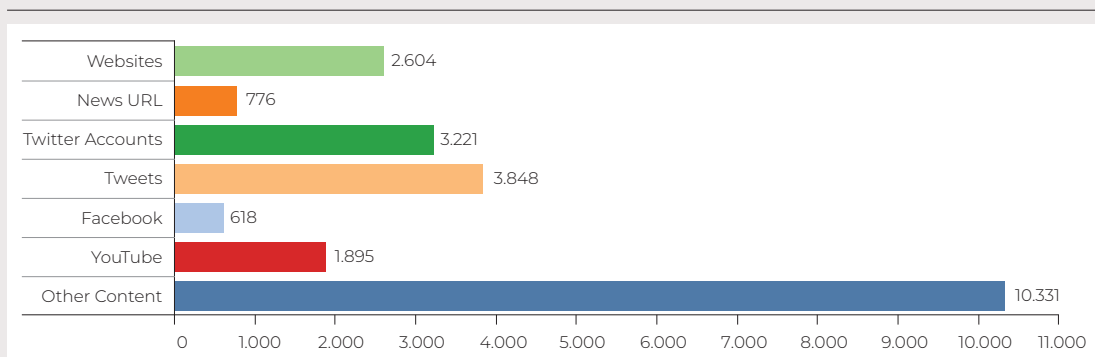
More examples can be provided; however, it can be seen that the number of requests for access-blocking or content removal submitted by the Presidency and the relevant ministries in “circumstances where delay would entail risk,” or subject to article 8/A started to decrease as a result of the involvement of provincial gendarmerie commands, especially since the second half of 2020. Thus, these decisions started to be issued by criminal judgeships of peace outside Ankara. It is found that in 2021, the gendarmerie used article 8/A much more actively than the Presidency and the relevant ministries throughout Türkiye. However, criminal judgeships of peace outside Ankara, which had no experience with article 8/A, tried to fit such requests that should have been reviewed subject to article 8/A of Law No. 5651 to their article 9 decision templates. As a result, flawed decisions were issued and these decisions were sent to ESB for execution, rather than to BTK as required by article 8/A.

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

From 29.05.2015 to the end of 2021; **access to more than 23.905 Internet addresses**, including more than 2.600 news websites and domain names, 750 news articles, 3.200 Twitter accounts, 3.800 tweets, 600 Facebook content and 1.850 YouTube videos, **was**

blocked subject to a **total of 945 8/A** decisions issued by **95 different** criminal judgeships of peace, as can be seen in detail in **Figure 12**.⁴⁶

Figure 12: Approximate Number and Breakdown of Internet Content Blocked by 8/A Decisions: 2015-2021



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

In addition to Sendika.org⁴⁷ and SiyasiHaber.org, regional news websites that publish articles in Kurdish and Turkish and are therefore very important for Kurdish politics, such as Yüksekova Güncel, Dicle Haber Ajansı (“DİHA”), Azadiya Welat, Özgür Gündem, Yeni Özgür Politika, Rudaw, RojNews, ANF, Kaypakkaya Haber, Gün-eydoğu’nun Sesi İdil Haber, Kentin Özgün Sesi Bitlis Güncel, Besta Nuce, JINHA, Demokrasi.com, and JinNews had been regularly blocked from Türkiye by 8/A decisions before 2021. In addition, the **Wikipedia** platform had been blocked from Türkiye for 2.5 years from 29.04.2017 upon the request of the Office of the Prime Minister on the grounds that two articles on the platform praised terrorism, incited violence and crime, and threatened public order and national security⁴⁸ and became available again only as a result of the judgment of the Constitutional Court, as explained in detail below. In 2020, access to news websites such as **OdaTV**⁴⁹ and **Independent**

⁴⁶ As part of the EngelliWeb project, the **classification of 10.331 of the 23.905 addresses** that were found to be blocked by the end of 2021 subject to article 8/A continues. Unlike decisions issued subject to article 9 of the Law No. 5651, 8/A decisions are not implemented in a transparent manner; thus, it is not possible to access the details of all the decisions of the criminal judgeships of peace involving access blocking to the impugned content and blocked URL addresses.

⁴⁷ Between 2015 and 2017, the news website Sendika.Org was blocked 63 times by 7 different Ankara criminal judgeships of peace under Article 8/A.

⁴⁸ Ankara 1st Criminal Judgeship of Peace, no. 2017/2956, 29.04.2017. The Ankara 1st Criminal Judgeship of Peace rejected the objections with its decision no. 2017/3150, 04.05.2017 by stating that there was not any consideration requiring the order no. 2017/2956, 29.04.2017 to be revised. The Ankara 2nd Criminal Judgeship of Peace also rejected the objections with its decision no. 2017/3172, 07.05.2017. In this decision, it was merely stated that the objection was rejected “since nothing inaccurate was found to exist in the decision of the Ankara 1st Criminal Judgeship of Peace no. 2017/3150” without providing any reasoning.

⁴⁹ The domain name odatv.com was blocked subject to the order of the Ankara 4th Criminal Judgeship of Peace, no. 2020/2117, 07.03.2020. Domain names www.odatv.com.tr and www.odatv.net were blocked subject to the order

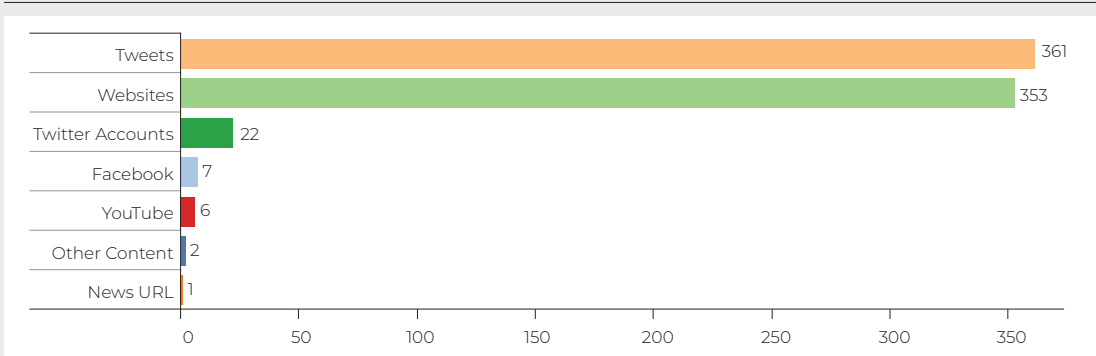
Türkçe⁵⁰ was blocked by 8/A decisions, and the practice of blocking access to these websites continue as of the end of 2021, despite the applications made to the Constitutional Court.

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

ANALYSIS OF THE BLOCKED CONTENT SUBJECT TO ARTICLE 8/A DECISIONS ISSUED IN 2021

As can be seen in **Figure 12**, it was found that a **total of 759 Internet addresses**, including **353** websites, most of which were news websites; **22** Twitter accounts; **361** tweets; **7** Facebook content; and **6** YouTube videos⁵² were blocked in 2021 by **165** 8/A decisions issued by criminal judgements of peace.

Figure 13: Breakdown of Internet Content Blocked by 8/A Decisions in 2021



of the Ankara 8th Criminal Judgeship of Peace, no. 2020/2407, 08.03.2020 while the domain name www.odatv.biz was blocked subject to the order of the Ankara 7th Criminal Judgeship of Peace, no. 2020/2723, 20.03.2020 and the domain name www.odatv.co was blocked subject to the order of the Ankara 7th Criminal Judgeship of Peace, no. 2020/2727, 20.03.2020.

⁵⁰ www.independentturkish.com was blocked subject to the order of the Ankara 7th Criminal Judgeship of Peace, no. 2020/3042, 19.04.2020, while indyturky.com was blocked subject to the order of the Ankara 8th Criminal Judgeship of Peace, no. 2020/3120, 20.04.2020 and www.indyturkish.com was blocked subject to the order of the Ankara 1st Criminal Judgeship of Peace, no. 2020/3258, 03.05.2020.

⁵¹ Bianet, "Yazarı gözaltına alınan Jiyan.org engellendi" [Jiyan.org was blocked after its columnist was detained], 24.20.2015, <https://m.bianet.org/bianet/toplum/168617-yazari-gozaltina-alinan-jiban-orgengellendi>

⁵² As part of the EngelliWeb project, the classification of **529 of the 4.550 addresses** that were found to be blocked in 2019 subject to article 8/A continues.

During **2021**, it is determined that in particular, Kurdish and opposition news websites were repeatedly and completely blocked. Therefore, it is noteworthy that the website of Etkin Haber ("ETHA") was blocked 11 times,⁵³ the website of Umut Gazetesi was blocked 18 times,⁵⁴ the website of Kızıl Bayrak was blocked 11 times,⁵⁵ the website of JinNews was blocked 24 times,⁵⁶ the website of Mezopotamya Agency was blocked 10 times,⁵⁷ the website of Yeni Demokrasi Gazetesi was blocked 9 times⁵⁸ and the website of Nupel was blocked 4 times⁵⁹ throughout the year in 2021.

Screenshot 2: News Websites Blocked Subject to Article 8/A



Furthermore, the domain name of sedatpeker.com, owned by Sedat Peker, the leader of an organized crime organization, was blocked subject to the decision issued by the Ankara 8th Criminal Judgeship of Peace on 21.05.2021 within the scope of article 8/A.⁶⁰ Similarly, the YouTube channel and some videos of Sedat Peker, as well as his Twitter and Instagram accounts, were blocked on 24.06.2021 subject to article 8/A on the grounds of national security and maintenance of public order. However, these 8/A decisions have not been executed by social media platforms.

53 Etkin Haber (etha17.com) was blocked subject a decision of the Diyarbakır 5th Criminal Judgeship of Peace, no. 2021/1297, 01.03.2021. The domain name etha26.com was blocked subject to a decision of the Diyarbakır 4th Criminal Judgeship of Peace, no. 2021/6791, 23.11.2021.

54 The domain name umutgazetesi19.org was blocked subject to a decision of the Diyarbakır 2nd Criminal Judgeship of Peace, no. 2021/747, 16.02.2021. The domain name umutgazetesi35.org was blocked subject to a decision of the Erzurum 2nd Criminal Judgeship of Peace, no. 2021/4114, 25.10.2021.

55 The domain name kizilbayrak48.net was blocked subject to a decision the Diyarbakır 3rd Criminal Judgeship of Peace, no. 2021/2112, 19.04.2021. The domain name kizilbayrak57.net was blocked subject to a decision of the Diyarbakır 5th Criminal Judgeship of Peace, no. 2021/6978, 30.11.2021.

56 The domain name jinnews19.xyz was blocked subject to a decision of the Diyarbakır 5th Criminal Judgeship of Peace, no. 2021/2169, 19.04.2021. The domain name jinnews40.xyz was blocked subject to a decision of the Diyarbakır 5th Criminal Judgeship of Peace, no. 2021/5440, 06.10.2021.

57 Mezopotamya Agency (mezopotamyaajansi27.com) was blocked subject to a decision of the Kayseri 3rd Criminal Judgeship of Peace, no. 2021/963, 22.02.2021. The domain name mezopotamyaajansi36.com was blocked subject to a decision of the Diyarbakır 2nd Criminal Judgeship of Peace, no. 2021/4608, 24.09.2021.

58 The domain name yenedemokrasi12.net was blocked subject to a decision of the Bursa 2nd Criminal Judgeship of Peace, no. 2021/584, 02.02.2021. The domain name yenedemokrasi13.net was blocked subject to a decision of the Diyarbakır 1st Criminal Judgeship of Peace, no. 2021/1197, 16.02.2021.

59 The domain name nupel.info was blocked subject to a decision of the Eskişehir 1st Criminal Judgeship of Peace, no. 2021/4007, 09.08.2021.

60 Ankara 8th Criminal Judgeship of Peace, no. 2021/5698, 21.05.2021.



Therefore, all of the sources that oppose government policies, question them, express alternative views on the Kurdish issue, or publish news stories or share content that do not receive mainstream media coverage during clashes were considered as sources that disrupt public order, praise terrorism, and incite crime, and were blocked subject to article 8/A in 2021, as in previous years. In recent decisions issued upon the requests of the gendarmerie, criminal judgeships of peace stated that such websites “praised the organizations PKK-KCK and YPG-PYD, misled the public against the Republic of Türkiye, and created an unfair and negative perception against it,” and that therefore, it was important to block them to protect national security and public order.

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

The Constitutional Court issued its first judgments involving article 8/A of the Law No. 5651 in 2019 and issued judgments in seven applications consecutively during that year. The first judgment of the General Assembly of the Constitutional Court involving article 8/A was related to a news article by the newspaper BirGün. BirGün published the news article entitled “Cansız bedeni zırhlı aracın arkasında sürüklenen H.B.’ye 28 kurşun sıkılmış” [H. B., whose lifeless body was dragged by an armored car, was shot 28 times] on 05.10.2015. The article stated that the lifeless body of Hacı Lokman Birlik, who was shot 28 times and killed during the clashes in Şırnak on 03.10.2015, was tied to an armored police vehicle and dragged for meters and that according to the autopsy report, 17 of these 28 shots were fatal.⁶¹ Access to BirGün’s article as well as 111 other Internet addresses were blocked by a decision of the Gölbaşı Criminal Judgeship of Peace.⁶² As BirGün’s appeal was rejected, BirGün applied to the Constitutional Court about the access-blocking decisions of the Gölbaşı Criminal

⁶¹ See <https://www.birgun.net/haber/cansiz-bedeni-zirhli-aracin-arkasinda-suruklenen-haci-birlik-e-28-kur-sun-sikilmis-91399>

⁶² Gölbaşı Criminal Judgeship of Peace, no. 2015/902, 06.10.2015.

Judgeship of Peace regarding the news article of BirGün and a total of 111 related addresses. The Constitutional Court considered article 8/A for the first time in May 2019 and at the General Assembly level in the **BirGün application**. The Court specified the principles that must be followed to decide measures stipulated in article 8/A and ruled that BirGün's **freedom of expression and freedom of the press were violated**.⁶³ 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"⁶⁴ violation.

According to the Constitutional Court, the exceptional procedure prescribed by article 8/A of the Law No. 5651 may be followed in circumstances where online publications that endanger the democratic social order by praising violence, inciting people to hatred, or encouraging and provoking them to adopt the methods of terrorist organizations, resort to violence, take revenge, or attempt armed resistance can be recognized at first sight without the need for further investigation. The Constitutional Court states that in such circumstances, the principle of prima facie violation will establish a fair balance between freedom of expression and the need to quickly protect the public interest against online publications.⁶⁵

In this context, the Constitutional Court argues that interferences with freedom of expression **without any justification** or **with a justification that does not meet the criteria set** by the Constitutional Court will violate Articles 26 and 28 of the Constitution. The Constitutional Court listed the elements that must be included in article 8/A-related decisions in order for the justifications of the courts of first instances and other bodies exercising public power to be considered relevant and sufficient, and that may vary according to the conditions of similar applications as follows:⁶⁶

- i. For a decision to be issued to block access to online content, the administrative and judicial bodies must assert the **existence of a circumstance where delay may entail risks**.
- ii. Considering that **circumstances where delay may entail risks** may arise due to one or more of the reasons such as the protection of the right to life, security of life, or property of individuals, as well as national security and public order; the prevention of crimes; or the protection of public health; **the relationship between the content of the publication and these reasons should be demonstrated fully**.
- iii. In the event that the publication is related to terrorist organizations or the justification of terrorist activities, balance must be struck between **freedom of expression and the legitimate right of democratic societies to protect themselves from the activities of terrorist organizations**, in order to make such an analysis.

⁶³ BirGün İletişim and Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019, §§ 70-75.

⁶⁴ Ali Kılık Application, No: 2014/5552, 26.10.2017. Also see K. Gözler, "Kişilik Haklarını İhlal Eden İnternet Yayınlarının Kaldırılması Usûlü ve İfade Hürriyeti: 5651 Sayılı Kanunun 9'uncu Maddesinin İfade Hürriyeti Açısından Değerlendirilmesi" ["Procedure for 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.

⁶⁵ Ali Kılık Application, No: 2014/5552, 26.10.2017, §§ 62-63.

⁶⁶ BirGün İletişim and Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019, § 74.

- iv. To establish the balance in question, the content of the publication should be examined to see:
- whether the publication as a whole targeted a natural person, public officials, a segment of the society, or the state or whether it incited violence against them,
 - whether the publication exposed individuals to the threat of physical violence or inflamed hatred against individuals,
 - whether the message of the publication asserted that resorting to violence is a necessary and justified measure,
 - whether violence is glorified or not, incites people to hatred, revenge or armed resistance,
 - whether it will cause more violence in some part or all of the country by making accusations or inciting hatred,
 - whether it contains lies or false information, threats and insulting statements that will cause panic among people or organizations,
 - whether the intensity of conflicts and high degree of tension in some part or all of the country at the time of the publication affected the access-blocking decision,
 - whether the restrictive measure subject to the decision aims to meet a pressing social need in a democratic society, and whether the measure is a last resort, and
 - Finally, it should be evaluated together with the content of the publication whether the restriction is a proportionate measure that interferes with freedom of expression the least in order to achieve the purpose of public interest.

Furthermore, the Constitutional Court notes that “statements praising, supporting, and justifying the acts of violence of terrorist organizations can be considered as incitement to armed resistance, glorification of violence, or incitement to hostility and enmity. However, blocking access to any Internet content only on the grounds that it contains the ideas and goals of a terrorist organization, severely criticizes official policies, or assesses the terrorist organization’s conflicts with official policies - **even in the absence of one or more of the reasons stated above** - does not justify an intervention.”⁶⁷

The Constitutional Court implemented these principles for the first time in its judgment involving the **Baran Tursun** Worldwide Disarmament, Right to Life, Freedom, Democracy, Peace, and Solidarity Foundation application, in which the Twitter account of the foundation was blocked subject to a decision of the Gölbaşı Criminal Judgeship of Peace, as well as in the joined up application of the news website **Diken** about the blocking of its news article involving Hacı Lokman Birlik subject to the same decision. The Court, as in the BirGün case, ruled that freedom of expression and freedom of the press were violated in these cases.⁶⁸ Similarly, in 2019, the Constitutional Court ruled that freedom of expression and freedom of the press were violated

⁶⁷ BirGün İletişim ve Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019, § 75.

⁶⁸ Baransav and Keskin Kalem Yayıncılık and Ticaret A.Ş. Application, No: 2015/18581, 26.09.2019.

by the decisions blocking the news website **Yüksekova Güncel**,⁶⁹ the news websites **Siyasihaber.org** and **Siyasihaber1.org**, and the Twitter account of **Siyasihaber.org**.⁷⁰ On the other hand, the Constitutional Court declared the user-based applications of Yaman Akdeniz and Kerem Altıparmak inadmissible.⁷¹

In 2020, the Constitutional Court first issued a judgment on the applications involving the **Wikipedia** platform,⁷² then decided on two separate applications made on behalf of **Sendika.org**,⁷³ involving article 8/A. In its judgment on the **Wikimedia Foundation and Others** application⁷⁴ involving complete access blocking to the Wikipedia platform, the Constitutional Court reviewed the applications of the Wikimedia Foundation and the user-based applications of academics Yaman Akdeniz and Kerem Altıparmak as well as the application lodged by the Punto24 Platform for Independent Journalism, a non-profit association. While the Constitutional Court unanimously declared the application of Punto24 inadmissible, found the applications of the academics admissible on the grounds that “the applicants, who were the users of the platform and stated that they had used Wikipedia for many years within the scope of their scientific studies and education and training activities, were victims due to the denial of access to such a resource.”⁷⁵ The Constitutional Court declared the application admissible and ruled with 10 to 6 votes that **freedom of expression** of the applicants, which was guaranteed by Article 26 of the Constitution, was **violated**.

In the judgment of the Constitutional Court, it was stated that “the interference with freedom of expression was based on article 8/A of the Law No. 5651; however, it was not clearly specified **which of the reasons** that allow the interference and listed in paragraph (1) of the aforementioned rule is based and the ‘**reputation of the state**,’ was also used as a justification although this is not one of the specified reasons included in the article 8/A measure. Therefore, it is understood that the relevant rule of the Law was interpreted in a way that widens the scope of the article and creates the impression of arbitrariness.”⁷⁶ Moreover, the Constitutional Court noted that it was difficult to “**identify the purpose of the decision of blocking access to the website in question**.”⁷⁷ In this context, in its judgment on the access-blocking decision issued by the Ankara 1st Criminal Judgeship of Peace involving two different Wikipedia pages (URL addresses), the Court stated that “no concrete reason justifying interference with this right for the purposes of protecting national security and the protection of public order was presented.”⁷⁸ In conclusion, the Constitutional Court stated that as a result of this decision, the access-blocking measure has become permanent, and that “such indefinite restrictions **will clearly constitute a highly disproportionate interference with freedom of expression**, considering that the entire website is blocked.”⁷⁹

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

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

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

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

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

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

75 Wikimedia Foundation and Others Application, No: 2017/22355, 26.12.2019, § 55.

76 Wikimedia Foundation and Others Application, No: 2017/22355, 26.12.2019, § 61.

77 Wikimedia Foundation and Others Application, No: 2017/22355, 26.12.2019, § 64.

78 Wikimedia Foundation and Others Application, No: 2017/22355, 26.12.2019, § 88.

79 Wikimedia Foundation and Others Application, No: 2017/22355, 26.12.2019, § 96.

After its judgment on the Wikipedia platform, in March 2020, the Constitutional Court issued another judgment on the news website **Sendika.org**, which had been blocked since 25.07.2015 subject to an article 8/A blocking decision.⁸⁰ The Constitutional Court implemented the principles it set in its BirGün judgment and stated that access to 118 websites, including that of Sendika.org, was blocked subject to the decision of the Gölbaşı Criminal Judgeship of Peace, but that “neither administrative bodies nor courts of first instance assessed the matters to be considered in case of interferences under the said article.”⁸¹ According to the Constitutional Court, “when blocking access to the Sendika.org website, the relationship between the content of this website and the reason for the restriction was not clarified and no circumstance where delay may entail risks was presented.”⁸² Therefore, it is not clear why Sendika.org and other news websites were blocked with reference to article 8/A. According to the Constitutional Court, the reasons for access blocking were not specified in the blocking decision. As a result, according to the Constitutional Court “it is clear that the interference in the form of blocking access to the entire website constitutes a **disproportionate interference with freedom of expression and freedom of the press** considering that no justification has been provided for the violation to be prevented by blocking access to the entire website.”⁸³ Therefore, the Court ruled unanimously that freedom of expression, guaranteed by Article 26 of the Constitution, and freedom of the press, guaranteed by Article 28 of the Constitution, were violated.

The Gölbaşı Criminal Judgeship of Peace did not implement the **Constitutional Court’s judgment finding violation**, for nearly seven months but only lifted the access blocking measure to Sendika.org with a decision issued on 27.10.2020⁸⁴ subsequent to an appeal by the representatives of Sendika.org for the enforcement of the judgment of the Constitutional Court. With this decision, the Gölbaşı Criminal Judgeship of Peace also ended the practice of blocking access to the other 117 websites that were blocked along with Sendika.org with the initial decision. However, BTK objected and appealed against this decision and argued on 28.10.2020 that the judgment of the Constitutional Court only found violation in relation to the application of Sendika.org and that the other 117 Internet addresses could not benefit from the judgment of the Constitutional Court finding a violation. The Gölbaşı Criminal Judgeship of Peace accepted the appeal of BTK⁸⁵ ruling that websites other than Sendika.org were the “**websites of terrorist organizations**” and blocked access to these websites once again.

In September 2020, the Constitutional Court issued a consolidated judgment finding violation in **8 separate applications** made by **Sendika.org**.⁸⁶ In its judgment, which was the continuation of its initial judgment, the Constitutional Court stated that a total of 61 access-blocking decisions had been issued involving the domain names used by Sendika.org which were created by adding consecutive numbers to its original domain name until the end of 2017, and the practice of blocking access to the websites “**sendika10.org, sendika18.org, sendika28.org, sendika46.org, sendika47.org, sendi-**

⁸⁰ Ali Ergin Demirhan (Sendika.Org) Application, No: 2015/16368, 11.03.2020.

⁸¹ Ali Ergin Demirhan (Sendika.Org) Application, No: 2015/16368, 11.03.2020, § 38.

⁸² Ali Ergin Demirhan (Sendika.Org) Application, No: 2015/16368, 11.03.2020, § 38.

⁸³ Ali Ergin Demirhan (Sendika.Org) Application, No: 2015/16368, 11.03.2020, § 39.

⁸⁴ Gölbaşı Criminal Judgeship of Peace, no. 2020/1454, 27.10.2020.

⁸⁵ Gölbaşı Criminal Judgeship of Peace, no. 2020/1495, 30.10.2020.

⁸⁶ Ali Ergin Demirhan (2) Application, No: 2017/35947, 09.09.2020, Official Gazette: 04.11.2020, No: 31294.

ka55.org, sendika56.org, and sendika61.org”,⁸⁷ which was the subject matter of the application, violated freedom of expression and freedom of the press. The Constitutional Court “did not deem it necessary to review other allegations of violation as it ruled that the applicant’s freedom of expression and freedom of the press were violated.”⁸⁸ Therefore, the Constitutional Court did not review the allegations of Sendika.org that the procedure for appealing against the blocking decisions was rendered impossible or delayed, as in the present case, since the decisions of the criminal judgeships of peace were not notified to them; that the right to an effective remedy was violated; and that article 8/A of the Law No. 5651 did not meet the requirement of legality.

The Constitutional Court did not issue any judgment on any application within the scope of article 8/A of Law No. 5651 in **2021**. The applications made on behalf of OdaTV, Independent Türkçe, and JinNews, as well as other applications, continue to await the judgments of the Constitutional Court. Despite all these judgments of the Constitutional Court, **none** of the 8/A decisions issued in 2019, 2020 or in 2021, basically after the date of 12.07.2019, when the BirGün judgment was published in the Official Gazette, included any reference to the established case-law of Constitutional Court with regards to article 8/A or any assessment of “prima facie violation”. In other words, **none** of the 26 separate 8/A decisions issued by nine separate criminal judgeships of peace in 2019 after the BirGün judgment or 172 separate 8/A decisions issued by 55 separate criminal judgeships of peace in 2020 **referred** to the **BirGün** judgment or the aforementioned **Wikipedia** or **Sendika.org** judgments of the Constitutional Court or **made an assessment of “prima facie violation.”**

Similarly, **none** of the **375 separate 8/A decisions** issued by **76 separate** criminal judgeships of peace in **2021 referred** to the **BirGün** judgment or the aforementioned **Wikipedia** or **Sendika.org** judgments of the Constitutional Court or **made an assessment of “prima facie violation.”** Despite the judgments of the Constitutional Court finding gross violations of freedom of expression and freedom of the press, criminal judgeships of peace continue to issue access-blocking decisions as if the judgments of the Constitutional Court do not exist at all. On the other hand, 8/A applications started to be reviewed primarily by the European Court of Human Rights. The Court announced the application of the Wikimedia Foundation⁸⁹ and the applications of Sendika.org⁹⁰ and academics Yaman Akdeniz and Kerem Altıparmak to the Government in 2019 and 2020, respectively.⁹¹ The ECtHR did not issue any judgment on these applications in 2021; however, it declared the Wikipedia application inadmissible in March 2022.⁹²

⁸⁷ Gölbaşı Criminal Judgeship of Peace, no. 2016/1239, 25.10.2016; Ankara 1st Criminal Judgeship of Peace, no. 2017/6008, 27.07.2017; Ankara 2nd Criminal Judgeship of Peace, no. 2017/4765, 17.06.2017; Ankara 3rd Criminal Judgeship of Peace, no. 2017/4951, 16.06.2017; Ankara 4th Criminal Judgeship of Peace, no. 2017/3785, 01.08.2017; Ankara 5th Criminal Judgeship of Peace, no. 2017/6570, 23.08.2017; Ankara 6th Criminal Judgeship of Peace, no. 2017/2516, 16.04.2017 and Ankara 7th Criminal Judgeship of Peace, no. 2017/2451, 05.04.2017.

⁸⁸ Ali Ergin Demirhan (2) Application, No: 2017/35947, 09.09.2020, § 41.

⁸⁹ Wikimedia Foundation Inc. v. Turkey, no. 25479/19. Date of Application: 29.04.2019. Date of Announcement: 02.07.2019.

⁹⁰ Ali Ergin Demirhan (Sendika.org) v. Turkey, no. 10509/20. Date of Application: 10.02.2020. Date of Announcement: 27.07.2020.

⁹¹ Akdeniz & Altıparmak v. Turkey, no. 5568/20. Date of Application: 14.01.2020. Date of Announcement: 26.08.2020. Similarly, see Akdeniz & Altıparmak v. Turkey, no. 35278/20. Date of Application: 28.07.2020. Date of Announcement: 09.02.2021.

⁹² Wikimedia Foundation Inc. v. Turkey, no. 25479/19, 24.03.2022. Also see Yaman Akdeniz, “The Calm Before the Storm? The Inadmissibility Decision in Wikimedia Foundation v. Turkey,” Strasbourg Observers, 18.04.2022, <https://strasbourgobservers.com/2022/04/18/the-calm-before-the-storm-the-inadmissibility-decision-in-wikimedia-foundation-v-turkey/>

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

Immediately after the 17-25 December 2013 corruption investigations, several amendments to the Law No. 5651 were included in the Omnibus Amendment Legislative Proposal. This legislative proposal was sent to the Parliamentary Plan and Budget Committee, and in a very short time, the Committee merged 42 separate Law and Decree-Laws, including the amendments to the Law No. 5651, into a single legislation comprising of 125 articles, and submitted it to the General Assembly on 16.01.2014. 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 and access blocking,” of the Law No. 5651, amended by the Law No. 6518 on 06.02.2014, made it possible to block access to content to prevent “**violation of personal rights**,” while article 9/A added to the Law No. 5651 made it possible to block access to content “**to protect the privacy of life**.” These amendments also necessitated the establishment of the **Association of Access Providers** (“ESB”) subject to article 6/A. Article 6/A states that any access-blocking decision issued with regard to “violation of personal rights” should be notified directly to the Association for further action and that notifications made to the Association in this context shall be deemed to be made to access providers as well.

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

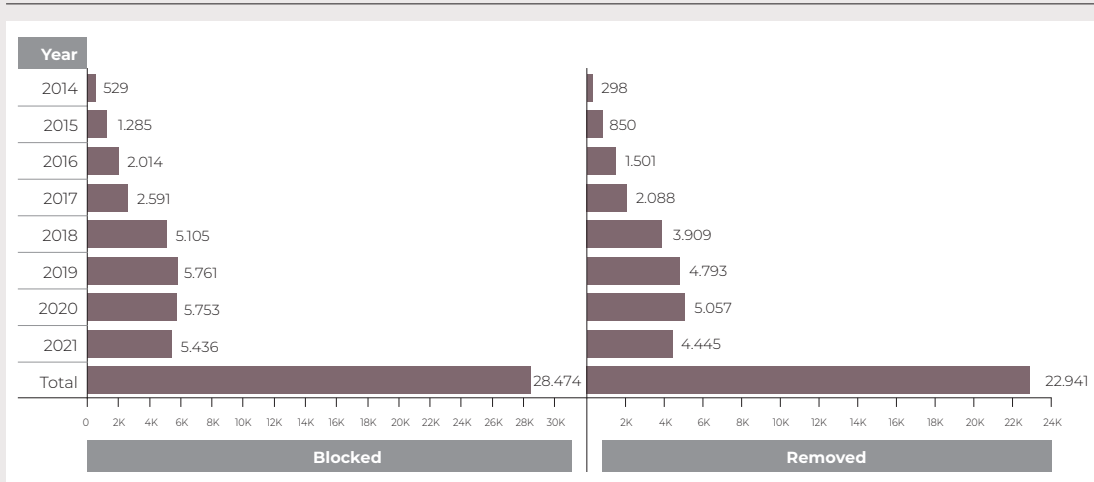
DOMAIN NAMES, URLS, NEWS ARTICLES AND SOCIAL MEDIA CONTENT BLOCKED OR REMOVED WITHIN THE SCOPE OF ARTICLE 9 OF LAW NO. 5651

Subject to article 9 of Law No. 5651, real persons, legal entities, public institutions and organizations may apply for **content removal** and/or **access blocking** by asserting that their individual personal rights have been violated. These requests shall be reviewed within 24 hours by criminal judgeships of peace. The judges shall issue the decisions under this provision mainly by **removing the content** and/or **blocking access** to a specific publication/section (in the form of URL, etc.) in relation to the alleged personal rights violation. In exceptional cases and when necessary, judges may also decide to issue a blocking decision for the whole website if the URL based restriction is not sufficient to remedy the alleged individual violation. The **content removal** and/or **access-blocking** decisions 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, which was established in August 2014 in order to perform the duties prescribed by article 6/A of the Law No. 5651, was notified of a total of 12.000 access-blocking decisions, approximately 10.000 of which were issued by criminal judgements of peace across Türkiye subject to article 9. With these decisions, **as of the end of 2015, access to 35.000 separate web addresses (URL-based) was blocked.** In 2016, a total of 16.400 access-blocking decisions, approximately 14.000 of which were issued subject to article 9, were notified to the Association of Access Providers. **With these decisions, as of the end of 2016, access to 86.351 separate web addresses (URL-based) was blocked.** In 2017, a total of 48.671 access-blocking decisions, approximately 21.000 of which were issued subject to article 9, were notified to the Association of Access Providers. **With these decisions, as of the end of 2017, access to 99.952 separate web addresses (URL-based) was blocked.** In terms of appeals against access-blocking decisions, it is observed that criminal judgements of peace revoked only **840** access-blocking decisions in **2015**, while this number decreased to **489** in **2016**. In 2017, only **582** blocking decisions were revoked.⁹³

As part of the **EngelliWeb** Project, it was determined that **28.474** news articles (URLs) were blocked and **22.941** news articles (URLs) were removed or deleted subject to **5.986 separate decisions** issued by **509 separate judgements** subject to article 9 from **2014 to 2021**. As can be seen in figure 14, it was found that the number of news articles (URLs) blocked was **529** in 2014, **1.285** in 2015, **2.014** in 2016, **2.591** in 2017, **5.105** in 2018, **5.761** in 2019, **5.753** in 2020, and lastly, **5.436** in 2021.⁹⁴

Figure 14: Number of Blocked and Removed News Articles Subject to Article 9 (URL Addresses)



⁹³ Statistics of 2018 to 2021 had not yet been available as of the date of this report.

⁹⁴ As the URLs found retrospectively were included in the 2020 report, there have been differences from the numbers specified in the EngelliWeb 2018 and 2019 reports. Therefore, it was found that a total of 541 other URLs that were not included in the 2019 report were also blocked in 2019. These different numbers were updated and included in the 2020 report.

STATISTICAL INFORMATION ABOUT THE BLOCKED AND REMOVED NEWS ARTICLES (URL-BASED) – 2021

During 2021, it was found that **5.436 news articles** (URL) were blocked subject to a total of **839 separate decisions** issued by **251 separate criminal judgeships of peace** subject to article 9 of Law No. 5651. In addition to the **5.436 news articles** blocked, **4.445 news articles** were **removed from publication** by content providers (news websites). After the amendments made to article 9 of Law No. 5651 on **29.07.2020**, **content remov-**

Figure 15: Number of Blocked News Articles (URL): 2021

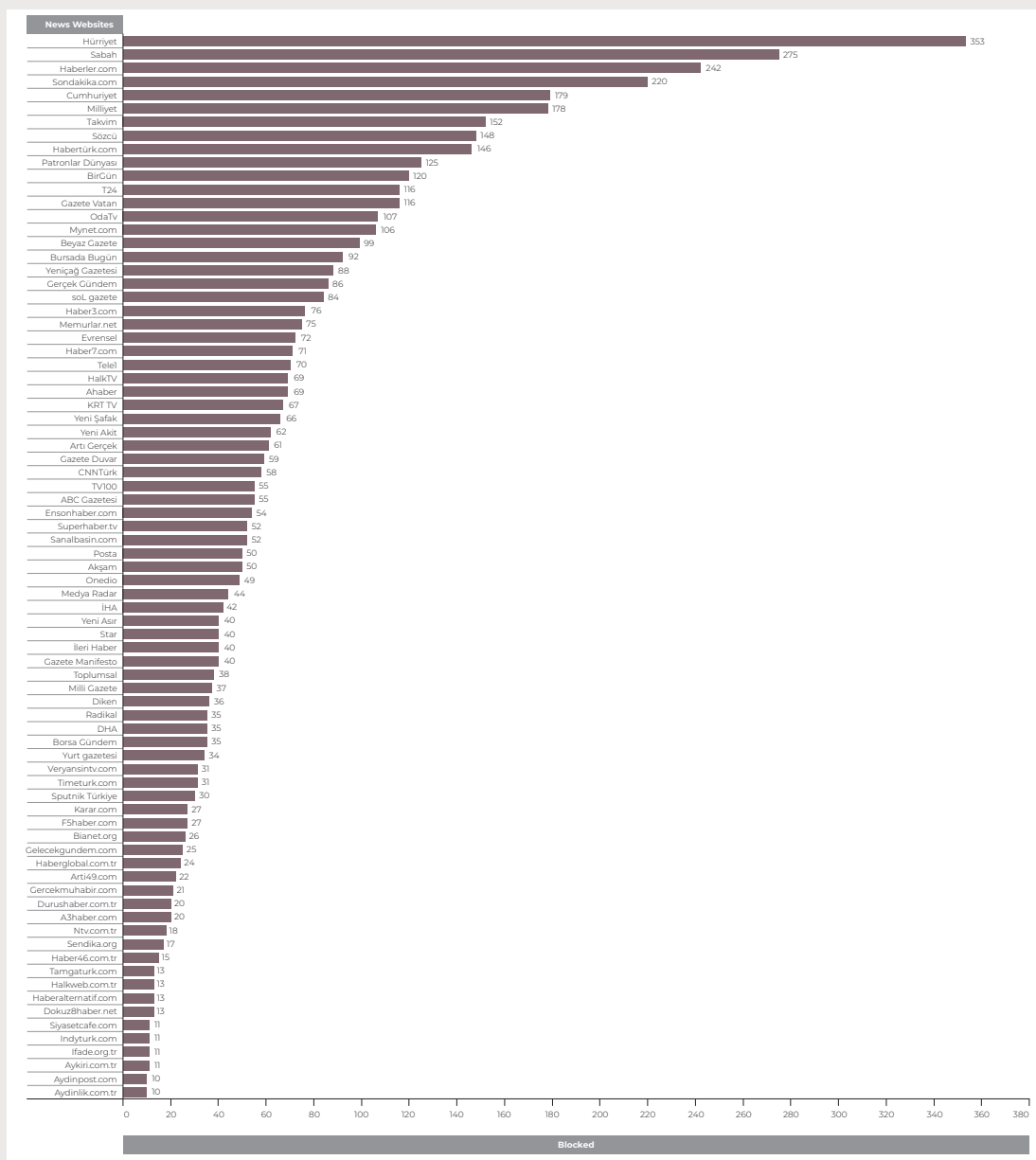
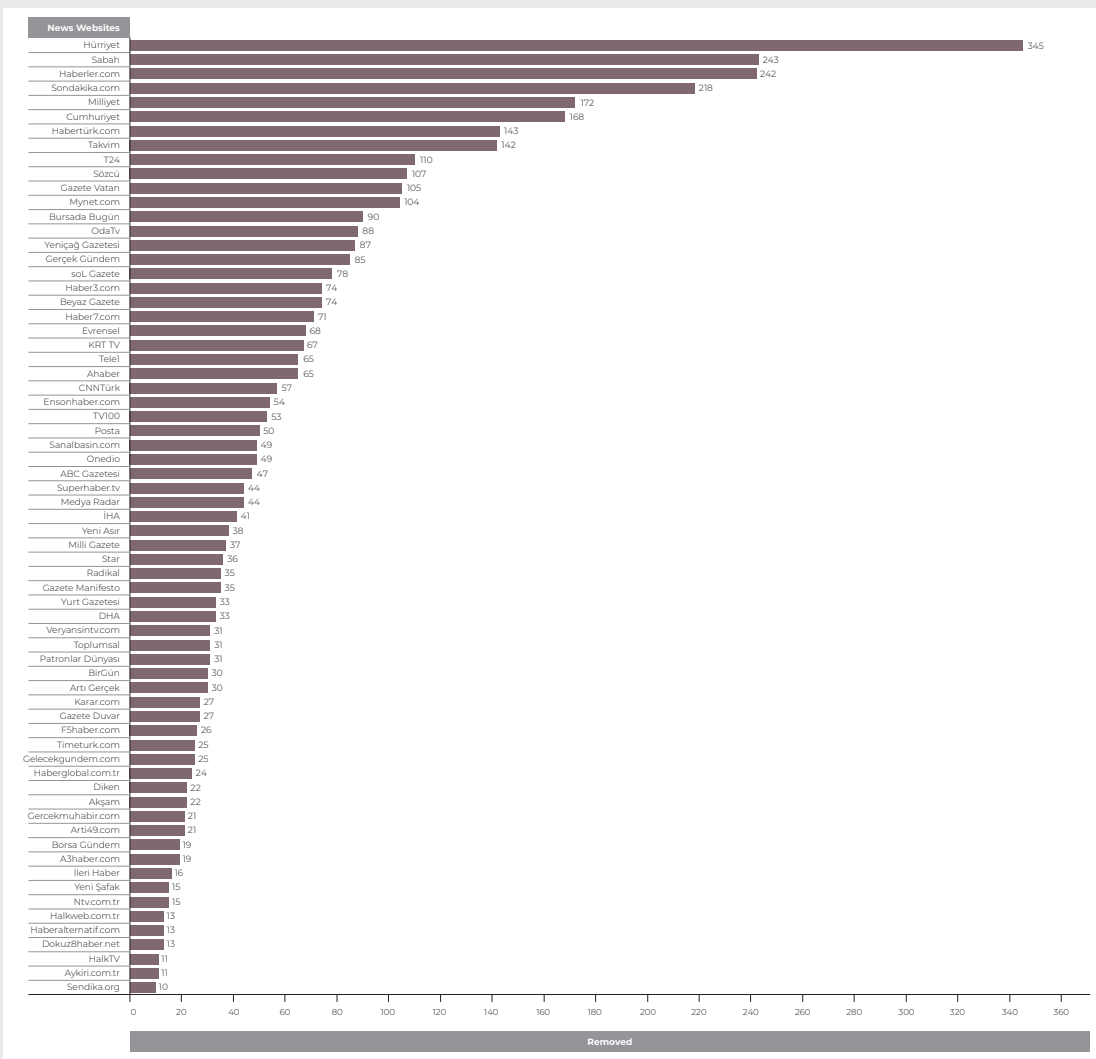


Figure 16: Number of Removed and Deleted News Articles (URL): 2021



al decisions also started to be sent to news websites, in addition to access-blocking decisions. From then on, **access-blocking decisions** continued to be issued mainly by judgeships, while some decisions included the **access-blocking** and **content removal** sanctions together. While some decisions only included the “content removal” sanction, the exact number of such decisions are unknown as of end of 2021.

In 2021, the daily newspaper **Hürriyet** ranked **first** in the category of “the news website with the highest number of blocked news articles” with **353 blocked news articles**. **Hürriyet** removed **345 (98%)** of those blocked news articles from its website. **Hürriyet** was followed by the daily newspaper **Sabah** with **275 blocked news articles**. **Sabah** removed **243 (88%)** of the 275 blocked news articles from its website. **Haberler.com** ranked **third** with **242** blocked news articles. **Haberler.com** removed all the blocked news articles (**100%**) from its website. The news website **Sondakika.com** ranked **fourth** with **220 blocked news articles**. **Sondakika.com** removed **218 (99%)** of

the blocked news articles from its website. Sondakika.com was followed by the website of the daily newspaper **Cumhuriyet** with **179 blocked news articles**. Cumhuriyet removed **168 (94%)** of the blocked news articles from its website. **Figure 15** shows the **79** news websites the news articles of which were blocked in 2021, and the number of news articles blocked.

Moreover, the content removal rate increased following the amendments made to the Law No. 5651 in July 2020 and **the average content removal rate, which was around 76% in 2019, reached 81% in 2020** and to **82%** in 2021.

Another related category reviewed for the year of 2021 is “**removed and deleted news articles.**” In this category, as can be seen in figure 16, **Hürriyet** once again ranked first by removing or deleting **345 news articles**. Hürriyet was followed by **Sabah**, which removed or deleted **242 news articles**, and **Haberler.com**, which removed or deleted **218 news articles**. **Sondakika.com** ranked fourth with **218 removed or deleted news articles**, while **Milliyet** ranked fifth with **172 removed or deleted news articles**. Figure 16 shows the 67 websites that removed their news articles in 2021, and the number of news articles they removed.

Table 1 below shows the top 25 news websites from Türkiye with the highest number of blocked news articles in 2021, including the number of news articles blocked, the number of sanctioned news articles that have been deleted or removed from the websites, and the ratio of deleted/removed URLs to blocked URLs.

Table 1: Access-Blocking League Table by the Number of News Articles Blocked in 2021

Rank	News Website	Number of Blocked URL	Number of Deleted URL	The Rate of Deleting
1	Hürriyet	353	345	98%
2	Sabah	275	243	88%
3	Haberler.com	242	242	100%
4	Sondakika.com	220	218	99%
5	Cumhuriyet	179	168	94%
6	Milliyet	178	172	97%
7	Takvim	152	142	93%
8	Sözcü	148	107	72%
9	Haberturk.com	146	143	98%
10	Patronlar Dünyası	125	31	25%
11	BirGün	120	30	25%
12	Gazete Vatan	116	105	91%
13	T24	116	110	95%
14	OdaTV	107	88	82%
15	Mynet.com	106	104	98%
16	Beyaz Gazete	99	74	75%
17	Bursada Bugün	92	90	98%
18	Yeniçağ Gazetesi	88	87	99%
19	Gerçek Gündem	86	85	99%
20	soL Gazete	84	78	93%
21	Haber3.com	76	74	97%
22	Memurlar.net	75	9	12%
23	Evrensel	72	68	94%
24	Haber7.com	71	71	100%
25	Tele1	70	65	93%

EXAMPLES OF ACCESS BLOCKING AND CONTENT REMOVAL PRACTICES IN 2021

An assessment of the decisions issued by criminal judgeships of peace in 2021 within the scope of article 9 of the Law No. 5651 shows that a large number of news articles that were of public interest were blocked or removed from publication as in previous years. Compared to previous years, there has been an increase in the number of politically-motivated access-blocking decisions and, as of August 2020, content removal decisions. Among the countless examples, some of the striking ones will be assessed in this part of the report.

First of all and as far as is known, all the requests submitted by **President Erdoğan** to criminal judgeships of peace, alleging that his personal rights were violated, were granted during 2021. A large number of Ekşi Sözlük, Facebook, YouTube and Twitter content as well as news articles were blocked and/or removed upon these requests and related decisions. For instance, 25 separate URLs, including the news articles of BirGün, Cumhuriyet, Diken, OdaTV, T24 and Sendika.org, were blocked and removed from publication subject to a decision of the Istanbul Anatolia 3rd Criminal Judgeship of Peace on **02.12.2021** (no. 2021/7226) upon the request of President Erdoğan. The news articles subject to this decision referred to the statements made in 2014 and 2015 by Kemal Kılıçdaroğlu, the leader of CHP (the main opposition party) and Sezgin Tanrıkulu, one of the deputy leaders of CHP. The Istanbul Anatolia 3rd Criminal Judgeship of Peace ruled that the news articles and other content “damaged the reputation of the claimant and gravely violated his personal rights.” However, the exact news article or statement that gravely violated the personal rights of the President of Türkiye was not mentioned in the decision and equally the reasoning for this decision has not been explained by the judgeship.

Screenshot 4: News articles sanctioned by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



Moreover, the news articles blocked and removed from publication subject to a decision issued by the Istanbul Anatolia 3rd Criminal Judgeship of Peace on **02.12.2021** (no. 2021/7226) included an article by Diken published on **05.02.2021** and entitled

“Kılıçdaroğlu, ‘FETÖ’nün 1 nolu siyasi ayağı Erdoğan’ dedi: İspatı işadamı Tamince” [“Kılıçdaroğlu says, ‘Erdoğan is the number one member of FETÖ’s political wing’: Businessperson Tamince is the proof”]. However, the Diken article had already been blocked previously subject to a decision issued by the Antalya 3rd Criminal Judgeship of Peace on **08.10.2021** (no. 2021/4486) upon the request of businessperson **Fettah Tamince**. Subsequently, this decision was revoked by a decision issued by the Antalya 4th Criminal Judgeship of Peace on **21.10.2021** (no. 2021/5042) upon an appeal submitted by Diken. Hence, while Fettah Tamince failed to obtain a sanction imposed on Diken’s article, the Istanbul Anatolia 3rd Criminal Judgeship of Peace ordered the article to be blocked and removed from publication nearly two months later, this time upon the request of President Erdoğan.

Screenshot 5: Diken's article removed by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



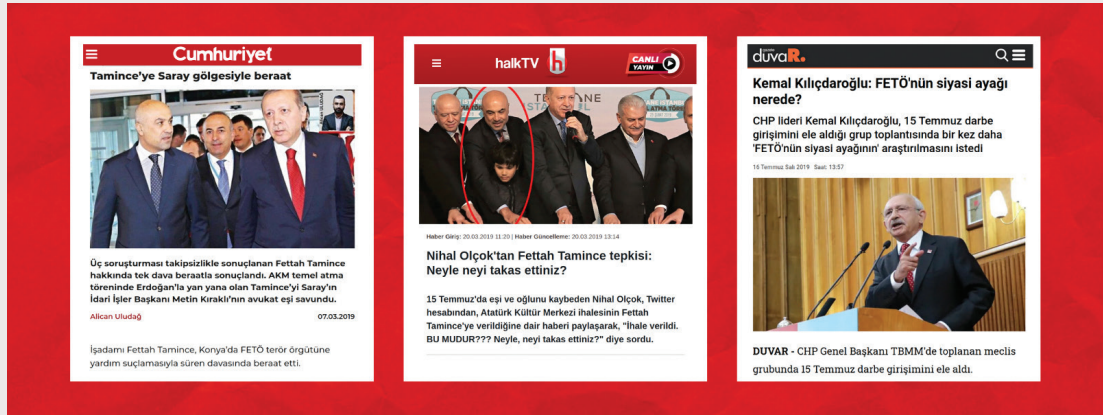
Furthermore, in the abovementioned decision issued by the Antalya 3rd Criminal Judgeship of Peace on **08.10.2021** (no. 2021/4486), the judgeship ruled that 11 news articles on Fettah Tamince constituted an attack on personal rights.

Screenshot 6: News articles blocked by the Antalya 3rd Criminal Judgeship of Peace



Moreover, access to 61 separate news articles and other content that were deemed to be identical to the news articles and other content subject to the decision issued by the Antalya 3rd Criminal Judgeship of Peace on **12.07.2021** (no. 2021/3024) was blocked subject to an administrative decision issued by the Association of Access Providers on **12.08.2021** (no. 2021/173).

Screenshot 7: News articles blocked by the Association of Access Providers



As in 2020, access to 55 separate news articles involving a friend of **Bilal Erdoğan**, the son of President Erdoğan, having awarded several government contracts such as the contract for the “security system” of the Directorate of National Palaces, which were published among others by Cumhuriyet, T24, KRT, Gerçek Gündem, Artı Gerçek and Tele1, was blocked subject to a decision of the Istanbul Anatolia 3rd Criminal Judgeship of Peace on **01.02.2021** (no. 2021/845) upon the request of Bilal Erdoğan. The judgeship used a stereotypical phrase, stating that these news articles constituted “allegations without any documented evidence” and therefore violated the personal rights of the claimant.

Screenshot 8: News articles blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



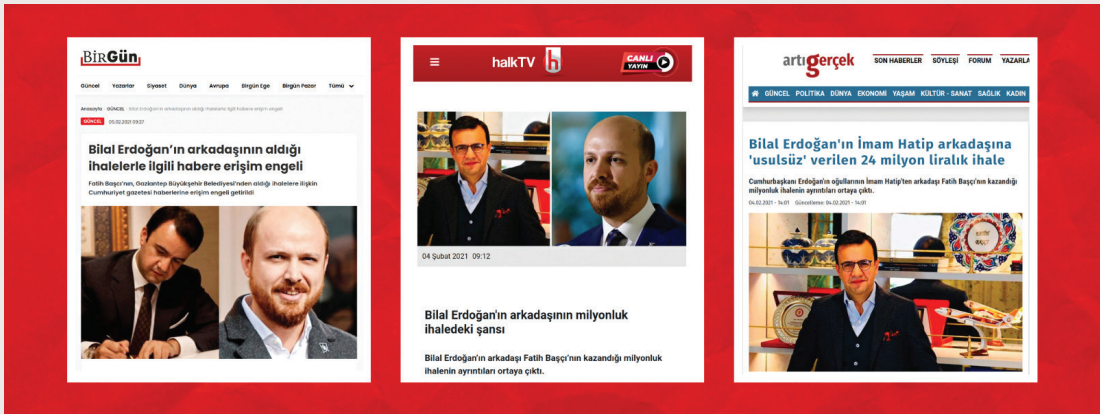
Furthermore, an article published on 31.01.2021 by Cumhuriyet entitled “Burak ve Bilal Erdoğan’ın arkadaşı Başçı, Gaziantep’te de 26,4 milyon TL’lik 5 ihale aldı: Arkadaş ihale zengini” [“Başçı, a friend of Burak and Bilal Erdoğan, was also awarded 5 contracts worth 26,4 million TRY in Gaziantep: The friend got rich thanks to contracts”] and which was previously blocked subject to a decision of the Istanbul Anatolia 3rd Criminal Judgeship of Peace on **01.02.2021** (no. **2021/845**), was blocked for the second time subject to decisions issued by the Bakırköy 5th Criminal Judgeship of Peace on **03.02.2021** (no. **2021/762**) and by the Bakırköy 3rd Criminal Judgeship of Peace on **05.02.2021** (no. **2021/860**) upon the request of **Fatih Başçı**, a friend of Bilal Erdoğan to whom this news article referred to. Therefore, access to this news article, written by Hazal Ocak from Cumhuriyet, was **blocked subject to three separate decisions**. A separate news article published by Cumhuriyet on the blocking of access to this article was also blocked subject to a decision of the Bakırköy 3rd Criminal Judgeship of Peace.

Screenshot 9: News articles blocked by the Bakırköy 3rd Criminal Judgeship of Peace



A number of news articles which reported the abovementioned access-blocking decisions were also blocked subject to a decision issued by the Istanbul Anatolia 5th Criminal Judgeship of Peace on **10.02.2021** (no. **2021/677**) upon the request of **Bilal Erdoğan**. Blocking access to 92 separate URLs, the judgeship stated that access to these news articles and other content “had already been blocked subject to a decision issued by the Istanbul Anatolia 3rd Criminal Judgeship of Peace, no. 2021/845 and that the related content damaged the reputation of the claimant in the eyes of the public and gravely violated his personal rights.”

Screenshot 10: News articles blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



Furthermore, İFÖD's announcement page involving the decision of the Istanbul Anatolia 3rd Criminal Judgeship of Peace was also blocked by a decision of the Istanbul Anatolia 5th Criminal Judgeship of Peace. Since the appeal against this decision was dismissed, an application has been filed with the Constitutional Court and that application is currently pending before the court.

Screenshot 11: İFÖD's page blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



The chain of access-blocking decisions requested by **Bilal Erdoğan** in 2020 continued with a decision issued by the Istanbul Anatolia 7th Criminal Judgeship of Peace on **24.09.2021** (no. 2021/5160). In this chain of decisions, news articles reporting on the blocking decision of 31.12.2020 to block access to the news articles reporting an earlier decision of 02.09.2020 to block access to the news articles about reporting yet another earlier decision of 11.08.2020 to block access to the news articles about a friend of Bilal Erdoğan having awarded the contract for the construction project to be carried out on the land of the Saving Deposit Insurance Fund ("SDIF")⁹⁵ were blocked subject to a decision issued by the Istanbul Anatolia 7th Criminal Judgeship of Peace on **24.09.2021** (no. 2021/5160) on the grounds of violating his personal rights. The news articles were also ordered to be removed from publication.

⁹⁵ Istanbul Anatolia 7th Criminal Judgeship of Peace, no. 2020/7797, 31.12.2020.

Screenshot 12: News articles blocked by the Istanbul Anatolia 7th Criminal Judgeship of Peace



A politician who visibly resorted to access blocking in 2021 was **Berat Albayrak**, the former Minister of Treasury and Finance and President Erdoğan's son in law. As far as is known, Berat Albayrak submitted nearly 15 separate requests, alleging that his personal rights were violated. All these identified requests were granted by different criminal judgeships of peace located at the Istanbul Anatolian Courthouse. Examples include the decision issued by the Istanbul Anatolia 7th Criminal Judgeship of Peace on **19.02.2021** (no. 2021/1265) to block access to 37 news articles and other content including news articles by Cumhuriyet, Artı Gerçek and Tele1 and a tweet including statements of Faik Öztrak, CHP's MP for Tekirdağ. The judgeship also ordered the removal of these news articles and other content from publication upon the request of Berat Albayrak. The judgeship stated that the sanctioned addresses contained "news stories, publications and posts which include claims that have not been fact-checked or verified and would implicate government agencies, as well as the claimant, and would bring them under suspicion."

Screenshot 13: News articles sanctioned by the Istanbul Anatolia 4th Criminal Judgeship of Peace



Access to 62 separate news articles and other content including news articles by Sözcü, Aykırın, HalkTV, OdaTV, Artı Gerçek, Yurt Gazetesi and Tele1 was blocked subject

to a decision of the Istanbul Anatolia 4th Criminal Judgeship of Peace on **19.02.2021** (no. 2021/1266) upon the request of **Berat Albayrak**. The judgeship stated that the news articles about the “Wanted” and “\$128 billion” posters referring to a rejected parliamentary investigation into the \$128 billion loss from central bank reserves as well news reporting involving detentions related to the publication of the posters, contained “claims that have not been fact-checked or verified and would implicate government agencies, as well as the claimant, and bring them under suspicion,” and therefore content that “went beyond freedom of the press and the Internet, were of an arbitrary nature, were offensive to individuals, harmed their dignity and honour, and violated their personal rights.” The decision also blocked access to the domain name of <http://www.128milyardolar.com/> (“\$128 billion”) for violating Albayrak’s personal rights.

Screenshot 14: News articles blocked by the Istanbul Anatolia 4th Criminal Judgeship of Peace



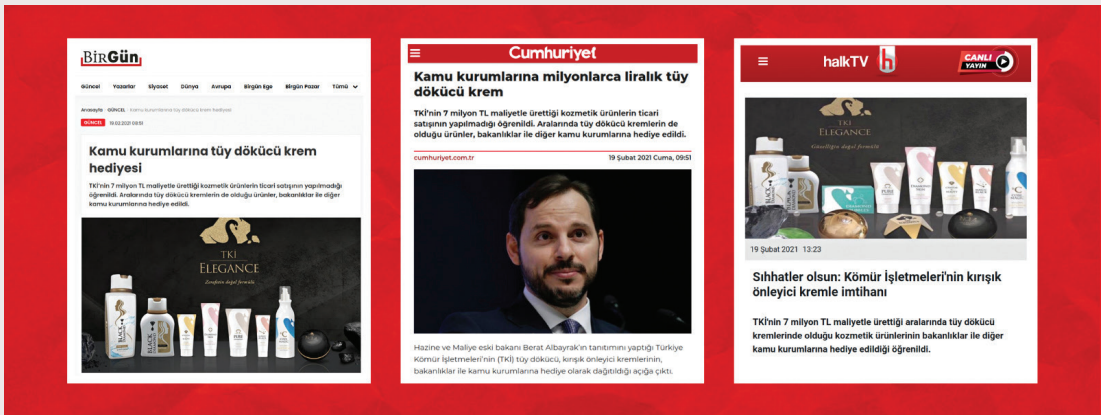
Similarly, 72 news articles and other content, including news articles by Gazete Duvar, Cumhuriyet, Yeniçağ Gazetesi, Gerçek Gündem, Artı Gerçek, T24, Tele1, OdaTV and HalkTV were blocked and removed from publication subject to another decision of the Istanbul Anatolia 4th Criminal Judgeship of Peace on **19.02.2021** (no.2021/1268) upon the request of **Berat Albayrak**. The Istanbul Anatolia 4th Criminal Judgeship of Peace provided exactly the same reasoning as in its previous decision and stated that the news articles subject to this decision which referred to the statements of Faik Öztrak and Aykut Erdoğan from the CHP contained “claims that have not been fact-checked or verified and would implicate government agencies, as well as the claimant, and bring them under suspicion,” and therefore content that “went beyond freedom of the press and the Internet, were of an arbitrary nature, were offensive to individuals, harmed their dignity and honour, and violated their personal rights.”

Screenshot 15: News articles blocked by the Istanbul Anatolia 4th Criminal Judgeship of Peace



Moreover, in February 2021, access to 58 separate news articles by BirGün, Cumhuriyet, HalkTV, Tele1, Gerçek Gündem, İleri Haber, and Yurt Gazetesi and other content involving the headline of “millions of Turkish liras’ worth of hair removal creams sent to public institutions as a gift” was blocked by a decision of the Istanbul Anatolia 7th Criminal Judgeship of Peace on **26.02.2021** (no. 2021/1185) upon the request of **Berat Albayrak**. In its decision, the judgeship stated that “these news articles were arbitrary, were offensive to individuals, harmed their dignity and honour, and violated their personal rights,” regardless of the topic and context of the said news articles.

Screenshot 16: News articles blocked by the Istanbul Anatolia 7th Criminal Judgeship of Peace



However, the same judgeship dismissed the request involving the news article “Flaş iddia: Ekrana çıkacak isimleri AKP’li iki isim belirliyor” (“Shocking claim: Two members of the AKP decide who will appear on the TV screens”) published on the Tele1 website on **18.02.2021**,⁹⁶ stating that the article did not “violate the personal rights of the claimant, Berat Albayrak”.

⁹⁶ See <https://tele1.com.tr/ekrana-cikamayacaklarin-listesini-onlar-duzenliyor-331067/>

In March 2021, the tweets of Özgür Özel, the Deputy Parliamentary Group Leader of the CHP; Selin Sayek Böke, the Secretary-General of the CHP; Aykut Erdoğan, the CHP's MP for Istanbul and Engin Özkoç, the Deputy Parliamentary Group Leader of the CHP, were blocked and removed from publication subject to a decision of the Istanbul Anatolia 8th Criminal Judgeship of Peace on **05.03.2021** (no. 2021/1449) upon the request of **Berat Albayrak**. In the decision, it was noted that the posts clearly included “statements that were insulting and violated personal rights,” as well as “cartoons and posts depicting the claimant as a thief in the absence of a guilty verdict from a court decision and statements that constituted an attack on personal rights.”

The judgeship also stated that “no one can be considered to have committed a crime based on prejudice, without a court decision and that the authority to assess any allegations of criminal behaviour lies not with the social media platforms, but with the Offices of Chief Public Prosecutors. Therefore the posts can no longer be considered to be within the scope of freedom of information and freedom of expression and dissemination of opinion through comments and criticism, based on the presumption of innocence and the right to reputation, which are the universal principles of law.” As far as is known, Twitter has not removed these posts.

Screenshot 17: Social media posts blocked by the Istanbul Anatolia 8th Criminal Judgeship of Peace



Lastly, the Istanbul Anatolia 8th Criminal Judgeship of Peace issued a decision on **05.03.2021** (no. 2021/1450) to block access to five separate tweets by the official Twitter account of the CHP, the Republican People's Party and also ordered the removal of these social media posts, upon the request of **Berat Albayrak**. The reasoning provided in this decision was the same as that in the previous decision (2021/1449) issued by the same judgeship. As far as is known, Twitter has not removed these posts.

Screenshot 18: Social media posts blocked by the Istanbul Anatolia 8th Criminal Judgeship of Peace



Access to 106 separate news articles and other content on the “Bribery allegations against Erdoğan’s attorney” including news articles by OdaTV, Yeniçağ Gazetesi, BirGün, Yurt Gazetesi, T24 and Cumhuriyet, was blocked subject to a decision of the Istanbul Anatolia 2nd Criminal Judgeship of Peace on **06.01.2021** (no. 2021/103) upon the request of **Mustafa Doğan İnal**, one of the attorneys of President Erdoğan. A news article entitled “Barış Terkoğlu ve Barış Pehlivan’ın yeni kitabı, yargıdaki durumu ortaya koyuyor” (“A new book by Barış Terkoğlu and Barış Pehlivan reveals the current state of affairs in the judiciary”) and published by Cumhuriyet on 02.12.2020, was one of the blocked news articles. This news article noted that the book entitled *Cendere* by Terkoğlu and Pehlivan was published that day and “revealed the operations within the AKP as well as those who were profiled in a watchlist by the members of Pelikan who had been frequently mentioned in the media due to their alleged interference with the judiciary; politicians’ alleged attempts to cover up the murder of businessperson Ömer Faruk Ilıcan; the structure of the members of the Nur Movement within the state; the competition between the members of Pelikan and the Hakyol Foundation in the judiciary and the interference of the attorneys of the President with certain court cases.”

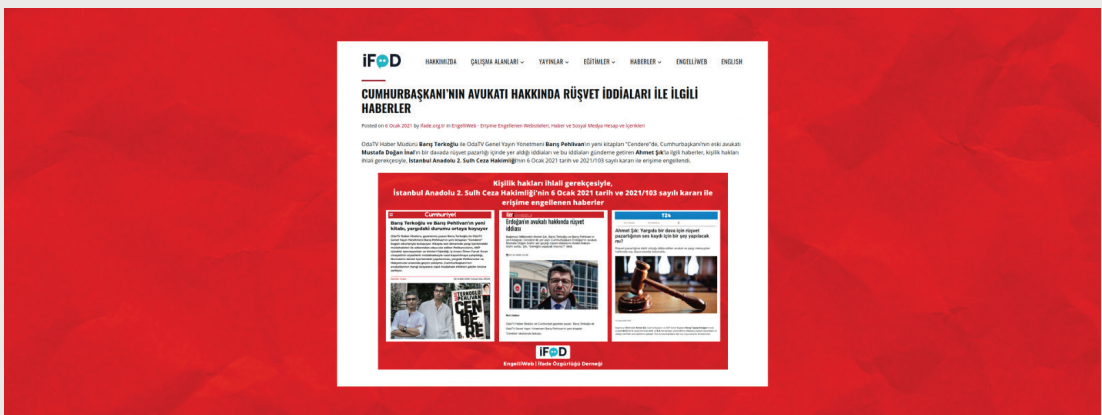
In its decision, the Istanbul Anatolia 2nd Criminal Judgeship of Peace used stereotypical wording stating that the news articles subject to the decision “included useless and irrelevant descriptions and comments and used a provocative style that leads to hostility and suspicion among the public and damages trust” and therefore, the publication of these news articles were not “of public interest.” It should be noted that Terkoğlu and Pehlivan, the authors of *Cendere* are currently facing up to 158 years of imprisonment for multiple charges related to their book. The ongoing prosecution is based on 14 separate criminal complaints lodged by President Recep Tayyip Erdoğan’s lawyer Ahmet Özel and Erdoğan’s former lawyer Mustafa Doğan İnal.

Screenshot 19: News articles blocked by the Istanbul Anatolia 2nd Criminal Judgeship of Peace



Subsequently, access to İFÖD's web based announcement page involving the decision of the Istanbul Anatolia 2nd Criminal Judgeship of Peace was blocked along with a total of 28 URLs, including news articles of Evrensel, İleri Haber, and HalkTV by a decision of the Istanbul Anatolia 4th Criminal Judgeship of Peace on **21.01.2021** (no. 2021/498) upon the request of **Mustafa Doğan İnal**. While the decision did not include any specific consideration with regards to İFÖD's page, the judgeship stated that "some allegations were made against the claimant without any concrete information; and that some accusations were made against the claimant based on unchecked and unverified facts," therefore exposing the claimant to public hostility and the news articles and other content referred to in the request harmed the dignity and honour of the claimant. According to the judgeship, that is why the claimant's personal rights were violated.

Screenshot 20: İFÖD's page blocked by the Istanbul Anatolia 2nd Criminal Judgeship of Peace



Moreover, seven tweets posted in December 2020 by Ahmet Şık, the Workers' Party of Turkey's MP for Istanbul were blocked subject to a decision of the Istanbul Anatolia 4th Criminal Judgeship of Peace on **28.04.2021** (no. 2021/2896) upon yet another request by **Mustafa Doğan İnal**. In the decision, the judgeship noted that "a review of the online posts referred to in the request showed that some allegations and accusations were made against the claimant based on unchecked and unverified facts" and therefore the posts contained content that "was offensive to individuals, harmed their dignity and honour and violated their personal rights."

Screenshot 21: Tweets blocked by the Istanbul Anatolia 4th Criminal Judgeship of Peace



Subsequently, access to İFÖD's announcement page for the above mentioned decision of the Istanbul Anatolia 4th Criminal Judgeship of Peace which blocked Ahmet Şık's tweets was also blocked together with four news articles, including news articles of Independent Türkçe, Evrensel and T24, by a decision of the Istanbul Anatolia 3rd Criminal Judgeship of Peace on **09.09.2021** (no. 2021/5535) upon the request of **Mustafa Doğan İnal**. While the decision did not refer to any specific consideration of İFÖD's announcement page, the judgeship stated that the news articles subject to the decision "constituted allegations that have no documentary basis" and therefore directly and unlawfully violate the personal rights of the claimant as they did not "comply with the rule that news stories and criticisms shall not be written in a manner and style that would violate personal rights."

Screenshot 22: İFÖD's page blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



Furthermore, access to 62 separate URLs, including news articles of Tele1, ABC Gazetesi, Anka Haber Ajansı, T24, Artı Gerçek, KRT and Cumhuriyet as well as the tweets of many news outlets, was blocked subject to a decision of the Istanbul Anatolia 4th Criminal Judgeship of Peace on **21.01.2021** (no. 2021/495) upon the request of **Ahmet Özel**, one of the attorneys of President Erdoğan. All the news articles and the tweets involved allegations made by the CHP's MP for Mersin Mahir Başarır, about the attorney fees paid to Ahmet Özel as well as other allegations including interference with the judiciary. In its decision, the judgeship noted that the fact that “some allegations were made against the applicant without any concrete evidence and even through the applicant made a written public statement and denied the allegations against him, the news stories and posts on the allegations against him were still circulating on the Internet” and therefore these cannot be considered to be within the scope of freedom of expression and the press.

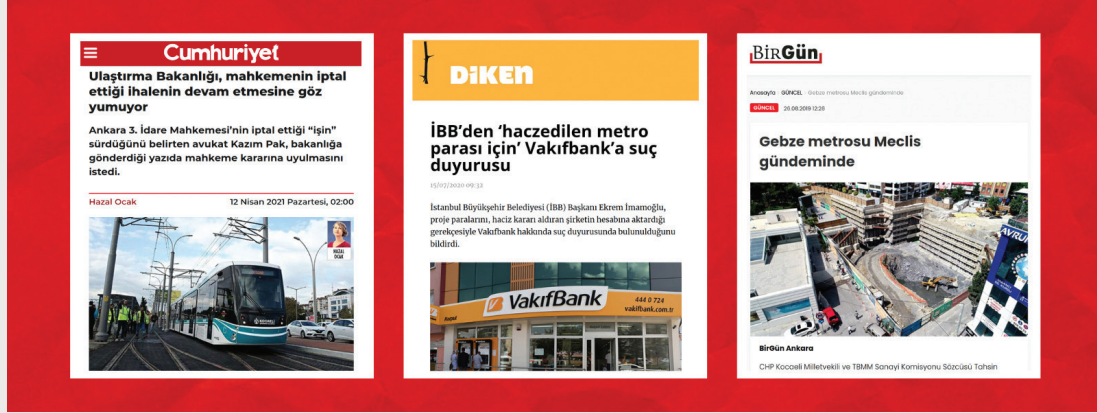
Screenshot 23: News articles blocked by the Istanbul Anatolia 4th Criminal Judgeship of Peace



Access to 119 separate online news articles and other content, including articles of Cumhuriyet, Diken, BirGün, Sözcü, Evrensel, Artı Gerçek, Bianet and Gazete Duvar, was blocked subject to a decision of the Istanbul Anatolia 5th Criminal Judgeship of

Peace on **23.11.2021** (no. 2021/6693) upon the request of businessperson **Metin Güneş** and **Met-Gün İnşaat**, a company owned by Güneş.⁹⁷ The decision also blocked access to an İFÖD announcement page involving an earlier decision obtained by the applicants issued by the Istanbul Anatolia 3rd Criminal Judgeship of Peace on **04.10.2021**

Screenshot 24: News articles blocked by the Istanbul Anatolia 5th Criminal Judgeship of Peace



Screenshot 25: İFÖD's page blocked by the Istanbul Anatolia 5th Criminal Judgeship of Peace



(no. 2021/6154). In its decision, the judgeship stated that the sanctioned news articles and content “were offensive to individuals and institutions, harmed their dignity and honour without concrete information or evidence and exposed them to public hostility, and thus were outside the scope of freedom of the press and the Internet.” However, the judgeship dismissed access blocking requests involving three news articles by BirGün, Diken and Tele1, stating that these articles “did not constitute an attack on

⁹⁷ News articles with similar content had already been blocked subject to the decisions issued by the Istanbul Anatolia 3rd Criminal Judgeship of Peace on 20.08.2020 (no. 2020/3320) and the Istanbul Anatolia 3rd Criminal Judgeship of Peace on 04.10.2021 (no. 2021/6154).

personal rights or a crime,” but remained within the scope of freedom of expression and the press.”⁹⁸

Screenshot 26: News articles referred to in the access-blocking requests dismissed by the Istanbul Anatolia 5th Criminal Judgeship of Peace

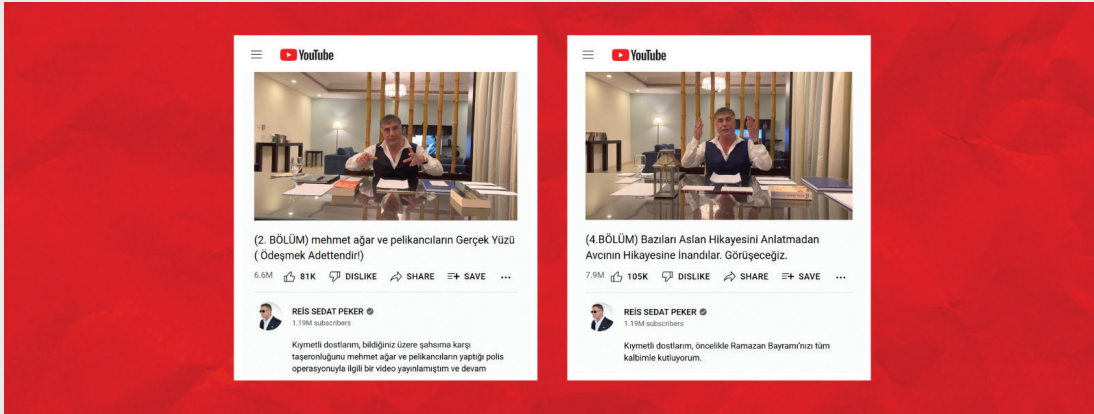


During 2021, the **General Directorate for Security** filed a request for blocking access to the YouTube account of Sedat Peker, the leader of a criminal organization, as well as five videos posted by Peker on the YouTube platform, on the grounds of personal rights violation. While the Ankara 6th Criminal Judgeship of Peace partially granted the request, the Judgeship only blocked access to two YouTube videos published by Peker with its decision of **20.05.2021** (no. 2021/5929). The Judgeship referred to the Ali Kızık judgment of the Constitutional Court (see below for further information) and noted that the other three videos did not include any content that would directly violate the personal rights of the General Directorate for Security and therefore, any aggrievement can only be determined through adversary proceedings through the civil courts.⁹⁹ Similarly, the request for access blocking to Sedat Peker's YouTube account was dismissed as “there exists other videos that are not related to the personal rights of the claimant and access blocking to the entire channel may restrict freedom of expression while it is possible to individually block access to the unlawful videos or posts.”

⁹⁸ These news articles were blocked and removed from publication subject to the decision issued by the Istanbul Anatolia 4th Criminal Judgeship of Peace on 13.09.2022 (no. 2022/6112).

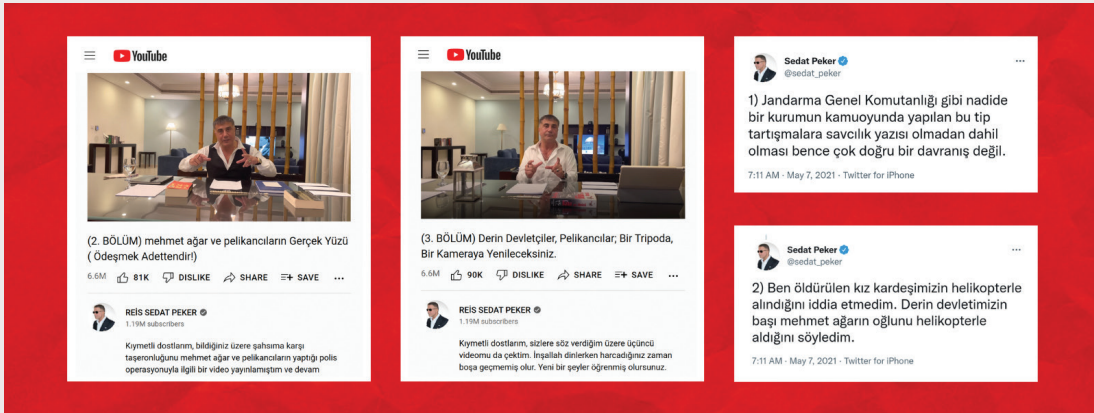
⁹⁹ Ali Kızık Application, No: 2014/5552, 26.10.2017.

Screenshot 27: Videos blocked by the Ankara 6th Criminal Judgeship of Peace



Similarly, a request lodged by the **Anti-Cybercrime Department in the Gendarmerie General Command** involving certain YouTube videos and tweets published by Sedat Peker, as well as other social media content items referring to these posts, on the grounds of violation of personal rights was dismissed subject to a decision of the Ankara 5th Criminal Judgeship of Peace on **18.05.2021** (no. 2021/5237). However, upon appeal, the Ankara 6th Criminal Judgeship of Peace granted the request on **01.06.2021** (no. 2021/6491) and access to a total of 13 social media posts, including two tweets and two YouTube videos posted by Peker, was blocked. In the decision, the judgeship did not explain the relevance of the request to the Anti-Cybercrime Department in the Gendarmerie General Command or how the personal rights of the Gendarmerie Command were violated by the social media posts. The judgeship only noted that “the phrases used in the posts were misleading and violated the personal rights of the claimant.”

Screenshot 28: Social media content blocked by the Ankara 6th Criminal Judgeship of Peace



Moreover, access to 10 separate tweets by Peker was blocked subject to a decision of the Ankara 6th Criminal Judgeship of Peace on **08.06.2021** (no. 2021/6819) upon the

request filed by **Esat Toklu**,¹⁰⁰ who was the former Chief Judge of the Ankara Regional Administrative Court and who was subsequently appointed as a member of the Council of State in December 2021. In its decision, the judgship only stated that the “phrases used in the tweets violated personal rights.”

Screenshot 29: Social media content blocked by the Ankara 6th Criminal Judgeship of Peace



Screenshot 30: Social media content blocked by the Ankara 6th Criminal Judgeship of Peace



While it is noteworthy that all the above mentioned three decisions about Sedat Peker's social media posts were issued by the Ankara 6th Criminal Judgeship of Peace, another request filed by the **General Directorate for Security** on the grounds of violation of personal rights was partially granted subject to a decision of the Ankara 1st Criminal Judgeship of Peace on **11.06.2021** (no. 2021/6989). While the General Directorate for Security filed a request for access blocking to 44 tweets posted by Peker, the judgship only blocked access to 20 tweets. In its decision, the judgship referred to the Ali Kılık judgment of the Constitutional Court and stated that the claimant failed

¹⁰⁰ Alican Uludağ, "Peker'in iddialarındaki hakim Esat Toklu Danıştay üyesi oldu" ["Esat Toklu, a judge mentioned in Peker's allegations, became the new member of the Council of State"], DW, 17.12.2021.

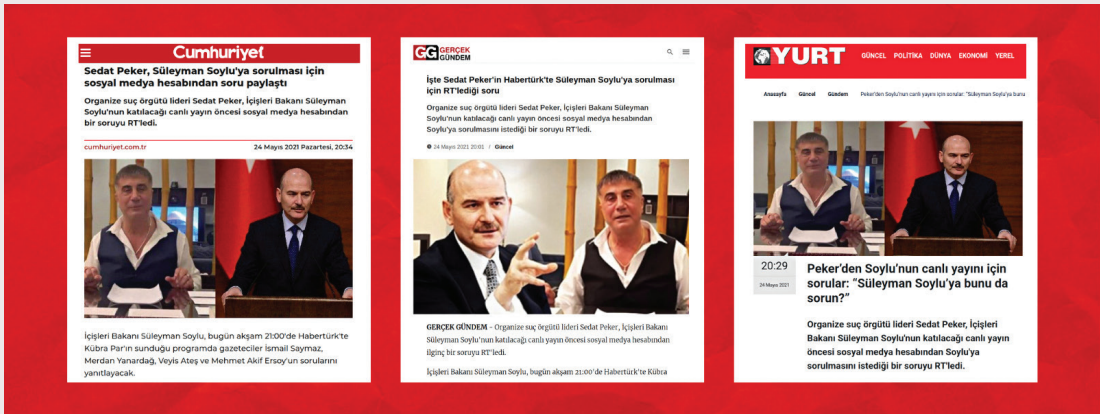
to show the need to expeditiously block access to the requested content without the need to go through adversary proceedings through the civil courts.

Screenshot 31: Social media content blocked by the Ankara 1st Criminal Judgeship of Peace



While it is notable that a number of criminal judgeships of peace applied the criteria set in the Ali Kılık judgment of the Constitutional Court when issuing their decisions related to Sedat Peker's social media posts, criminal judgeship of peace usually apply such criteria in only a very few decisions, as will be shown later in this report.

Access to news articles and other content related to a tweet posted by Sedat Peker in which he asked a number of questions to be answered on a live TV show by Süleyman Soylu, the Minister of the Interior including questions on allegations against **Ali Uçak**, a member of the Central Executive Committee ("CEC") of the Nationalist Movement Party, was blocked subject a decision of the Alaşehir Criminal Judgeship of Peace on **27.05.2021** (no. 2021/1433). The judgeship, ruling that Ali Uçak's personal rights were violated, used stereotypical phrases, and stated that "personal rights are a major part of the free and independent existence of a person and that any action that would tarnish a person's honour and reputation in the society where he/she lives and in the circle in which he/she establishes relationships, or that would humiliate them, misrepresent them, put them in a difficult position, or expose them to a hostile environment constitutes an attack on personal rights."

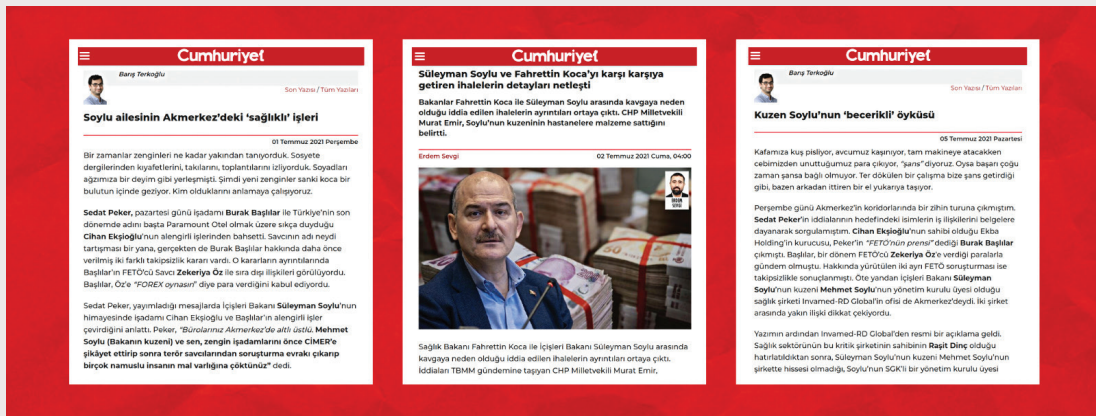


Access to 55 URL addresses, including news articles by Cumhuriyet, HalkTV, Gerçek Gündem, Medyascope, BirGün and Artı Gerçek, about the connection between Mehmet Soylu, the cousin of Süleyman Soylu and Invamed and RD Global, two companies which were mentioned in relation to allegations involving a tendering process which caused tension between Fahrettin Koca, Minister of Health and Süleyman Soylu, Minister of the Interior, was blocked subject to a decision of the Ankara West 2nd Criminal Judgeship of Peace on **05.07.2021** (no. 2021/4506). The request was made by **INVAMED Sağlık İlaç Sanayi and Ticaret A.Ş.** on the grounds of violation of personal rights. The judgeship stated that “it was apparent and clear that the publications constituted an attack on personal rights as they would tarnish the commercial reputation of the companies through abstract allegations, that the blocking of access to content items covering some unsubstantiated allegations would not constitute a restriction on freedom of information and that news stories based on some assumptions could tarnish the commercial reputation of persons or companies or violate their personal rights.”

Screenshot 33: News articles blocked by the Ankara West 2nd Criminal Judgeship of Peace



Screenshot 34: News articles blocked by the Ankara West 2nd Criminal Judgeship of Peace



Artı Gerçek's appeal against the decision issued by the Ankara West 2nd Criminal Judgeship of Peace on **05.07.2021** (no. 2021/4506) involving its news article entitled "Süleyman Soylu ve Fahrettin Koca'yı karşı karşıya getiren ihaleler" ["The tenders that brought Süleyman Soylu and Fahrettin Koca face to face"]¹⁰¹ was upheld. In the decision, the judgeship stated that

"the appeal shall be upheld as the publication in the news article referred to in the request does not constitute a violation of the personal rights of the claimant requiring an immediate removal and access-blocking sanction, as it was found that the publication is within the scope of the function and freedom of information determined and defined by the rules of authenticity, public interest, social interest, actuality and the intellectual connection between topic and expression, that the statements were within

¹⁰¹ Artı Gerçek, "Süleyman Soylu ve Fahrettin Koca'yı karşı karşıya getiren ihaleler" ["The tenders that brought Süleyman Soylu and Fahrettin Koca face to face"], 02.07.2021, <https://artigercek.com/haberler/suleyman-soylu-ve-fahrettin-koca-yi-karsi-karsiya-getiren-ihaleler>

the scope of freedom of the press and did not go beyond the boundaries of criticism or reporting, that it is not clear whether the online news articles and comments about the claimant constitute a prima facie infringement or violation of personal rights and that this matter can be clarified through assessments in adversary proceedings.”

Screenshot 35: Artı Gerçek’s news article, made accessible by the Ankara West 2nd Criminal Judgeship of Peace appeal decision



Similarly, 153 news articles referring to the statements of RD Global on the resignation of Mehmet Soylu were also blocked subject to a decision of the Ankara West 2nd Criminal Judgeship of Peace on **07.07.2021** (no. 2021/4570) upon another request submitted by **INVAMED Sağlık İlaç Sanayi and Ticaret A.Ş.** on the grounds of violation of personal rights. In the decision, the judgeship used stereotypical statements and provided exactly the same reasoning as in the previous decision by simply copying and pasting the previous decision.

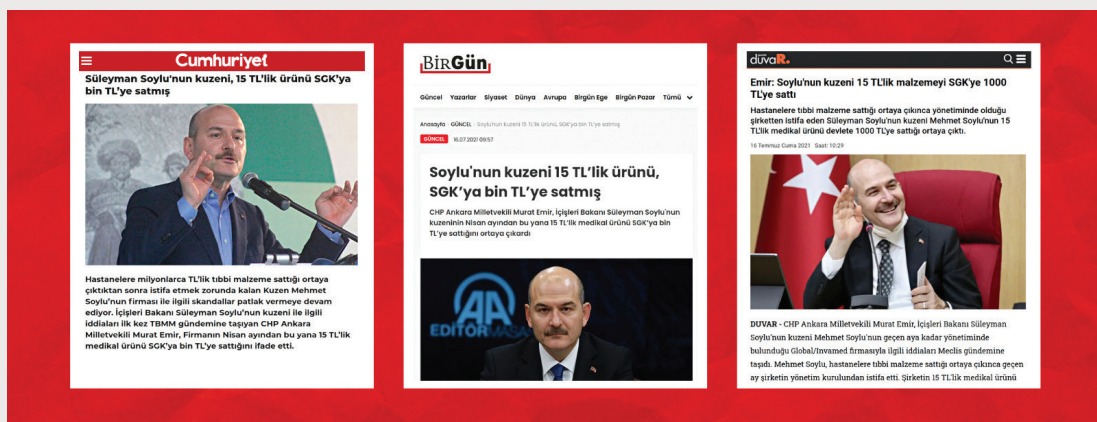
Screenshot 36: News articles blocked by the Ankara West 2nd Criminal Judgeship of Peace



Finally, 44 news articles on the allegation made by Murat Emir, CHP MP for Ankara, that Mehmet Soylu, the cousin of Süleyman Soylu, “sold a medical product worth 15 TRY to the SSI [Social Security Institution] for 1.000 TRY” were blocked subject to a

decision of the Ankara West 1st Criminal Judgeship of Peace on **16.07.2021** (no. 2021/4893) upon the request of **RD Global Araştırma Geliştirme Sağlık A.Ş.** and **IN-VAMED Sağlık and İlaç Sanayi A.Ş.** on the grounds that the personal rights of these two companies were violated. In the decision, the judgeship stated that the news articles referred to in the request “do not have the elements of ‘authenticity and certainty’ as they do not contain precise and proven information at this point; goes beyond their informative role and constitute an attack on the personal rights, particularly commercial rights of the claimants and therefore contain content that harms the honour and dignity of the claimants and tarnishes their commercial reputation.” In this assessment, the connection between the reasoning for the decision and the 44 news articles, including those of Sözcü, Cumhuriyet, HalkTV, BirGün, Yeni Çağ, Gazete Duvar, Gerçek Gündem, T24, Artı Gerçek, and Evrensel, has not been established.

Screenshot 37: News articles blocked by the Ankara West 1st Criminal Judgeship of Peace



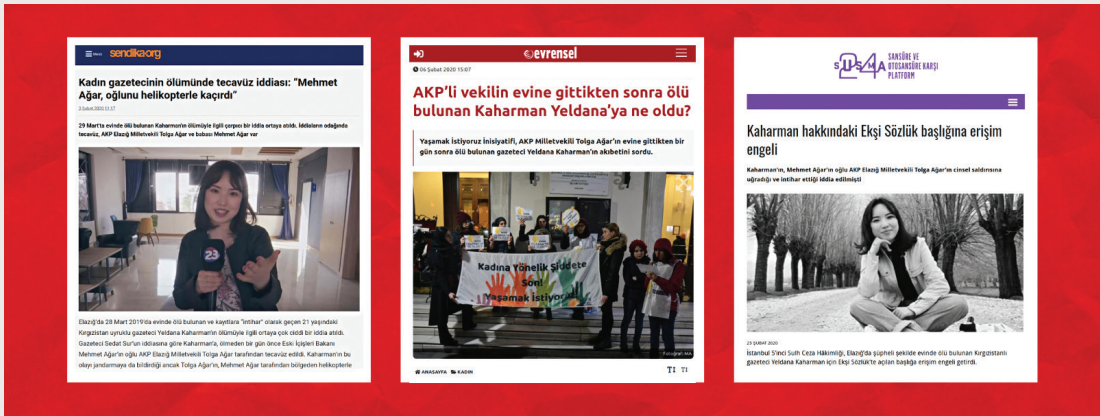
During 2020, news articles and other content which alleged that Yeldana Kaharman,¹⁰² a Kazakh journalist, was sexually assaulted by **Tolga Açar**, the son of Mehmet Açar and AKP MP for Elazığ and who allegedly committed suicide and therefore died suspiciously in Elazığ, were blocked subject to a decision of the Istanbul 5th Criminal Judgeship of Peace on **11.02.2020** (no. 2020/823) on the grounds that they violated the personal rights of Tolga Açar. Furthermore, during 2021, access to a total of 97 news articles and other content in relation to the blocking decision of Istanbul 5th Criminal Judgeship of Peace, including news articles of Sendika.Org, Evrensel, Susma 24 Platformu, Cumhuriyet, BirGün and JinNews, was also blocked subject to a decision of the Elazığ 1st Criminal Judgeship of Peace on **24.03.2021** (no. 2021/2326) upon the request of Tolga Açar. In the decision, the judgeship stated that

“the Elazığ Chief Public Prosecutor’s Office launched the investigation no. 2019/4836 into whether the death of the said person is ‘Death by Suicide’; that a decision of non-prosecution was issued on 16.10.2019 as a result of the active investigation con-

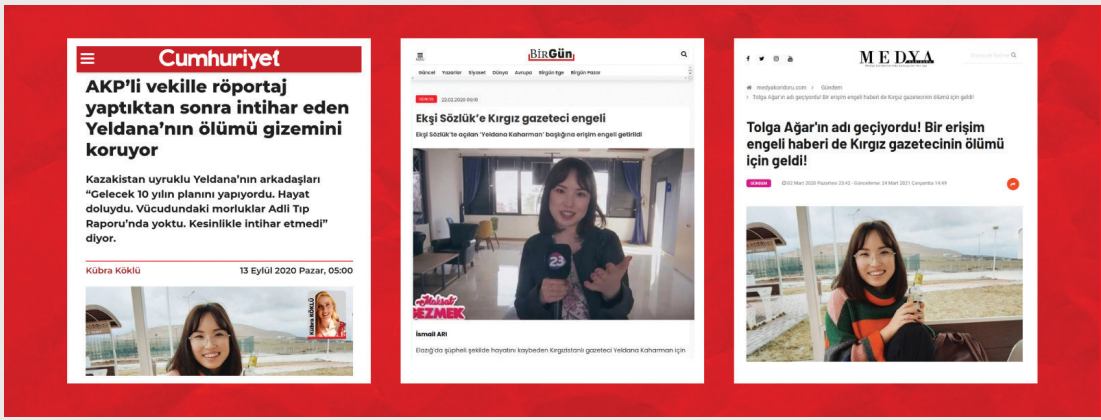
¹⁰² See Elazığ Chief Public Prosecutor’s Office, Press Release, 2021-1, 08.05.2021, <https://elazig.adalet.gov.tr/basin-aciklamasi-2021-1>

ducted by the chief public prosecutor's office; that this decision was finalized; that the claimant had no connection with the said investigation, considering the content of the investigation file; **these publications do not serve any purpose that is relevant to a current matter or is in the public interest**, considering the date of publication of some of the URLs referred to in the request; that comment sections are open in some of the URLs in question, and comments violating the personal rights of the claimant have been posted in these sections; that the family affairs and occupation of the claimant have been mentioned in the comments in some of the URLs; a complete assessment of the purpose, presentation, and content of the news stories published in the abovementioned URLs showed that **these interpretative news stories were not written in good faith**, considering the status and occupation of the claimant; that as such, the web pages referred to in the request **violated the privacy of the claimant**, contained content that constitutes an attack on personal rights, and the published **news articles are not up to date and are not in the public interest.**"

Screenshot 38: News articles blocked by the Elazığ 1st Criminal Judgeship of Peace



However, the decision does not refer to the newsworthiness of the access-blocking decision of the Istanbul 5th Criminal Judgeship of Peace or provide an explanation on how the news articles which would shed light on the suspicious death of Yeldana Kaharman, as well as those on the blocking of access to these news articles, violate the personal rights of the claimant.

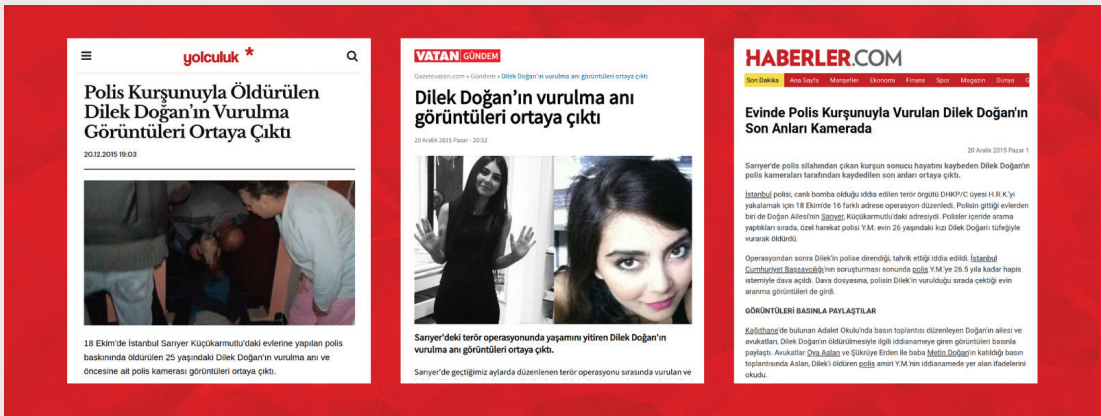


Access to 47 separate news articles and other content including news articles of Diken, Sendika.Org, Hürriyet, Cumhuriyet, Habertürk, T24 and Bianet about the police officers who killed 25-year-old Dilek Doğan during a raid on a house in Sarıyer, Istanbul, in October 2015 was blocked subject to a decision of the Istanbul 10th Criminal Judgeship of Peace on **23.09.2021** (no. 2021/6075) upon the request of the **Provincial Directorate of Security for Istanbul**. In the decision, the judgeship noted that **“the images of the police officers, against whom no lawsuit was filed and no investigation was conducted regarding the incident during the police operation, were published and the police officers were therefore targeted, thus violating the personal rights of public officials on duty.”** However, the decision did not explain specifically which personal rights of which police officers were violated in what way by the 47 separate news articles. Nevertheless, this request was not filed by a natural person, but by a public entity and the decision does not state which personal rights of the Provincial Directorate of Security for Istanbul have been violated. This way the news stories about the proceedings of an ongoing case of public interest are covered up.

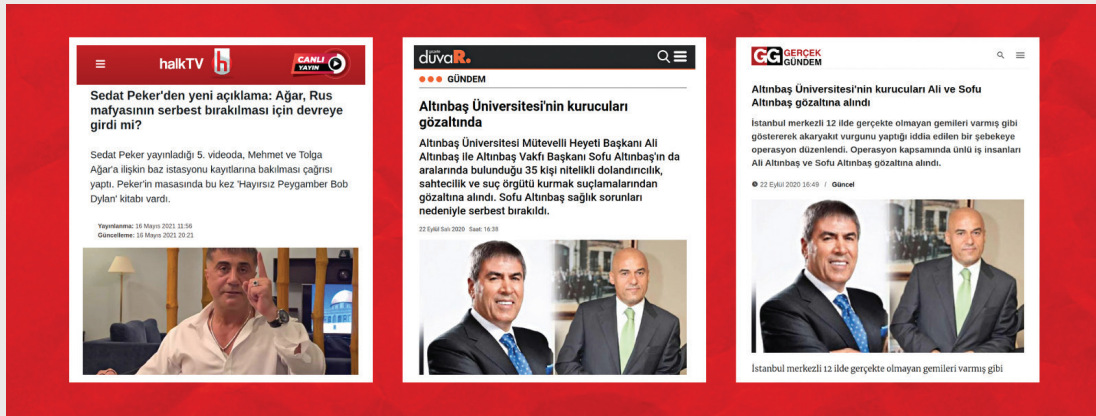
Screenshot 40: News articles blocked by the Istanbul 10th Criminal Judgeship of Peace



Screenshot 41: News articles blocked by the Istanbul 10th Criminal Judgeship of Peace



104 news articles and other content on the detention of 35 people, including businesspersons **Ali Altınbaş** and **Sofu Altınbaş**, founders of the Altınbaş University, as part of an investigation conducted on the charges of aggravated fraud, forgery and establishing a criminal organization, were blocked subject to a decision of the Mudurnu Criminal Judgeship of Peace on **16.09.2021** (no. 2021/161) on the grounds that the personal rights of Sofu Altınbaş were violated. Stereotypically worded decision does not state how or why the news articles such as those by HalkTV, Gazete Duvar, Gerçek Gündem, Sözcü, Tele1, Hürriyet, Medyascope, and Cumhuriyet, violated the personal rights of the claimants.



Sözcü filed an appeal against the decision of the Mudurnu Criminal Judgeship of Peace with regards to its news article entitled “İstanbul’da akaryakıt operasyonu: Ali ve Sofu Altınbaş gözaltında” [“Fuel operation in Istanbul: Ali and Sofu Altınbaş have been detained”].¹⁰³ The Mudurnu Criminal Judgeship of Peace ruled that there was an ongoing criminal prosecution at the Istanbul Anatolia 13th Criminal Assize Court (file no. 2021/73) involving one of the claimants and the allegations against the claimant within the indictment is similar to the information provided within the news article and therefore there is no content which can be regarded as constituting an attack on personal rights. Therefore, the appeal is granted as the article falls within the scope of freedom of expression and the press, which are protected under Articles 26 and 28 of the Constitution.

While the judgeship revoked the decision with regards to Sözcü’s article, it did not apply the revocation to other news stories.

¹⁰³ Sözcü, İstanbul’da akaryakıt operasyonu: Ali ve Sofu Altınbaş gözaltında [“Fuel operation in Istanbul: Ali and Sofu Altınbaş have been detained”], 22.09.2020, <https://www.sozcu.com.tr/2020/gundem/unlu-is-insanlari-ka-cak-akaryakit-operasyonunda-gozaltina-alindi-6049667>

Screenshot 43: Sözcü's news article made accessible by the
Mudurnu Criminal Judgeship of Peace appeal decision



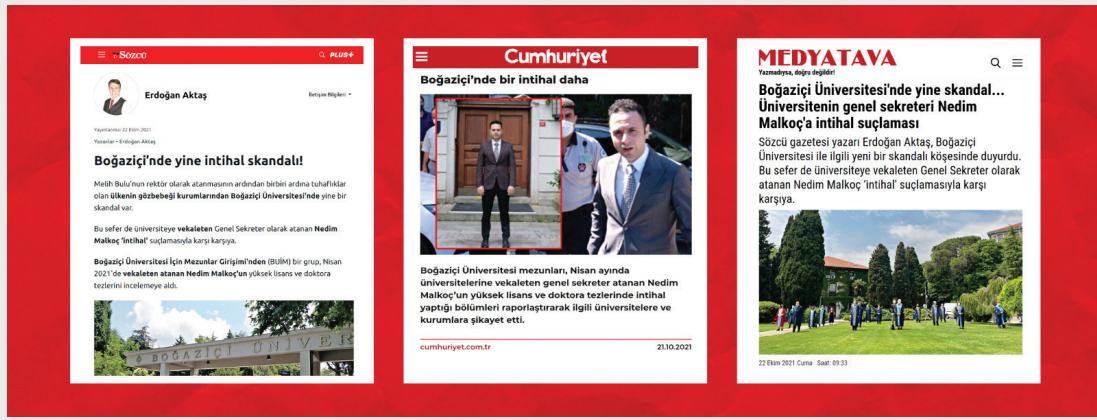
A news article by Gerçek Gündem and the related tweets containing the allegations that the arrest of two of the university students detained on 06.10.2021 during protests at the Boğaziçi University was the result of a complaint by Rector Prof. **Naci İnci** were blocked subject to a decision of the Istanbul 8th Criminal Judgeship of Peace on **08.10.2021** (no. 2021/5748) on the grounds that the personal rights of Naci İnci were violated. In the decision, the judgeship noted that the phrases and descriptions about Rector İnci such as “Appointed Rector,” “The one in the Palace says, ‘Terrorist’, and his rector acts as an informant,” “The Trustee Rector informed on two of his students and had them arrested” and “the first rector to have his student arrested in the 150-year history of Boğaziçi” constituted an attack on the personal rights of the claimant. None of the phrases mentioned in the decision of the judgeship were included in the Gerçek Gündem’s article entitled “Boğaziçi Üniversitesi rektörü Naci İnci, öğrencileri polise isim isim ihbar etti: Öğrenciler tutuklandı” [“Naci İnci, Rector of the Boğaziçi University, informed on students one by one: The students were arrested”] and the decision of the judgeship does not clarify why access blocking was deemed necessary.

Screenshot 44: News articles and other content blocked by the Istanbul 8th Criminal Judgeship of Peace



Another decision involving the Boğaziçi University was related to news articles on a group of alumni from the Alumni Initiative for Boğaziçi University ("BUIM") who prepared a report involving allegations of plagiarism on the MA and PhD theses of **Nedim Malkoç**, who was appointed as acting secretary-general at the Boğaziçi University. The articles also referred to the fact that BUIM lodged a complaint in relation to Malkoç with the related universities and institutions in April 2021. The news articles published by Cumhuriyet, Sözcü, and Medyatava were blocked subject to a decision of the Istanbul 4th Criminal Judgeship of Peace on **22.10.2021** (no. 2021/5283) upon the request of Nedim Malkoç. In the decision, the judgeship noted that "when the style, wording, and manner of expressions used in the news articles subject to the decision are reviewed together, it was decided that the articles contained statements that would undermine public trust and discredit the claimant in the eyes of the public, considering the public duty of the claimant." Therefore, the articles violated the personal rights of the claimant.

Screenshot 45: News articles blocked by the Istanbul 4th Criminal Judgeship of Peace



During 2020, news articles on a traffic accident with fatality allegedly caused by **Mehmet Güder**, the District Governor of Çemişgezek, in Elazığ had been blocked subject to a decision of the Çemişgezek Criminal Judgeship of Peace on **29.10.2020** (no. 2020/116) on the grounds that the personal rights of Mehmet Güder were violated. Subsequently, during 2021, İFÖD's public announcement of the decision of the Çemişgezek Criminal Judgeship of Peace and the related tweet as well as several news articles and other content on this subject matter, including a tweet by Prof. Yaman Akdeniz, one of the founders of İFÖD, were blocked subject to a decision of the Çemişgezek Criminal Judgeship of Peace on **13.10.2021** (no. 2021/107) on the grounds that the personal rights of Mehmet Güder were violated. Furthermore, the judgeship ordered the removal of the news articles and other content from publication and also the disassociation of the claimant's name with these articles through search engines such as Google, Yandex, and Bing. In the decision, the judgeship stated that

"While the traffic accident referred to in the publications is newsworthy, it was decided that the claimant is subject to a special investigation procedure as a local authority rep-

representative; but the news articles portrayed the incident as if the claimant, who was the driver, was favoured and protected because of his position. Therefore the content of the news articles would create hostility and suspicion in the eyes of the readers and are regarded as containing elements violating his personal rights. Finally, the main criterion for assessing public interest is that the news articles should be objective and accurate."

Screenshot 46: News articles sanctioned by the Çemişgezek Criminal Judgeship of Peace



In its decision, the judgeship did not state why it imposed sanctions on the news articles and İFÖD's announcement on its previous decision as these articles and social media content were about the access blocking decision rather than the initial traffic accident.

Screenshot 47: İFÖD announcement sanctioned by the Çemişgezek Criminal Judgeship of Peace



Zafer Aktaş, the **Provincial Director of Security for Istanbul**, also requested a chain of access-blocking decisions during 2021. Access to news articles on certain bribery allegations made by **Jale Çapraz**, who was going through a divorce from busi-

nessperson Tuncay Çapraz, against Zafer Aktaş and Süleyman Suvat Dilberoğlu, the Provincial Director of Security for Muğla and several other directors of security was blocked subject to the decisions of the Istanbul 4th Criminal Judgeship of Peace on **07.10.2021** (no. 2021/4731) and on **11.10.2021** (no. 2021/4771) and also with a decision of the Istanbul 9th Criminal Judgeship of Peace on **20.10.2021** (no. 2021/6223) based on Zafer Aktaş's claims that his personal rights were violated. Furthermore, access to other news articles on the bribery allegations was blocked subject to an administrative decision of the Association of Access Providers on **09.12.2021** (no. 2021/247) on the grounds that the content of the blocked articles was the same as that of the news articles previously blocked by the Istanbul criminal judgeships of peace.

Moreover, news articles of Cumhuriyet, Evrensel, Gazete Duvar, T24 and BirGün were also blocked subject to a decision of the Istanbul 4th Criminal Judgeship of Peace on **07.10.2021** (no. 2021/4731). In the decision, the judgeship noted that “the articles clearly state the full name of the claimant, who is still the Provincial Director of Security for Istanbul, is a well-known person holding public office. A complete assessment of the style, wording, and expression of the content items referred to in the request shows that the content of the articles undermined public trust, contained phrases that would discredit the claimant in his role and his agency in the eyes of the public due to his role and would therefore defame him and would violate his personal rights. The articles were written with this purpose and intention and the content in question contained elements that would violate the personal rights of the claimant.”

Screenshot 48: News articles blocked by the Istanbul 4th Criminal Judgeship of Peace



Not so surprisingly, the Istanbul 4th Criminal Judgeship of Peace used a carbon copy of the above mentioned reasoning in its subsequent decision issued on **11.10.2021** (no. 2021/4771) to block access to the news articles of BirGün, Dokuz8 Haber, Cumhuriyet, Gazete Duvar and Artı Gerçek. Finally, access to a total of 112 news articles and other, including the news articles of Artı Gerçek, Yeniçağ Gazetesi, Gerçek Gündem, T24, Tele1 and ABC Gazetesi, was blocked subject to a decision of the Istanbul 9th Criminal Judgeship of Peace on **20.10.2021** (no. 2021/6223). In the decision, it was only stated that “considering the impression created by the publication about the

claimant and the motive behind the publication, the articles cannot be considered to be within the scope of freedom of the press, freedom of expression, or the right to information or criticism.” Although the judgeship reached the conclusion that the articles violated the personal rights of the claimant, the judgeship did not state which personal rights of Zafer Aktaş, as a high-ranking public official, were violated and/or how they were violated with the news articles. There is no doubt that the serious allegations against the Provincial Director of Security for Istanbul are of public interest and should not be suppressed and censored.

Screenshot 49: News articles blocked by the Istanbul 4th Criminal Judgeship of Peace



Screenshot 50: News articles blocked by the Istanbul 9th Criminal Judgeship of Peace



During 2020, access to news articles in relation to a criminal complaint filed by the Istanbul Metropolitan Municipality (“IMM”) against former officials, including **Adil Karaismailoğlu**, who is the current **Minister of Transportation** involving corruption and irregularities at the municipality, was blocked subject to a decision of the Istanbul 4th Criminal Judgeship of Peace on **10.12.2020** (no. 2020/5526) upon the request of Adil Karaismailoğlu. Adil Karaismailoğlu was the Deputy Secretary-General of IMM when the municipality was controlled by the AKP and he had the authority to invite tenders and incur expenditure at the municipality. Subsequently, during 2021, access

to 56 further news articles and other content, including news articles of OdaTV, Evrensel, Sözcü, Yurt Gazetesi, HalkTV, Cumhuriyet, Gazete Duvar, BirGün and Gerçek Gündem, was blocked subject to a decision of the Bakırköy 2nd Criminal Judgeship of Peace on **12.01.2021** (no. 2021/486) upon yet another request submitted by Adil Karaismailoğlu. This decision also blocked access to news articles on the previous decision issued by the Istanbul 4th Criminal Judgeship of Peace on **10.12.2020** (no. 2020/5526). In its decision, the judgeship used stereotypical reasoning and noted that “the claimant’s name was emphasized in the articles and his personality was targeted and the comments went beyond the characteristics of a news report. Therefore it is not possible to assess the authenticity of the allegations in question based on the information and documents published [and] that considering the severity of the allegations, the content violates the personal rights of the claimant.” Having said that, the judgeship did not consider the fact that the claimant is a high-ranking public official and a politician and that the news articles were based on factual information, and there was a corruption case pending before a court.

Screenshot 51: News articles blocked by the Bakırköy 2nd Criminal Judgeship of Peace

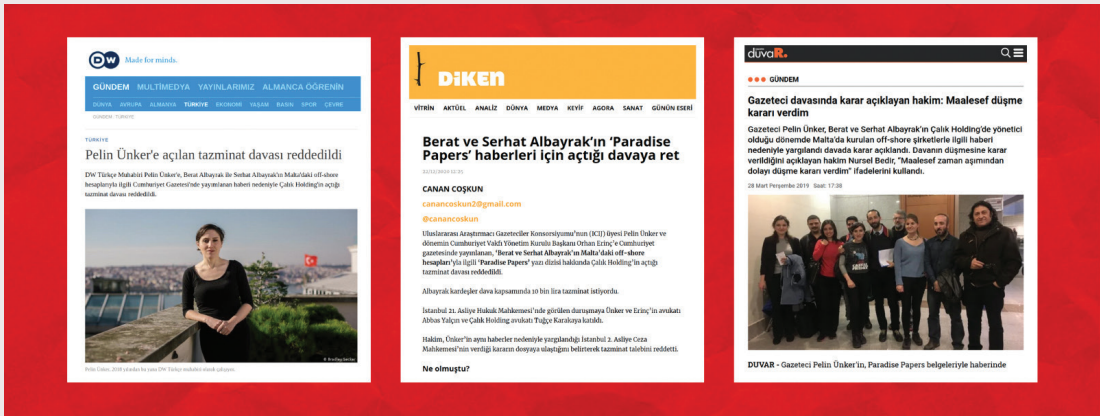


Screenshot 52: News articles blocked by the Bakırköy 2nd Criminal Judgeship of Peace



The Istanbul Anatolia 4th Criminal Judgeship of Peace decided to block access to as well as for the removal of 47 news articles in relation to news reporting involving the trial of journalist Pelin Ünker who allegedly defamed Berat Albayrak, the former Minister of Finance and Treasury; as well as his brother, Serhat Albayrak and Çalık Holding with an article she wrote in relation to the “**Paradise Papers**” offshore accounts. Although the case against Ünker was dismissed, **Serhat Albayrak**’s request for sanctioning the 47 news articles covering the Ünker trial was accepted with the Istanbul Anatolia 4th Criminal Judgeship of Peace decision of **16.03.2021** (no. 2021/1831). This decision sanctioned the news articles of Diken, OdaTV, T24, Gazete Duvar, Cumhuriyet, Sözcü, DW, Evrensel, Milli Gazete, Susma 24 Platformu, Gerçek Gündem and Medyascope. In the decision, the judgeship used stereotypical reasoning, stating that “a review of the content referred to in the request for an access-blocking decision showed that the content of the articles went beyond the limits of freedom of the press and the Internet, were offensive to individuals and institutions, harmed their dignity and honour and therefore violated their personal rights.”

Screenshot 53: News articles blocked by the Istanbul Anatolia 4th Criminal Judgeship of Peace



A subsequent decision (no. 2021/2357) was issued on **09.04.2021** upon the request of **Serhat Albayrak**, this time by the Istanbul Anatolia 3rd Criminal Judgeship of Peace. With this decision, the judgeship blocked access to Diken’s news article on the decision issued by the Istanbul Anatolia 4th Criminal Judgeship of Peace on **16.03.2021** (no. 2021/1831) and 13 tweets, including those by Yaman Akdeniz, one of the founders of İFÖD and journalist Sedef Kabaş. The judgeship also ordered the content to be removed from publication. The decision contained yet again stereotypical reasoning and only stated that the content “went beyond freedom of the press and the Internet, were offensive to individuals and institutions, harmed their dignity and honour, and therefore violated their personal rights.”

Screenshot 54: News articles and other content blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace

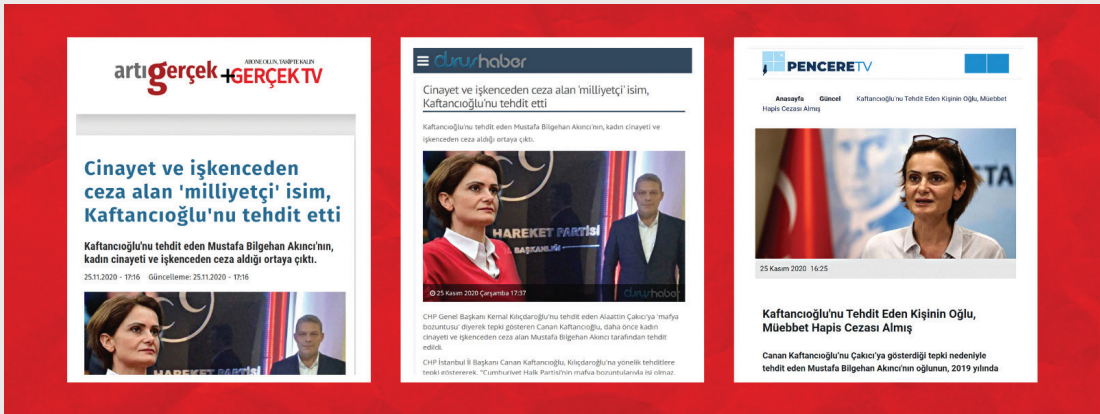


Screenshot 55: News articles blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



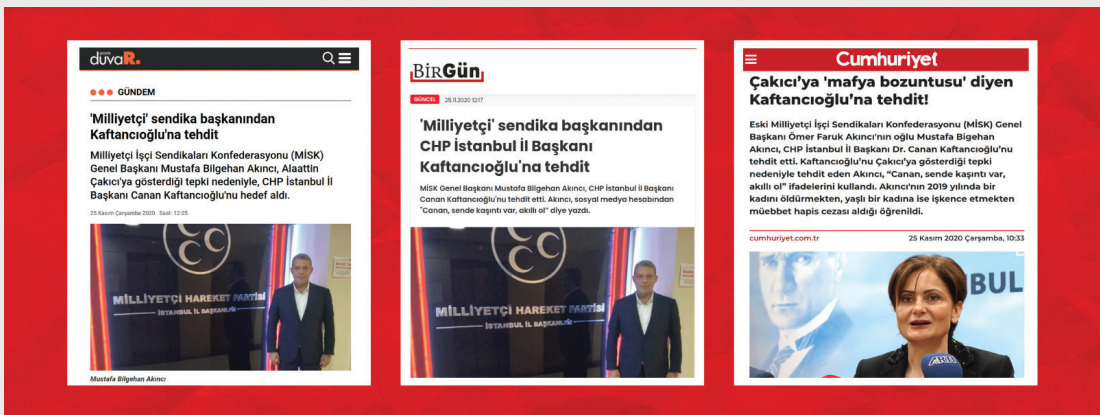
Mustafa Bilgehan Akıncı is the son of Ömer Faruk Akıncı, the former Chairperson of the Confederation of Turkish Nationalist Workers' Unions ("MİSK"). He came to the attention of the media when he threatened Canan Kaftancıoğlu, Head of the CHP's Istanbul Branch during 2020. Access to news articles alleging that Akıncı was convicted of murder and torture was blocked subject to a decision of the Silivri Criminal Judgeship of Peace on **30.09.2021** (no. 2021/4039) on the grounds that his personal rights were violated. The Judgeship, which partially granted the request, noted that "since a decision of non-prosecution was issued in 2009, the news story is no longer 'current' and violates the personal rights of the claimant as it is no longer significant whether or not the news story met the criteria of 'truth and accuracy' at the time." The judgeship did not consider the fact that the sanctioned news stories were brought up when Canan Kaftancıoğlu was threatened by the claimant and therefore were current and interested the public. However, the judgeship also stated that some other news articles referred to in the request "did not constitute an attack on the personal rights of the claimant and were within the scope of freedom of the press and freedom of expression."

Screenshot 56: News articles blocked by the Silivri Criminal Judgeship of Peace



Mustafa Bilgehan Akıncı filed an appeal against the decision of the Silivri Criminal Judgeship of Peace and his appeal was upheld by the Çorlu 1st Criminal Judgeship of Peace on **26.11.2021** (no. 2021/4069), which ordered 52 news articles and other content to be removed from publication. In the decision, the Çorlu judgeship noted that “considering the fact that the alleged event and the news stories on this event were not current at the time of the decision and that a decision of non-prosecution was issued in favour of the claimant, [these news stories] **do not constitute historical data, are not in the public interest** or newsworthy and shall be considered **in the light of the right to be forgotten** as such.” However, no reason was provided by the judgeship for the sanction imposed on news articles on Mustafa Bilgehan Akıncı’s public threats against Canan Kaftancıoğlu, Head of the CHP’s Istanbul Branch.

Screenshot 57: News articles blocked by the Çorlu 1st Criminal Judgeship of Peace



Access to a Cumhuriyet news article entitled “Suikast eğitimi veren şirkete ilişkin önergeler yanıtsız, savcılar suskun” [“No response to Parliamentary questions on the company providing assassination training: Prosecutors remain silent”] was blocked subject to a decision of the Istanbul 4th Criminal Judgeship of Peace on **18.06.2021** (no.

2021/3136). The article included information on the fact that no response was provided to Parliamentary questions submitted in the Turkish Grand National Assembly involving Uluslararası Savunma Danışmanlık İnşaat Sanayi ve Ticaret A.Ş. (“SADAT”) a military consulting firm founded by a retired general named Adnan Tanrıverdi who was also the former Chief Advisor to President Tayyip Erdoğan. The decision was issued on the grounds that the personal rights of **SADAT** were violated. In the decision, the judgeship noted that “a complete assessment of the wording and expression [in Cumhuriyet’s article] shows that the content of the article directly targeted the claimant and was drafted with the purpose and intention of misleading the public, undermining public trust, and damaging the claimant.”

Screenshot 58: News article blocked by the Istanbul 4th Criminal Judgeship of Peace



During 2021, the Istanbul 2nd Administrative Court annulled the urban transformation plan for 16 neighbourhoods in the district of Üsküdar on the grounds that the plan was unlawful as it did not comply with the urbanization principles or planning techniques and it was not in the public interest. News stories about the annulment decision were blocked by a decision of the Istanbul Anatolia 8th Criminal Judgeship of Peace **16.02.2021** (no. 2021/1115) as they violated the personal rights of the **Üsküdar Municipality**. Furthermore, with the same decision the judgeship also blocked content related to the annulment decision posted on the website of the Istanbul Metropolitan Branch of the Chamber of Architects, which had filed a lawsuit for the annulment of the plan. The judgeship also ordered the removal of both the news stories and the content on the Chamber’s website. In the decision, the judgeship stated that “considering the manner of presentation of the news stories, it was determined that such content cannot be considered to be within the scope of freedom of the press and expression, that these publications violate the personal rights of the claimant, that **the sole motive behind the posts is to humiliate the other party in the eyes of the public**, and that the news story has not been fact-checked and can no longer be considered as a news report, commentary, or criticism.” However, the Istanbul Anatolia 8th Criminal Judgeship of Peace disregarded the existence of the annulment decision of the Istanbul 2nd Administrative Court which declared the plans not to be in the

public interest as the plots in question were zoned mostly for the construction of housing units and disturbed the balance between preservation and use on the shores of the Bosphorus Strait”. Therefore, the judgship ignored the factual basis of the news articles, prioritising instead on the “personal rights” of a public entity, namely the Üsküdar Municipality.

Screenshot 59: News articles blocked by the Istanbul Anatolia 4th Criminal Judgeship of Peace



During 2020, news articles on the substitute appointment of Dr. Nermin Aydınır at the Bakırköy Prison in place of a prison doctor, who was detained for a period of time and subsequently dismissed for allegedly being a member of FETÖ and DHKP/C and whose criminal investigation was conducted by Dr. Nermin Aydınır's husband, Ömer Faruk Aydınır, the former Deputy Chief Public Prosecutor for Bakırköy, had been blocked and removed from publication subject to a decision of the Bakırköy 6th Criminal Judgeship of Peace on **25.09.2020** (no. 2020/3781).¹⁰⁴ The Bakırköy 6th Criminal Judgeship of Peace issued a subsequent decision on **11.03.2021** (no. 2021/1464) for blocking access to other news articles on the same subject matter and also ordered the removal of these news articles, on the grounds that the personal rights of **Ömer Faruk Aydınır, a member of the Court of Cassation**, were violated. In the decision, the judgship stated that “it was found that the articles contained unsubstantiated allegations, **the claimant is a member of the Court of Cassation** and the content was not based on any documents and therefore may constitute a violation of personal rights.”

¹⁰⁴ Also see Freedom of Expression Association, EngelliWeb Analiz Raporu I: “Diken’in ‘Görevden alınan’ doktorun yerine, ‘görevden aldırın’ savcının eşi atandı” Başlıklı Haberinin Erişime Engellenmesi, Yayından Çıkarılması ve Arama Motorları ile İlişkinin Kesilmesi Süreci” [EngelliWeb Analysis Report I: “Process of Access Blocking, Removal of Content, and Removal from Search Engines of Diken’s Article Entitled ‘Wife of the Prosecutor Who Dismissed the Doctor Replaced the Doctor’], December 2020, https://ifade.org.tr/reports/IFOD_EngelliWeb_Analiz_Raporu_I.pdf

Screenshot 60: News articles blocked by the Bakırköy 6th Criminal Judgeship of Peace



Gazete Duvar's news article entitled "Akif Manaf davasında Eren Keskin'e beraat" ["Eren Keskin was acquitted in the Akif Manaf case"], as well as 12 other news articles on the acquittal of Eren Keskin, a well-known human rights lawyer and the Co-Chair of the Human Rights Association were blocked subject to a decision of the Association of Access Providers ("ESB") on **21.12.2021** (no. 2021/254). The news reported that Keskin was charged with "misconduct in public office" under article 257 of the Turkish Criminal Code due to certain statements involving **Akif Manaf**, a yoga instructor. The ESB exercised its authority under article 9(9) of Law No. 5651, referring to the nine separate judgments previously issued upon the request of Akif Manaf and noting that the blocked news articles were "**identical**" to the news articles that had previously been blocked subject to nine separate decisions. However, it should be noted that Gazete Duvar's article is not identical to previous articles and is rather "**different**" than the others focusing on Eren Keskin's trial who was tried upon the complaint of Akif Manaf.

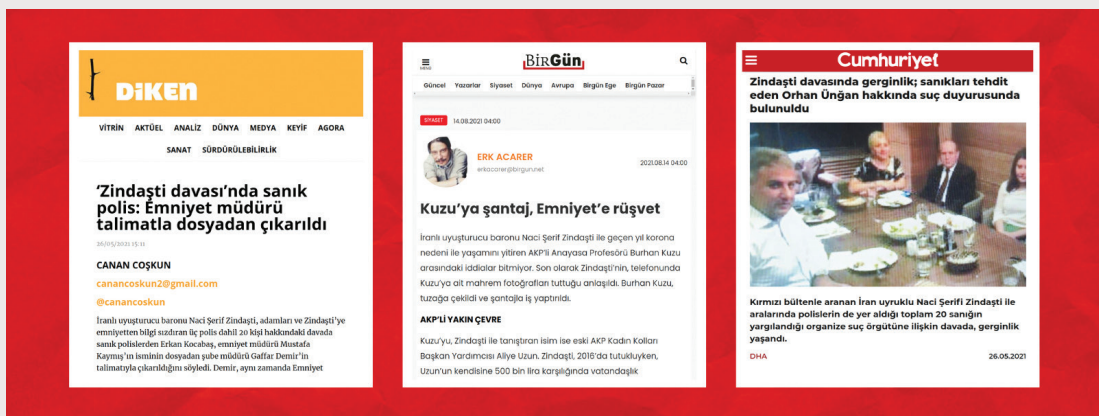
Screenshot 61: News articles blocked by the Association of Access Providers



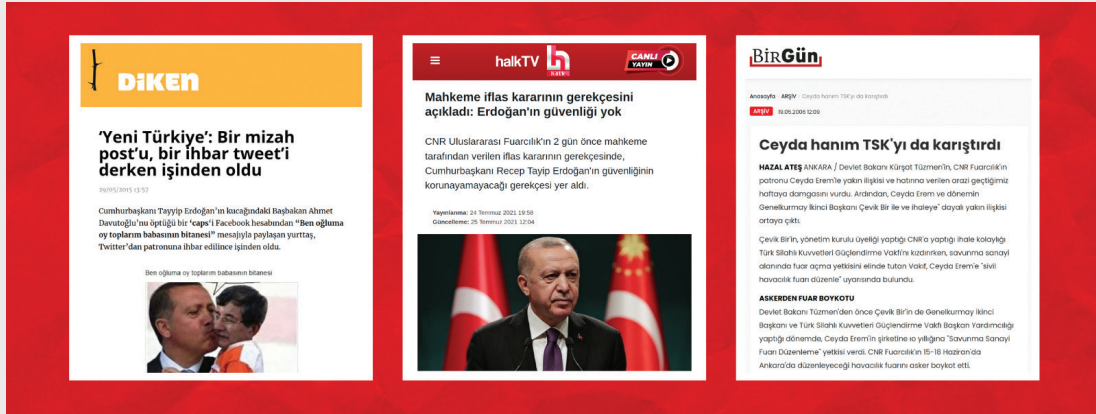
News articles reporting on an organized crime case were ordered to be removed from publication subject to a decision issued by the Istanbul Anatolia 8th Criminal

Judgeship of Peace on **01.09.2021** (no. 2021/5116). The articles reported on the trial of Iranian Naji Sharifi Zindashti and a total of 20 other defendants, including police officers and on the potential involvement of Gaffar Demir, then Head of the Department of Combating Organized Crimes for Istanbul. The judgeship decided for the removal of the articles on the grounds that the personal rights of **Gaffar Demir** were violated. The decision sanctioned news articles of Diken, Cumhuriyet, T24 and Sendika.Org, as well as well known journalist, Erk Acarer's article in BirGün. In its decision, the judgeship stated that the news articles and other content "contained statements which violate the personal rights of the claimant." According to the judgeship, "the publications cannot be considered to be within the scope of freedom of the press and expression, considering the manner in which they were presented." Moreover, the decision stated that the **"full name of the claimant was mentioned in these articles without any abbreviation or anonymisation."** Therefore, "the personal rights of the claimant were violated."

Screenshot 62: News articles blocked by the Istanbul Anatolia 8th Criminal Judgeship of Peace



Our final example in this category involves access blocking to 351 news articles on **Ceyda Erem**, Chairperson of CNR Holding, subject to a decision of the Istanbul Anatolia 8th Criminal Judgeship of Peace on **22.12.2021** (no. 2021/7560) on the grounds of violation of personal rights. In the decision, the judgeship noted that "the news articles contained statements that could lead to misunderstandings and undermine the reputation and dignity of the claimant." Moreover, "a complete assessment of the style, wording, and expression of the content of the articles referred to in the request shows that the balance between the title, content, and form was shaken" and the articles "went beyond their purpose with unnecessary imputations." Finally, according to the judgeship, the articles "undermined the reputation of the claimant in the eyes of the public, as well as her dignity in the eyes of other individuals and damaged her spiritual personality." However, the stereotypically worded decision did not include any assessment of the content of the news articles subject to the decision.

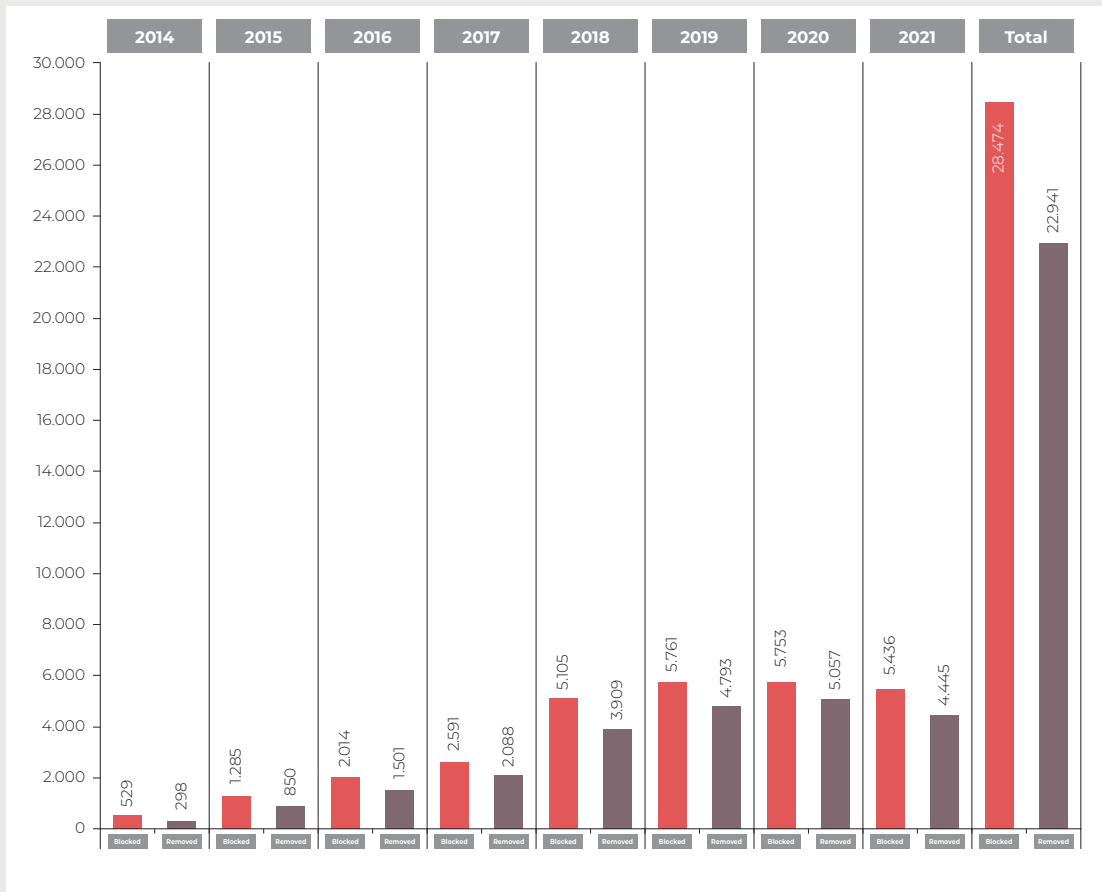


As in previous years, more examples can be provided. However, as can be seen through the considerable number of examples, while the criminal judgeships of peace sanctioned many news articles which are of public interest, the case-laws of the Constitutional Court and the European Court of Human Rights with regards to freedom of expression and freedom of the press continued to be ignored by the judgeships, as will be discussed below in further detail. While the political nature of the requests is striking as in previous years, it was determined that many natural persons, public entities and private companies, including President Erdoğan, many other politicians, high-ranking figures, public institutions and companies close to the government, frequently lodged requests to criminal judgeships of peace to protect their offended reputation, honour, and dignity. On the other hand, as the examples above show, criminal judgeships of peace granted almost all of these requests, using their template decisions and stereotypical reasonings while disregarding freedom of expression and freedom of the press related principles and high court jurisprudence and precedent.

TOTAL STATISTICS OF BLOCKED AND DELETED NEWS ARTICLES (URL-BASED) 2014-2021

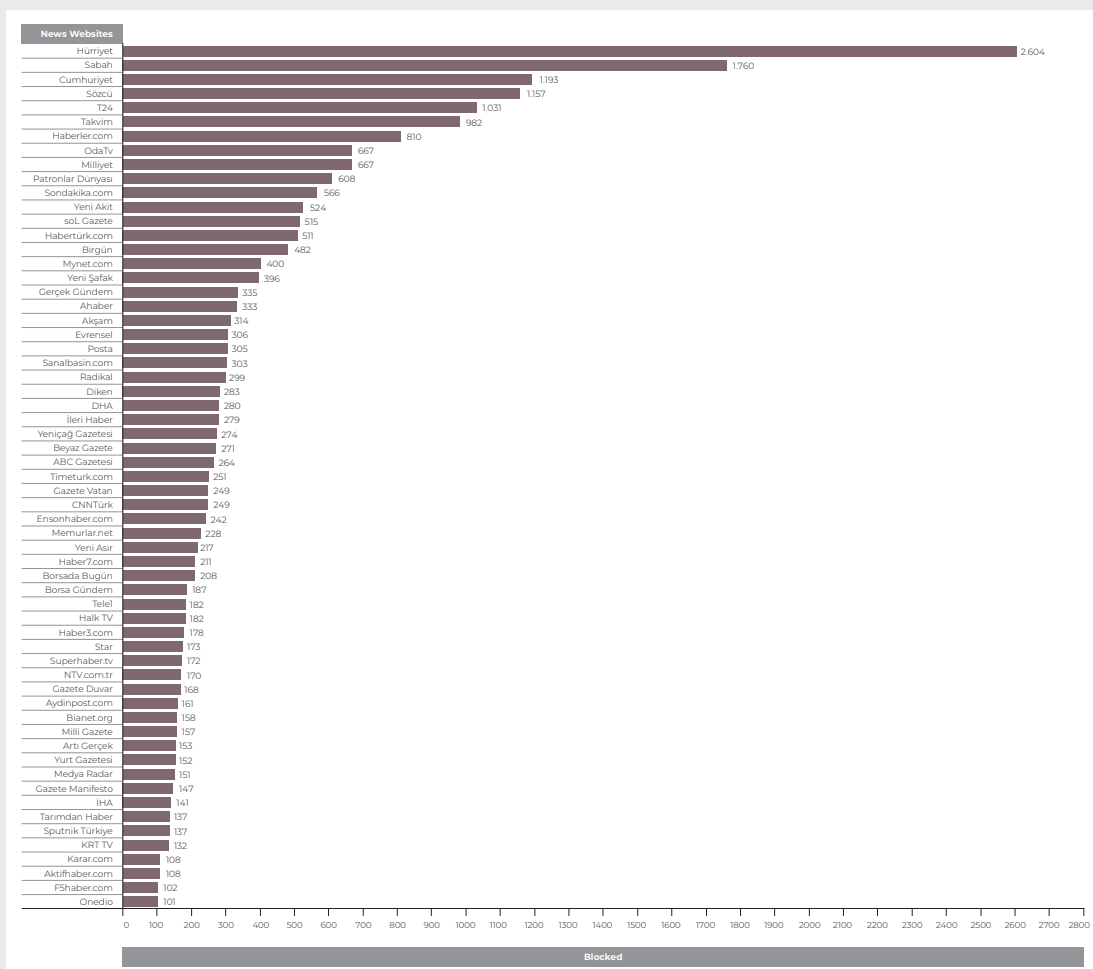
It was determined that since the URL-based access-blocking measure of “violation of personal rights” came into force in February 2014 with the amended version of article 9 of Law No. 5651, a total of **28.474** news articles (**URL-based**) have been blocked and **22.941** news articles (URL) were deleted or removed **as of end of 2021**. These sanctions were subject to **5.986** separate **decisions** issued by **509** separate criminal judgeships of peace. While 2019 ranked first as the year with the most blocked news articles with a total of **5.761** blocked news articles in that year, 2020 was the year with the highest number of news articles (**5.057** news articles) which were deleted or removed.

Figure 17: Total Number of Blocked and Deleted News Articles (URL Addresses) Subject to Article 9 by Year



As can be seen in figure 18, by the end of 2021, **Hürriyet** ranked first in the category of “news websites with the highest number of blocked news articles (URLs)” with **2.604** blocked news articles and was followed by **Sabah** with **1.760** blocked news articles. While **Cumhuriyet** ranked third with **1.193** blocked news articles, **Sözcü** ranked fourth with **1.157** blocked news articles, and **T24** ranked fifth with **1.031** blocked news articles. The details of the news websites with more than 100 blocked news articles are provided in figure 18.

Figure 18: Total Number of Blocked News Articles (URL): 2014-2021



As can be seen in figure 19, by the end of 2021, **Hürriyet** came out on top also in the category of “the news website with the highest number of removed news articles” by removing **2.308** news articles and was followed by **Sabah**, which removed **1.674** news articles, and **T24**, which removed **1.007** news articles. **Sözcü**, which removed **965** news articles, ranked fourth, while **Takvim**, which removed **864** news articles, ranked fifth.

Figure 19: Total Number of Deleted News Articles (URL): 2014-2021

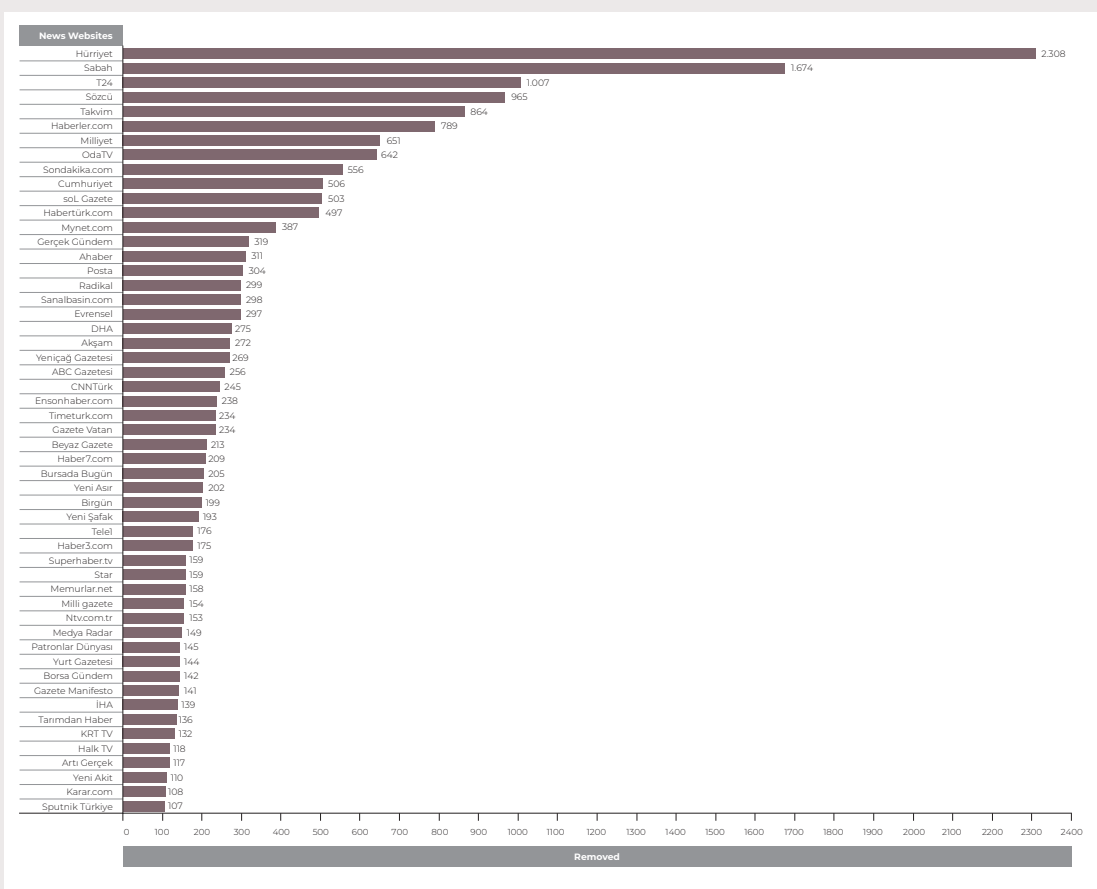


Table 2 below shows the top 25 news websites from Türkiye with the highest number of sanctions by the end of 2021, including the number of news articles blocked, the number of news articles that have been deleted or removed from the websites, and the ratio of deleted/removed URLs to blocked URLs.

Table 2: Access-Blocking League Table by the Number of News Articles Blocked (2014-2021)

Rank	News Website	Number of Blocked URLs	Number of Deleted URLs	The Rate of Deleting
1	Hürriyet	2604	2308	89%
2	Sabah	1760	1674	95%
3	Cumhuriyet	1193	506	42%
4	Sözcü	1157	965	83%
5	T24	1031	1007	98%
6	Takvim	982	864	88%
7	Haberler.com	810	789	97%
8	Milliyet	667	651	98%
9	Odatv.com	667	642	96%
10	Patronlar Dünyası	608	145	24%
11	Sondakika.com	566	556	98%
12	Yeni Akit	524	110	21%
13	soL Gazete	515	503	98%
14	Haberturk.com	511	497	97%
15	BirGün	482	199	41%
16	Mynet.com	400	387	97%
17	Yeni Şafak	396	193	49%
18	Gerçek Gündem	335	319	95%
19	Ahaber	333	311	93%
20	Akşam	314	272	87%
21	Evrensel	306	297	97%
22	Posta	305	304	100%
23	Sanalbasin.com	303	298	98%
24	Radikal	299	299	100%
25	Diken	283	59	21%

While judgeships could only issue “access-blocking decisions” before the amendments made to article 9(3) of Law No. 5651 on 29.07.2020, they have been able to issue removal decisions since then. As stated in our 2019 report, it was determined that many news websites removed their news articles and content from their websites subject to “access-blocking” decisions issued by judgeships both before and after the amendments made on 29.07.2020. Therefore, judgeships

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

While the access-blocking sanction can only be imposed by Internet service providers, the sanction of removing content must be imposed by content and hosting providers. Many news websites frequently and increasingly remove and delete their news articles and content that have been subject to blocking decisions of criminal judgeships of peace that **only** include the access-blocking sanction under article 9 of the Law No. 5651. On the contrary, unless judgeships order the removal of content or news article, there is no legal basis requiring the removal of such content or news article. This practice is partly due to the following standard printed notifications sent

by the Association of Access Providers (“ESB”) to content providers and news websites. In the notifications sent to content providers, ESB requests that the Association shall be notified in case the **“content mentioned in the notified decision is removed,”** regardless of the type of the sanction included in the decisions of the judgeships. While such notification is obligatory in terms of content removal decisions, it is not legally obligatory to remove such content or notify the Association regarding content removal, when only an access-blocking decision has been issued.

Dear Official of ifade.org.tr,

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

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

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

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

Regards,

Association of Access Providers

Consequently, **self-censorship increased** “with content removed” directly by content owners themselves and therefore, the decisions 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 the Law No. 5651. In other words, upon removal of the relevant blocked news articles from websites by content owners, the decisions issued by the criminal judgeships of peace become void. Therefore, it is no longer possible to resort to any legal remedy against a null and void judgment. This remains still the case, as criminal judgeships of peace continue to issue access blocking decisions and news website operators continue to remove news articles even though they are not legally required to do so.

NON-ASSOCIATION OF INTERNET ADDRESSES WITH SEARCH ENGINES

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

70 separate decisions were issued by the criminal judgeships of peace involving search engines from 29.07.2020 until the end of 2021. **48** of these decisions were issued by **24** separate judgeships in **2021**. Judgeships ruled that search engines **Google** (41 decisions), **Yandex** (37 decisions), **Bing** (31 decisions), **Yahoo** (30 decisions), **Yaani** (4 decisions), **DuckDuckGo** (3 decisions), and **Baidu** (2 decisions) shall not associate the names of those who submit requests with the news articles and content specified in the relevant decisions. Judgeships also ruled that **despite not being search engines**; the platforms **Twitter** (5 decisions), **YouTube** (4 decisions) and **Wikipedia** (4 decisions); the website **Ask** (3 decisions); the web browser **Mozilla** (2 decisions); and **Facebook** (1 decisions) shall not associate the names of those who submit requests with the news articles and content specified in the relevant decisions. Even though the law requires judgeships to state the **search engine to be notified** by the Association, six decisions did not state any search engine.

Screenshot 64: Notification to Search Engines

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

While **Twitter**, **Facebook**, and **YouTube** are considered “**social network providers**” within the scope of Law No. 5651, **Mozilla** is a popular and well-known web browser. **Wikipedia** is an online encyclopaedia, and the website **Ask** has not had a search engine function for nearly 10 years. Therefore, to put it in the jargon of criminal judgeships of peace, decisions against Twitter, YouTube, Mozilla, Wikipedia, and

Ask were issued “**in violation of the procedure and the law**” as these platforms and browsers are not search engines.

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

The Constitutional Court, in October 2017, in its Ali Kılık judgment¹⁰⁵ stated that access-blocking decisions subject to article 9 of Law No. 5651 are **not penal or administrative sanctions, but protection measures**¹⁰⁶ and stressed that the access-blocking procedure prescribed by article 9 is not a legal remedy for all kinds of articles or news articles, but it **must be an exceptional legal remedy**. In this context, the Constitutional Court stated that the access-blocking decisions subject to article 9 of Law No. 5651 may be issued by criminal judgeships of peace only in circumstances where violations of personal rights can be recognized **at first sight**¹⁰⁷ 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.¹⁰⁸ The Constitutional Court has so far referred to the Ali Kılık judgment and the principle of prima facie violation in 17 different applications.¹⁰⁹

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

¹⁰⁵ Ali Kılık Application, No: 2014/5552, 26.10.2017.

¹⁰⁶ A.A. Application, No: 2014/7244, 11.03.2020, § 20.

¹⁰⁷ Kemal Gözler, “Kişilik Haklarını İhlal Eden İnternet Yayınlarının Kaldırılması Usûlü ve İfade Hürriyeti: 5651 Sayılı Kanunun 9’uncu Maddesinin İfade Hürriyeti Açısından Değerlendirilmesi” [Procedure of Removing the Internet Publications Violating Personal Rights and Freedom of Expression: Evaluation of Article 9 of the Law No. 5651 in Terms of Freedom of Expression], Rona Aybay’a Armağan (Legal Hukuk Journal, Special Issue, December 2014), İstanbul, Legal, 2014, Volume I, pp.1059-1120. <http://www.anayasa.gen.tr/5651.pdf>.

¹⁰⁸ Ali Kılık Application, No: 2014/5552, 26.10.2017, § 63.

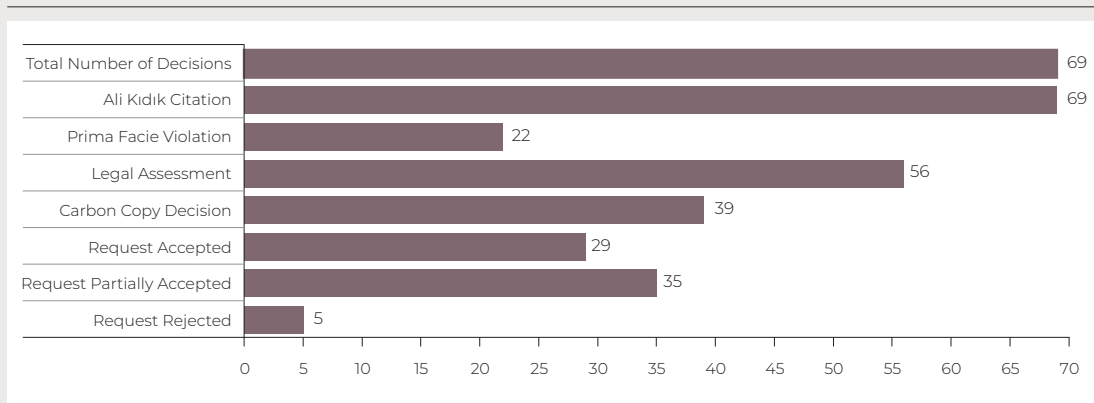
¹⁰⁹ Kemal Gözler Application (No: 2014/5232, 19.04.2018); Miyase İlknur and Others Application (No: 2015/15242, 18.07.2018); A.A. Application, (No: 2014/7244, 12.09.2018); Yeni Gün Haber Ajansı Basın ve Yayıncılık A.Ş. Application, (No: 2015/6313, 13.09.2018); IPS Communication Foundation Application (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 Küçükkaya Application (No: 2014/15916, 09.01.2020); Medeni Özer Application (No: 2017/15421, 30.09.2020); Keskin Kalem Yayıncılık ve Ticaret A.Ş. And Others Application, (No: 2018/14884, 27.10.2021), Official Gazette: 07.01.2022, No. 31712.

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

As part of the EngelliWeb project, approximately 6.200 access-blocking decisions issued in 2019 subject to article 9 of Law No. 5651 by nearly 690 criminal judgeships of peace across Türkiye were identified and assessed. It was found that among the access-blocking decisions assessed, only **69 (0,011%) decisions** issued by 17 different judgeships and 19 different judges referred to the Ali Kılık judgment of the Constitutional Court. Therefore, it was found that more than 6.000 decisions did not refer to the Ali Kılık 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 Kılık judgment in 2019 were examined in detail, it was determined that legal assessment was made in 56 decisions but that 39 of those 56 decisions were identical copy-and-paste decisions. It was also observed that a “prima facie violation” assessment was made only in 22 of the 69 decisions identified out of the 6.200 decisions. Moreover, it was found that the requests were granted in 29 of 69 decisions, while they were partially granted in 35 decisions. On the other hand, only five requests were denied. The remaining 47 decisions only referred to the application number of the Ali Kılık judgment, but they did not include any prima facie violation assessment, even though it was required by the Constitutional Court. Finally, there was no legal assessment or any prima facie violation assessment at all in 13 of the 39 decisions that referred to the Ali Kılık judgment.

Figure 20: Application of the CC's Ali Kılık Judgment by CJPs in 2019

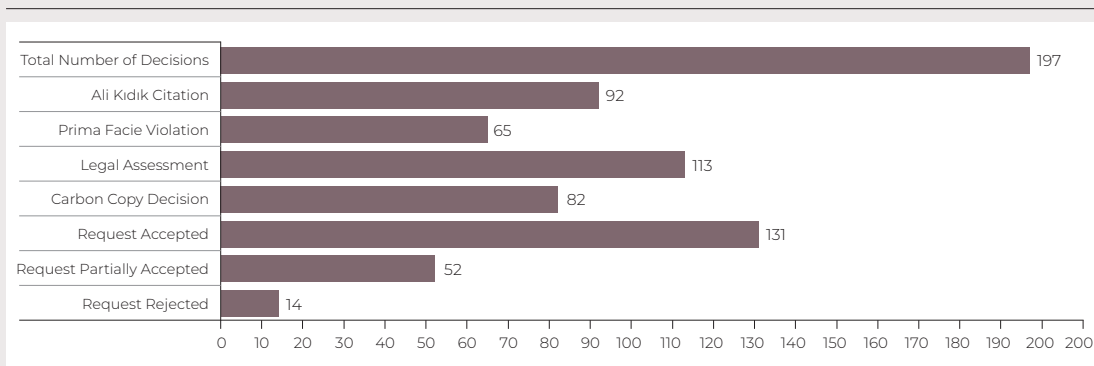


THE PRIMA FACIE VIOLATION ASSESSMENT OF THE CRIMINAL JUDGESHIIPS OF PEACE IN 2020

Approximately **3.173** access-blocking and/or content removal decisions issued in 2020 by nearly **369** criminal judgeships of peace across Türkiye subject to article 9 of Law No. 5651 were identified and assessed. It was determined that among the decisions assessed, **92 decisions** issued by **60** different judgeships and **67** different

judges directly referred to the Ali Kıdık judgment; **105 decisions** referred to the principle of “**prima facie violation**” without reference to the Ali Kıdık judgment and a total of **197 decisions (0,062%)** referred to this principle. Therefore, it was determined that **2.976** decisions did not refer to the Ali Kıdık judgment of the Constitutional Court and that no “**prima facie violation**” assessment was made in thousands of such decisions.

Figure 21: Application of the CC’s Ali Kıdık Judgment by CJPs in 2020



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

THE PRIMA FACIE VIOLATION ASSESSMENT OF CRIMINAL JUDGESHIPS OF PEACE IN 2021

As part of the EngelliWeb project, decisions issued by criminal judgeships of peace were examined in terms of prima facie violation assessments in 2021, as in 2019 and 2020. Judgeships that issued the highest number of decisions subject to article 9 in 2021 are as follows:

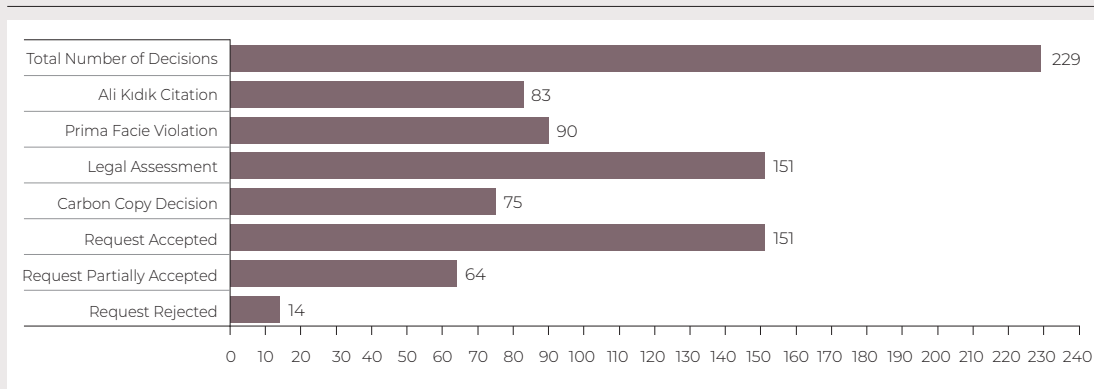
1. Ankara 7th Criminal Judgeship of Peace, with **124** decisions,
2. Ankara 3rd Criminal Judgeship of Peace, with **105** decisions,

3. Ankara 1st Criminal Judgeship of Peace, with **84** decisions,
4. Ankara 5th Criminal Judgeship of Peace, with **73** decisions,
5. Ankara 6th Criminal Judgeship of Peace, with **63** decisions,
6. Ankara 8th Criminal Judgeship of Peace, with **63** decisions,
7. Istanbul Anatolia 4th Criminal Judgeship of Peace, with **60** decisions,
8. Istanbul Anatolia 8th Criminal Judgeship of Peace, with **59** decisions,
9. Ankara 2nd Criminal Judgeship of Peace, with **58** decisions, and
10. Serik Criminal Judgeship of Peace, with **55** decisions.

As can be seen above, criminal judgeships of peace in Ankara were in the top 5 in the list of criminal judgeships of peace with the highest number of access-blocking and/or content removal decisions issued in 2021. Other judgeships in the top 10 were various judgeships located in Istanbul and Serik.

Approximately **3.504** access-blocking and/or content removal decisions issued in 2021 by nearly **386** criminal judgeships of peace across Türkiye subject to article 9 of Law No. 5651 were identified and assessed. It was determined that among the decisions assessed, **83 decisions** issued by **81** different judgeships and **84** different judges directly referred to the Ali Kılık judgment; 146 decisions referred to the principle of “prima facie violation” without reference to the Ali Kılık judgment and **a total of 229 decisions (0,065%)** referred to this principle. Therefore, it was established that **3.275** decisions did not refer to the Ali Kılık judgment of the Constitutional Court and that no “**prima facie violation**” assessment was made in thousands of decisions, as in previous years.

Figure 22: Application of the CC's Ali Kılık Judgment by CJPs in 2021

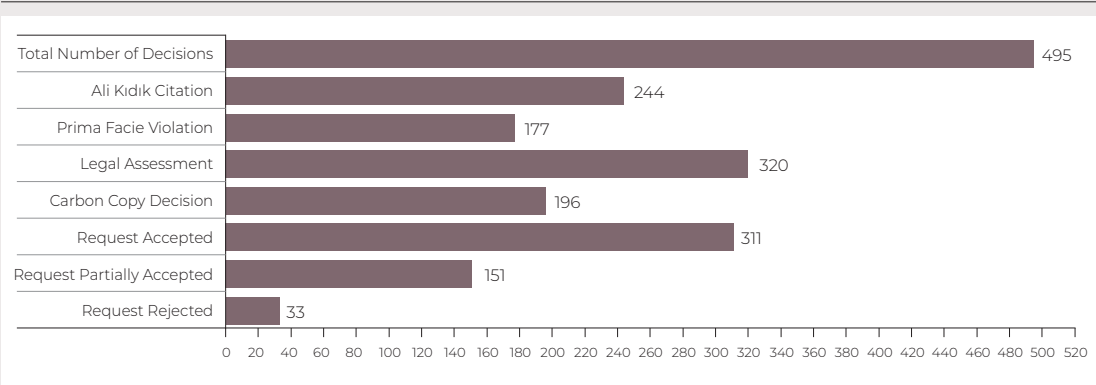


COMPARISON OF THE PRIMA FACIE VIOLATION ASSESSMENT OF CRIMINAL JUDGESHIPS OF PEACE FROM 2019 TO 2021

As stated above, in **2019**, “prima facie violation” assessment, required since the Ali Kılık judgment of the Constitutional Court, was only found in **11%** of the decisions and only a small number of access-blocking decisions referred to this judgment. This

rate increased to **62%** in **2020** and reached **65%** in **2021** as a result of a slight increase.

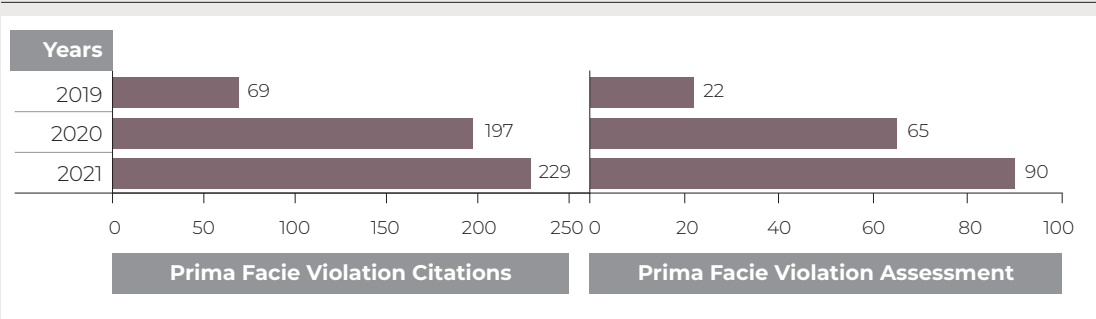
Figure 23: Application of the CC's Ali Kılık Judgment by CJPs from 2019 to 2021



It was found that a prima facie violation assessment was only made in 22 (**3%**) of the 69 decisions referring to the Ali Kılık judgment in **2019** and in 65 (**20%**) of the 197 decisions referring to the Ali Kılık judgment in **2020**. A prima facie violation assessment was only made in 90 (**25%**) of the 229 decisions referring to the Ali Kılık judgment in **2021**.

Even though the number of decisions that were issued by criminal judgeships of peace and referred to the Ali Kılık judgment and the principle of prima facie violation increased in 2020 and 2021, compared to 2019, this increase remains nominal.

Figure 24: CJPs' Citation and Review of the CC's Ali Kılık Judgment: 2019-2021



This is clearly **not a coincidence**, and criminal judgeships of peace continue to **completely ignore** the Ali Kılık judgment and the subsequent 17 similar judgments issued by the Constitutional Court since October 2017. Therefore, the Ali Kılık judgment of the Constitutional Court does not resolve the problems with the enforcement of article 9 and the Constitutional Court continued to ignore the structural problems related to article 9 until the end of 2021. In nearly 4 years since the publication of the Ali Kılık Judgment in the Official Gazette, the prima facie violation approach has be-

come part of the structural problems instead of resolving them.¹¹⁰ As stated in our previous reports, it is clear that article 9 of Law No. 5651, which does not impose any obligation to assess whether there is a prima facie violation or not, does not qualify as a law in the material sense or **achieve the quality requirement** of Article 13 of the Constitution. The rule, as such, does not meet the requirements of the legality principle, such as clarity, precision and predictability or providing assurance against arbitrary interference. Moreover, while these structural problems continued, the amendments made to article 9 of Law No. 5651 in July 2020 completely ignored this matter. However, in the more recent judgment of the General Assembly of the Constitutional Court on the Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others application (issued on 27.10.2021 and published in the Official Gazette on 07.01.2022), the Constitutional Court finally took this criticism into consideration and found structural problems with article 9 of Law No. 5651. The Court in fact decided to initiate the pilot judgment procedure.¹¹¹ Even though the Constitutional Court did not explicitly refer to Engelli-Web reports in this judgment, the Court noted that “when reviewing this individual application, reports prepared by international organizations to which Türkiye is a party and by internationally-recognized non-governmental organizations on the regulation of the Internet” were taken into consideration.¹¹²

The Constitutional Court addressed the purpose of protecting personal rights and noted that while the rule under article 9 provided a legitimate reason for restriction, it did not “describe how criminal judgeships of peace shall exercise this authority,”¹¹³ that the existing rule and structure were not “**capable of preventing arbitrary and disproportionate interference**,”¹¹⁴ and that the indefinite blocking practice was a **severe tool for interference**. The Court found that the rights of the applicants under articles 26 and 28 of the Constitution were violated and that **the violation was directly caused by the law** which failed to provide fundamental assurances for the protection of freedom of expression and freedom of the press.¹¹⁵ The Constitutional Court notified the Turkish Grand National Assembly of its judgment on the resolution of the structural problems identified and ruled that the review of the applications submitted or to be submitted on the same matter following this judgment **shall be postponed for a year** from the judgment’s publication in the Official Gazette, until 06.01.2023. Furthermore, in June 2022, the Constitutional Court announced that it would **review 334 applications** in the light of its pilot judgment once the Court resumes to assess article 9 related applications.¹¹⁶

¹¹⁰ See further International Commission of Jurists, The Turkish Criminal Peace Judgeships and International Law Report, 2018, <https://www.icj.org/wp-content/uploads/2019/02/Turkey-Judgeship-Advocacy-Analysis-brief-2018-TUR.pdf>; Venice Commission, Opinion on the Duties, Competences and Functioning of the Criminal Peace Judgeships, No. 852/2016, 13.03.2017, [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, 15.06.2016, [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).

¹¹¹ Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), Official Gazette: 07.01.2022, No. 31712.

¹¹² Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 135.

¹¹³ Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 131.

¹¹⁴ Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 132.

¹¹⁵ Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 133.

¹¹⁶ See <https://www.anayasa.gov.tr/media/8051/pilotkararlar01.pdf>

To conclude, the pilot judgment was issued as a result of both İFÖD's findings that criminal judgeships of peace arbitrarily ignore the Constitutional Court's Ali Kızık judgment and numerous applications submitted to the Constitutional Court on this matter. Our subsequent 2022 report will include a detailed analysis of whether criminal judgeships of peace implemented the principles laid down by the Constitutional Court in its Ali Kızık and Keskin Kalem and Others judgments or failed to implement these principles despite the pilot judgment.

SANCTIONS SUBJECT TO ARTICLE 9/A OF LAW NO. 5651

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

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

It is observed that in practice, the legal procedure prescribed by article 9/A has not been preferred as much as that was established by article 9 of Law No. 5651. A significant contributing factor to the low usage is the complexity of the procedure provided by BTK with regards to the enforcement of article 9/A.¹¹⁷ While the intention of the legislator in enacting article 9/A was to ensure “**expeditiousness**” with respect to violations of right to privacy, BTK requires the **relevant violation request forms to be submitted either by hand or mail**. As a result, only a total of **214 decisions**, including 112 in 2015, 93 in 2016, and only 9 in 2017, have been issued by criminal judgeships of peace upon requests of citizens subject to article 9/A.¹¹⁸

RTUK AND ACCESS-BLOCKING PRACTICES

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

¹¹⁷ See <https://www.ihbarweb.org.tr/ohg/>

¹¹⁸ Statistics of decisions issued under article 9/A from 2018 to 2021 could not be accessed as part of the EngelliWeb project.

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

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

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

Once the legal provision and the relevant Regulation came into force, RTUK issued warning notifications involving a total of 30 different websites and platforms during 2020. Within this context, 5 different websites and platforms, including the video sharing platform **Amazon Prime**, were warned on 31.03.2020,¹¹⁹ 8 different websites and platforms were warned on 20.04.2020,¹²⁰ 5 different websites and platforms were warned on 22.06.2020,¹²¹ 2 different radio websites were warned on 28.09.2020,¹²² 6 different websites and platforms, including the world-renowned music platforms **Tidal** and **Deezer**, were warned on 09.11.2020¹²³ and 4 different radio websites were

¹¹⁹ <https://biattv.com/canli-tv-izle>, <https://canlitv.com/biattv>, <https://slowkaradeniztv.com>, www.primevideo.com, www.dsmartgo.com.tr

¹²⁰ <https://canlitv.com>, <https://canlitv.com/berk-tv>, <http://www.berktv.com>, <http://www.fuartz.net/>, <https://canlitv.com/fuar-tv>, <http://www.guneydogutv.com>, <https://canlitv.com/guneydogu-tv>, <https://broadcasttr.com/gtv>

¹²¹ <https://cine5tv.com>, <http://sinopyildiz.tv/>, <http://www.arastv.net/v1/>, <http://www.kanal58.com.tr>, <https://mubi.com/tr>

¹²² www.radyosfer.com and www.radyogram.com

¹²³ <https://serikajanstv.com/>, www.enbursa.com/, <https://www.kent19.tv/>, <https://www.tidal.com>, <https://www.deezer.com> and www.radiokent.net

also warned on 23.12.2020¹²⁴ that their websites may be blocked from Türkiye in case they act in violation of article 29/A. **Tidal**, which ignored this warning, was blocked by the Ankara 7th Criminal Judgeship of Peace on **24.11.2020** upon the request of RTUK.¹²⁵ In its decision, the judgeship noted that “the request was granted as it was understood that broadcasting services were provided in violation of article 29/A of Law No. 6112.” When Tidal declared that it would apply to RTUK for license and had paid the broadcasting license fee for three months, RTUK appealed against the decision of Ankara 7th Criminal Judgeship of Peace. This appeal was accepted by the Ankara 8th Criminal Judgeship of Peace.¹²⁶ During this process, Tidal was blocked until **19.12.2020**. Moreover, the website **ozguruz20.org** was also blocked subject to a decision of the Ankara 4th Criminal Judgeship of Peace on 12.06.2020 upon the request of RTUK.¹²⁷

During **2021**, access to **25 separate websites** was blocked subject to the decisions issued by the Ankara 1st, 2nd, 3rd, 4th, 7th and 8th Criminal Judgeships of Peace subject to article 29/A of Law No. 6112 upon the requests of RTUK. The majority of these blocked websites were broadcasting live radio and/or TV programmes without a license from RTUK.

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

With the amendments and additions made to the Law No. 5651 with the Law No. 7253 on 29.07.2020, a new provision involving **social network providers** has been introduced. The amendments to the law were published in the Official Gazette on 31.07.2020.¹²⁸ First of all, the definition of “**social network provider**” was added to the definitions section of the Law No. 5651 by article 1 of Law No. 7253. Accordingly, **social network provider** is defined as “natural or legal persons that allow users to create, view, or share content such as text, images, audio files, or location on the Internet for social interaction.”¹²⁹

Supplementary article 4, putting forth the responsibilities and obligations of social network providers, was included in the Law No. 5651 by article 6 of Law No. 7253. In this context, not all social network providers are included within the scope of the law, but only “**foreign social network providers with daily access of more than one million users from Türkiye** are required to appoint at least one representative in Türkiye,¹³⁰ in order to fulfill the requirements of the law, including taking the necessary action with regards to the notifications to be sent or the requests to be submitted by the BTK,¹³¹ the ESB,¹³² or administrative or judicial bodies; responding to the applications to be made by the individuals within the scope of the Law No. 5651; and to ensure that other obligations under this Law are fulfilled.” It is also indicated that in

¹²⁴ <https://canliradyodinle.gen.tr>, <https://www.canli-radyo.biz>, <https://onlineradiobox.com/tr> and <https://canli-radyodinle.fm>

¹²⁵ Ankara 7th Criminal Judgeship of Peace, no. 2020/8108, 24.11.2020.

¹²⁶ Ankara 8th Criminal Judgeship of Peace, no. 2020/9654, 18.12.2020.

¹²⁷ Ankara 4th Criminal Judgeship of Peace, no. 2020/3757, 12.06.2020.

¹²⁸ Official Gazette, 31.07.2020, no. 31202.

¹²⁹ Article 2(s) of Law No. 5651.

¹³⁰ Supplementary article 4(1) of Law No. 5651.

¹³¹ Information Technologies and Communication Board.

¹³² Association of Access Providers.

case the representative is a natural person, he/she must be a Turkish citizen, and his/her contact details must be easily visible and directly accessible on the website of the social network provider. The **Procedures and Principles Regarding Social Network Providers** were put forth by the decision of the Information Technologies and Communication Board published in the Official Gazette on 02.10.2020.¹³³ Within this framework, it was clearly stated that representatives of social network providers may be “natural or legal persons.”¹³⁴ According to these procedures and principles, the legal entities to be established are required to be “established in Türkiye subject to Turkish laws.”¹³⁵ Provisional article 5 of Law No. 5651 provides that social network providers shall complete the necessary work to appoint representatives **within three months** from the date of entry into force of this article, namely on 31.07.2020, in order to fulfill their obligations.¹³⁶ This period expired on **01.10.2020**.

It was noted that BTK shall first send a notification to warn any social network provider that fails to fulfil its obligation to appoint a representative and notify BTK of its representative by 01.10.2020.¹³⁷ Despite this notification, if the social network providers do not designate or appoint a representative in Türkiye, various sanctions and penalties may be imposed subject to this provisional article. In this context:¹³⁸

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

¹³³ Information Technologies and Communication Board, 2020/DK-İD/274, 29.09.2020.

¹³⁴ BTK, article 6(1) of the Procedures and Principles Regarding Social Network Providers.

¹³⁵ BTK, article 6(2) of the Procedures and Principles Regarding Social Network Providers.

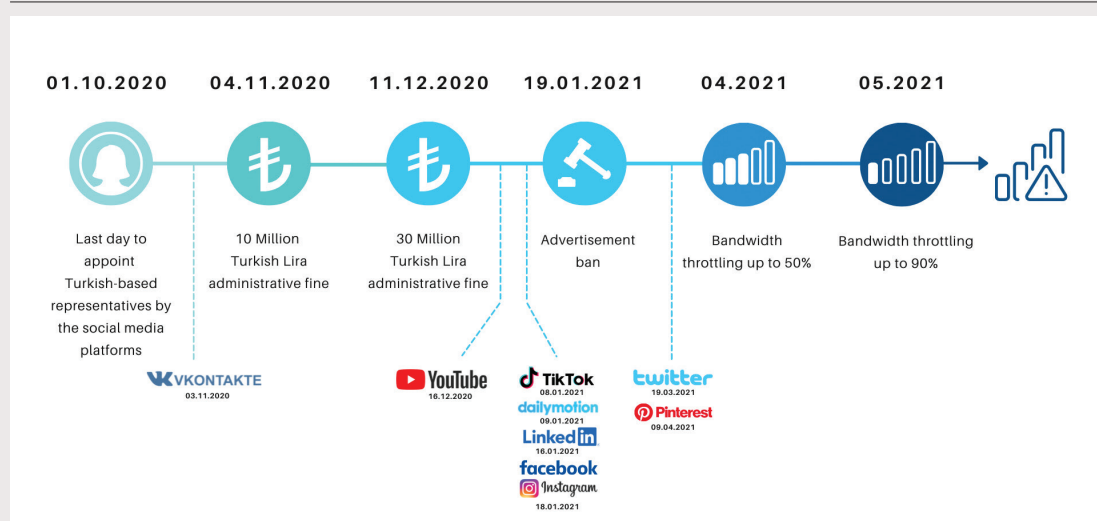
¹³⁶ Provisional article 5(1)(a) of Law No. 5651.

¹³⁷ Supplementary article 4(2) of Law No. 5651.

¹³⁸ Supplementary article 4(2) of Law No. 5651.

In case the obligation to “designate or appoint a representative in Türkiye and notify BTK of the representative” is fulfilled during the process described above, a quarter of the administrative fines shall be collected, the administrative ban shall be lifted, and the throttling decisions of the judge shall automatically become null and void. While the first legal representative notification was made by Vkontakte in early November 2020, BTK announced that it imposed administrative fines of 10 million TRY on Facebook, YouTube, Instagram, Twitter, LinkedIn, TikTok, Dailymotion, Periscope, and Pinterest on **04.11.2020**. It was reported that an additional administrative fine of 30 million TRY was imposed on the same platforms on **11.12.2020**. Subsequently, YouTube (16.12.2020), TikTok (08.01.2021), Dailymotion (09.01.2021), LinkedIn (16.01.2021), Facebook and Instagram (18.01.2021) notified BTK that they would establish a legal representative office in Türkiye.¹³⁹ On 19.01.2021, an advertisement ban was imposed on Twitter, Periscope, and Pinterest, which did not establish or announce that they will establish legal representation in Türkiye.¹⁴⁰ Subsequent to the enforcement of the advertisement ban, Twitter (19.03.2021) and Pinterest (09.04.2021) declared that they would appoint a legal representative in Türkiye. Based on these declarations, advertisement bans on Pinterest¹⁴¹ and Twitter¹⁴² were lifted on 11.04.2021 and 24.04.2021, respectively. Legal entities were established by Google on 12.01.2021, by TikTok on 29.02.2021,¹⁴³ and by Twitter on 22.04.2021 subject to Turkish law to represent these social network providers in Türkiye.¹⁴⁴ Similarly, Facebook and LinkedIn established their representative offices in Türkiye in the first half of 2021.¹⁴⁵

Screenshot 65: Timeline of procedures and sanctions involving social network providers



¹³⁹ See <https://twitter.com/ofatihsayan/status/1380454617146925059>

¹⁴⁰ BTK Order No. 4202, 19.01.2021 (Pinterest); BTK Order No. 3768, 15.01.2021 (Twitter); BTK Order No. 3769, 15.01.2021 (Periscope), Official Gazette, 19.01.2021, no. 31369.

¹⁴¹ BTK Order No. 25159, 09.04.2021 (Pinterest), Official Gazette, 11.04.2021, no. 31451.

¹⁴² BTK Order No. 28123, 22.04.2021 (Twitter), Official Gazette, 24.04.2021, no. 31464.

¹⁴³ See <https://www.tiktok.com/legal/turkey-social-media-law-5651?lang=tr>.

¹⁴⁴ Other social network providers have not yet established legal entities as of the date of this report.

¹⁴⁵ For Facebook, see <https://www.facebook.com/help/118930960130870/?helpref=related>, and for LinkedIn, see <https://www.linkedin.com/help/linkedin/answer/129169>

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

OBLIGATION TO RESPOND TO REQUESTS AND PROVIDE REASONS

As for the responsibilities of social network providers who have legal representatives in Türkiye, they are “obliged to provide a positive or negative response to any application made by individuals regarding content subject to article 9, concerning personal rights, and article 9/A, concerning the right to privacy of Law No. 5651, within forty-eight hours at the latest.”¹⁴⁶ Similarly, it is required to provide reasoned decisions in relation to negative responses. Social network providers are also obliged to ensure that such applications can be made in Turkish and that applications made in Turkish are responded in Turkish, in order to process the applications of individuals easily.¹⁴⁷ Among the social network providers that declared that they would appoint a legal representative in Türkiye, or established their representative offices before June 2021; Facebook, YouTube, LinkedIn, and TikTok prepared different forms for complaint in accordance with the requirements of Law No. 5651 in 2021.¹⁴⁸ It is stipulated that the President of BTK would impose an administrative fine of five million Turkish liras on the social network providers that fail to fulfil this obligation.¹⁴⁹

ENFORCEMENT OF ACCESS-BLOCKING AND CONTENT REMOVAL DECISIONS

Foreign social network providers with more than one million daily access from Türkiye are required to enforce the access-blocking and/or content removal decisions issued subject to articles 8 and 8/A of Law No. 5651. It is stipulated that in case of failure to enforce these decisions, an administrative fine of a million Turkish liras shall be imposed on the providers, and that the fine shall be increased by one fold for each repetition of the violations requiring administrative fines within a year.¹⁵⁰ Similarly, it is stipulated that a judicial fine of five thousand days may be imposed in case of failure to enforce the access-blocking and/or content removal decisions issued subject to articles 8 and 9 of Law No. 5651.¹⁵¹

Furthermore, in the event that any content which has been determined to be unlawful by a judge or a court decision is notified to a social network provider, the social network provider shall be responsible for the **indemnification of any damages incurred**, in case it fails to remove the content or block access to it within twenty-four hours despite the notification.¹⁵² In this context, execution of this legal provision shall not require a re-

¹⁴⁶ Supplementary article 4(3) of Law No. 5651.

¹⁴⁷ BTK, articles 10(2) and 10(3) of the Procedures and Principles Regarding Social Network Providers.

¹⁴⁸ For **Facebook**, see <https://www.facebook.com/help/contact/435015304579692> (accessed on 25.03.2021); for **YouTube**, see https://support.google.com/youtube/contact/Turkey_Webform_Law_No_5651; for **LinkedIn**, see <https://www.linkedin.com/help/linkedin/ask/TURKISH-LAW?lang=tr>, and for **TikTok**, see <https://www.tiktok.com/legal/report/contentremoval?lang=tr>

¹⁴⁹ Supplementary Article 4(6) of Law No. 5651. Also see BTK, article 19 of the Procedures and Principles Regarding Social Network Providers.

¹⁵⁰ Supplementary article 4(7) of Law No. 5651.

¹⁵¹ Supplementary article 4(7) of Law No. 5651.

¹⁵² Supplementary article 4(8) of Law No. 5651.

course to the responsibility of the content provider or to a lawsuit against the content provider so far as the social media platform providers are concerned. Finally, these obligations of social network providers shall not relieve them of their responsibilities or obligations as content or hosting providers.¹⁵³ As of the publication date of the 2021 report, no penalty has been imposed on any social network providers.

OBLIGATION TO STORE USER DATA IN TÜRKİYE

Within the scope of the new regulation, domestic or foreign social network providers with more than one million daily access from Türkiye are obliged to take the necessary measures to host the data of their Türkiye-based users in Türkiye.¹⁵⁴ Article 12 of the **Procedures and Principles Regarding Social Network Providers**, established by the decision of the Information Technologies and Communication Board,¹⁵⁵ provides that “in the implementation of this article, priority shall be given to measures to ensure that basic user details and the data regarding particular issues that may be notified by the Board are stored in Türkiye.”¹⁵⁶ According to the same article, the “Board shall be notified of the measures taken under this article, as well as the issues notified by the Board, during each reporting period.” However, the relevant article or the relevant procedures and principles do not clarify which data/information of the users in Türkiye shall be stored in Türkiye by social network providers, the conditions under which this data shall be stored, how this data shall be stored and whether this data shall be disclosed collectively to BTK and/or other institutions. As of the publication date of the 2021 report, no explanation has been provided by social network providers or BTK on this matter.

REPORTING OBLIGATION

Domestic or foreign social network providers with more than one million daily access from Türkiye are also obliged to submit reports that are prepared in Turkish and contain statistical and categorical information on the enforcement of the content removal and/or access-blocking decisions notified to them, and the applications made within the scope of paragraph 3, to BTK every six months.¹⁵⁷ In this context, the report regarding the applications made directly to social network providers¹⁵⁸ is required to be published on the website of the social network provider by removing any personal data. Provisional article 5 of Law No. 5651 requires social network providers to submit their first reports to BTK in June 2021 and publish them on their own websites.¹⁵⁹ It is stipulated that the President of BTK would impose an administrative fine of ten million Turkish liras on the social network providers that fail to fulfill their reporting obligations.¹⁶⁰

While V Kontakte, YouTube, Daily Motion, Facebook/Instagram, and Twitter, which established their representative offices in Türkiye, published their transparen-

¹⁵³ Supplementary article 4(9) of Law No. 5651.

¹⁵⁴ Supplementary article 4(5) of Law No. 5651

¹⁵⁵ Information Technologies and Communication Board, 2020/DK-İD/274, 29.09.2020.

¹⁵⁶ BTK, article 12(2) of the Procedures and Principles Regarding Social Network Providers.

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

¹⁵⁸ Supplementary article 4(3) of Law No. 5651.

¹⁵⁹ Provisional article 5(1)(b) of Law No. 5651.

¹⁶⁰ Supplementary article 4(6) of Law No. 5651.

cy reports for the first and second half of 2021 separately, **TikTok**, **LinkedIn**, and **Pinterest** did not release their transparency reports for the first and second half of 2021. Moreover, there is no uniformity in the reports published and it is not easy to find the reports on the websites of the said platforms.

SOCIAL MEDIA ACCOUNTS AND CONTENT BLOCKED FROM TÜRKİYE IN 2021

RANKING OF TÜRKİYE IN TWITTER TRANSPARENCY REPORTS

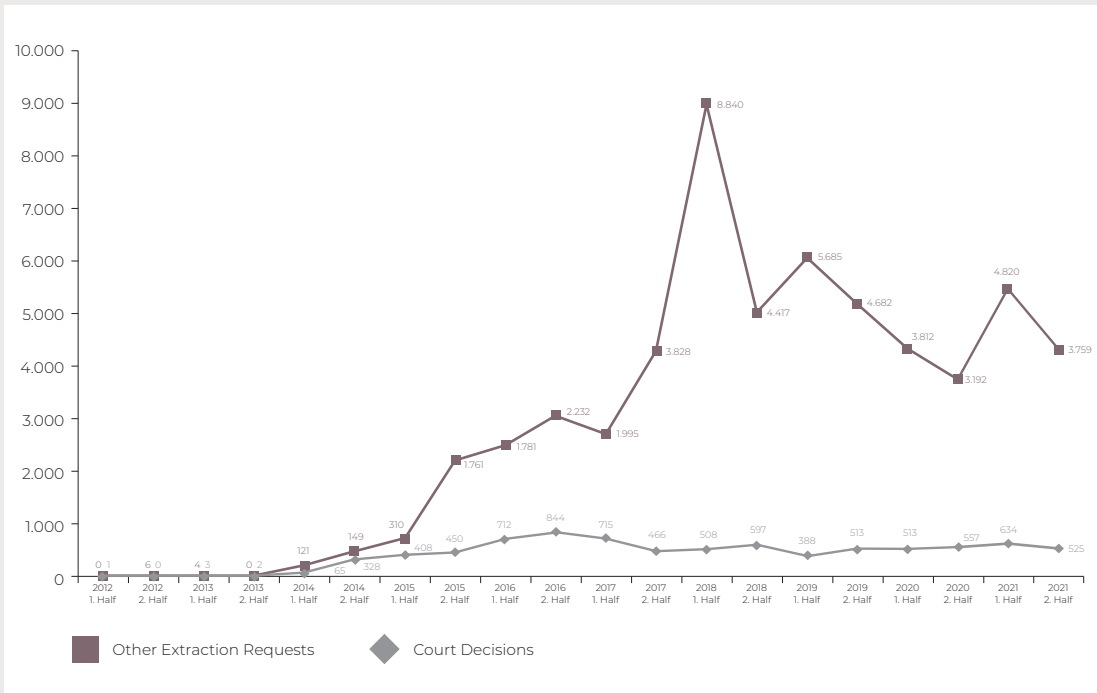
Twitter has been publishing biannual Transparency Reports since 2012. In these reports, Twitter reveals the number of removal decisions received from local courts; the removal requests submitted by government bodies and other natural or legal persons; removal rates; the number of accounts specified in withholding/removal requests; the number of accounts withheld/removed; and the number of tweets blocked or removed from the Twitter platform per country, including Türkiye. However, Twitter's transparency reports do not include the number of tweets specified in removal requests.

Table 3: Türkiye in Twitter's Transparency Reports: All Statistics

Reporting Period	Court Decisions	Other Legal Requests	Compliance Rates	Accounts Specified	Accounts Withheld	Tweets Withheld - Türkiye	Tweets Withheld - Global	Tweets Withheld - Other Countries
2012: 1 st Half	1	0	%0	7	0	0	0	0
2012: 2 nd Half	0	6	%0	9	0	0	44	44
2013: 1 st Half	3	4	%0	30	0	0	73	73
2013: 2 nd Half	2	0	%0	2	0	0	191	191
2014: 1 st Half	65	121	%30	304	17	183	251	68
2014: 2 nd Half	328	149	%50	2.642	62	1.820	1.982	162
2015: 1 st Half	408	310	%34	1.978	125	1.667	2.534	867
2015: 2 nd Half	450	1.761	%23	8.092	414	3.003	3.353	350
2016: 1 st Half	712	1.781	-	14.953	222	1.571	2.599	1.028
2016: 2 nd Half	844	2.232	%19	8.417	290	489	1.113	624
2017: 1 st Half	715	1.995	%11	9.289	204	497	1.463	966
2017: 2 nd Half	466	3.828	%3	6.544	148	322	1.122	800
2018: 1 st Half	508	3.480	%18	13.843	425	1.464	2.656	1.192
2018: 2 nd Half	597	4.417	%0	9.155	72	355	2.471	2.116
2019: 1 st Half	388	5.685	-	8.993	264	230	2.103	1.873
2019: 2 nd Half	513	4.682	%0.31	9.059	215	386	3.518	3.132
2020: 1 st Half	513	3.812	%0.33	6.523	43	148	3.069	2.921
2020: 2 nd Half	557	3.192	%0.25	7.381	26	182	2.571	2.389
2021: 1 st Half	634	4.820	%61	6.825	27	203	6.323	6.120
2021: 2 nd Half	525	3.759	%58	8.496	62	540	7.191	6.651
Total	8.229	51.034		122.542	2.616	13.060	44.627	31.567

In 2021, **1.159** court decisions and **8.579** other removal requests were submitted to Twitter from Türkiye and **15.321** Twitter accounts were specified in the withholding/removal requests. Nonetheless, Twitter announced that it only withheld/removed **89 accounts** and **743 tweets** from Türkiye in 2021.

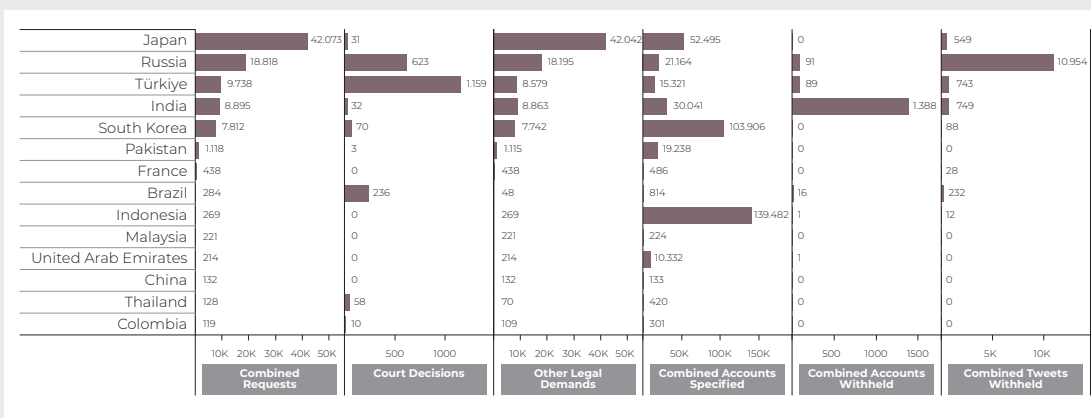
Figure 25: Court Decisions and Other Legal Requests Submitted to Twitter from Türkiye



When compared to other countries, **1.159** of the **2.305** court decisions submitted to Twitter in **2021** were sent from **Türkiye**. **Russia** ranked second with **623** court decisions and was followed by **Brazil**, with **236** court decisions. A total of **88.654** other legal requests were submitted to Twitter. In this category, **Japan** ranked first with **42.042** requests and was followed by **Russia**, with **18.195** requests and **India**, with **8.863** requests. **Türkiye** ranked fourth with **8.579** requests.

While a total of **395.809** Twitter accounts were specified in removal requests in 2021, the highest number of requests (**139.482**) in this category were submitted from **Indonesia**, which was followed by **South Korea** with **103.906** requests, **Japan** with **52.495** requests, and **India** with **30.041** requests. **Türkiye** ranked seventh with **15.321** requests.

Figure 26: Twitter Transparency Report 2021: Combined Requests

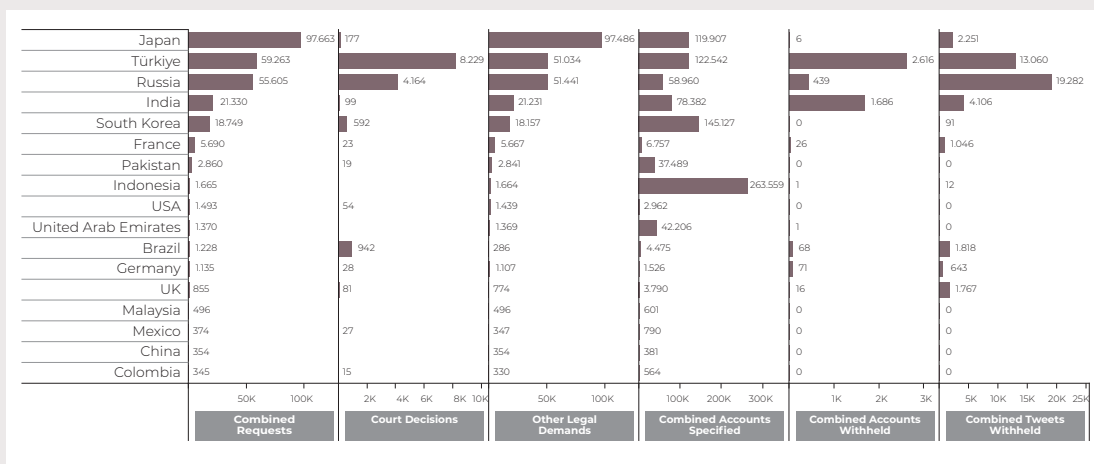


Twitter removed or withheld a total of **1.621** accounts worldwide upon these requests in 2021. While **India** was the country in which Twitter removed or withheld the highest number of accounts (**1.288** accounts) in **2021**, **Russia** ranked second with **91** accounts and **Türkiye** ranked third with **89** accounts. Finally, Twitter removed or withheld a total of **13.514** tweets in 2021. In the category of countries with the highest number of removed tweets, **Russia** ranked first with **10.954** tweets and was followed by **India**, with **749** tweets, and **Türkiye**, with **743** tweets.

RANKING OF TÜRKİYE IN TWITTER TRANSPARENCY REPORTS WORLDWIDE

The 2012-2021 Twitter Transparency Reports present a grim picture of Türkiye when compared to other countries, as shown in the figures below. While **14.804 court decisions** were submitted to Twitter worldwide from the beginning of 2012 to the end of 2021, **8.229 (55%)** of them were submitted from **Türkiye**, which is the undisputed leader in this category. **Russia** ranked second with **4.164** court decisions, and **Brazil** ranked third with **902** court decisions. When **other legal requests** are assessed, it is found that a total of **257.844** requests were submitted to Twitter worldwide. The highest number of requests were submitted from **Japan** with **97.486 (37%)** requests, while **Russia** ranked second with **51.441 (19%)** requests and **Türkiye** ranked third with **51.034 (19%)** requests. Similarly, when the total number of requests is assessed, it is found that a total of **272.648** requests were submitted to Twitter. The highest number of requests were submitted from **Japan** with **97.663 (35%)** requests, while **Türkiye** ranked second with **59.263** requests (**21%**) and **Russia** ranked third with **55.605** requests (**20%**).

Figure 27: Twitter Transparency Reports 2012-2021: Combined Requests

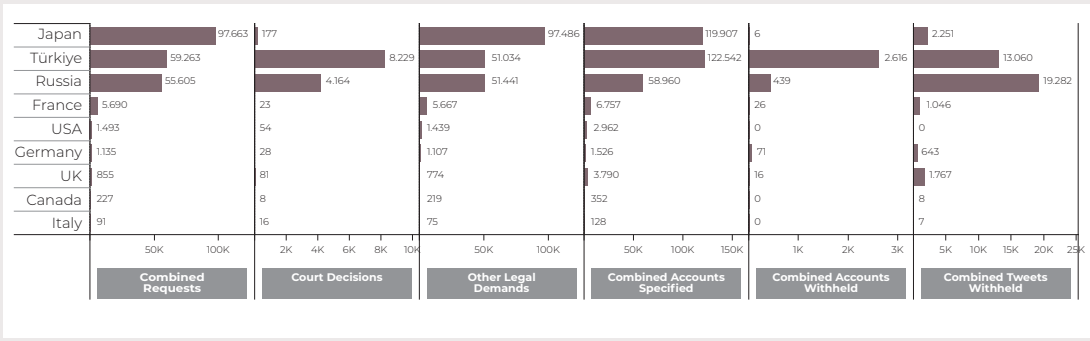


While a total of **896.134** accounts were specified in withholding/removal requests worldwide, Twitter only removed or withheld a total of **4.959** accounts. In the category of the number of accounts specified, **Indonesia** ranked first with **263.559 (29%)** accounts and was followed by **South Korea**, with **145.127 (16%)** accounts, and **Türkiye**, with **122.542** accounts (**13%**). **Japan** ranked fourth with **119.907** accounts, and **India** ranked fifth with **78.382** accounts. In the category of the number of accounts removed or withheld, **Türkiye** ranked first with **2.616 (75%)** accounts and was followed by **India**, with **1.686** accounts, and **Russia**, with **439** accounts.

When the tweets removed or withheld by Twitter are examined, it is noted that Twitter does not disclose the number of tweets specified in removal or withholding requests but only discloses the number of tweets removed or withheld. Twitter has removed or withheld **44.455** tweets worldwide by the end of 2021. In the category of the number of tweets removed or withheld, **Russia** ranked first with **19.282 (43%)** tweets and was followed by **Türkiye** with **13.060 (29%)** tweets and **India** with **4.106 (9%)** tweets.

In figure 28, the ranking of Türkiye in Twitter Transparency Reports is compared to that of G8 countries, and the grim picture of Türkiye in Twitter Transparency Reports can be seen yet again transparently and clearly. It is submitted that Türkiye ranks in the top three, together with Japan and Russia, in the categories of submitted court decisions, accounts specified for removal, accounts withheld or removed and tweets removed. It is observed that among G8 countries, only Japan outranked Türkiye with an increasing number of requests in 2020 and 2021 in the categories of other legal requests and therefore the total number of requests. It is noted that the requests submitted from Japan to Twitter were mainly submitted subject to relevant laws regarding drugs, obscenity and lending money.

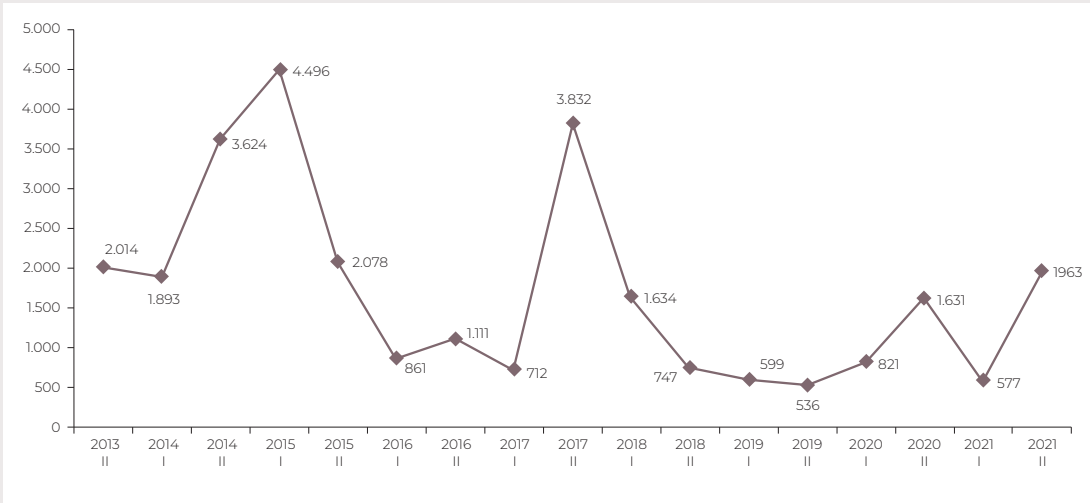
Figure 28: Comparison of Türkiye and G8 Countries in Twitter Transparency Reports



RANKING OF TÜRKİYE IN FACEBOOK TRANSPARENCY REPORTS

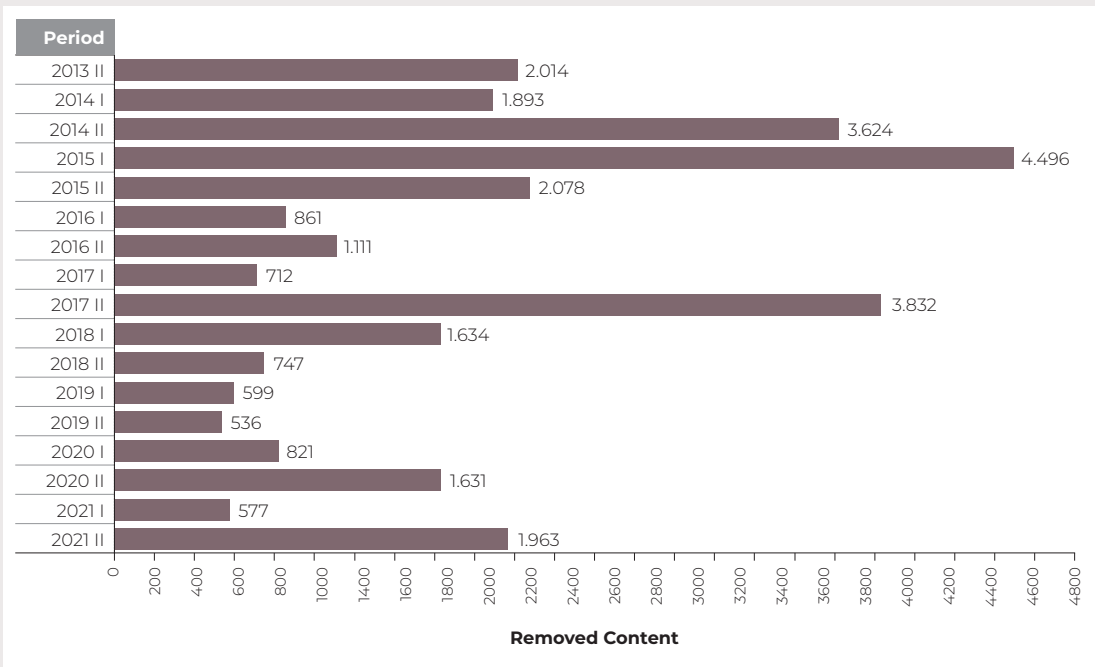
Facebook has started to publish biannual transparency reports since the second half of 2013 and published its last Transparency Report with respect to the second half of 2021.¹⁶¹ While Facebook removed a total of 26.589 content items from Türkiye from the second half of 2013 until the end of 2020, 2.540 further content items were removed in 2021, totaling the number of content items removed from Türkiye to 29.129. Compared to 2020 (2.452 content items were removed), the number of content items removed increased by 1% to 2.540 in 2021, compared to 2020.

Figure 29: Number of Content Items Removed by Facebook from Türkiye by Reporting Period



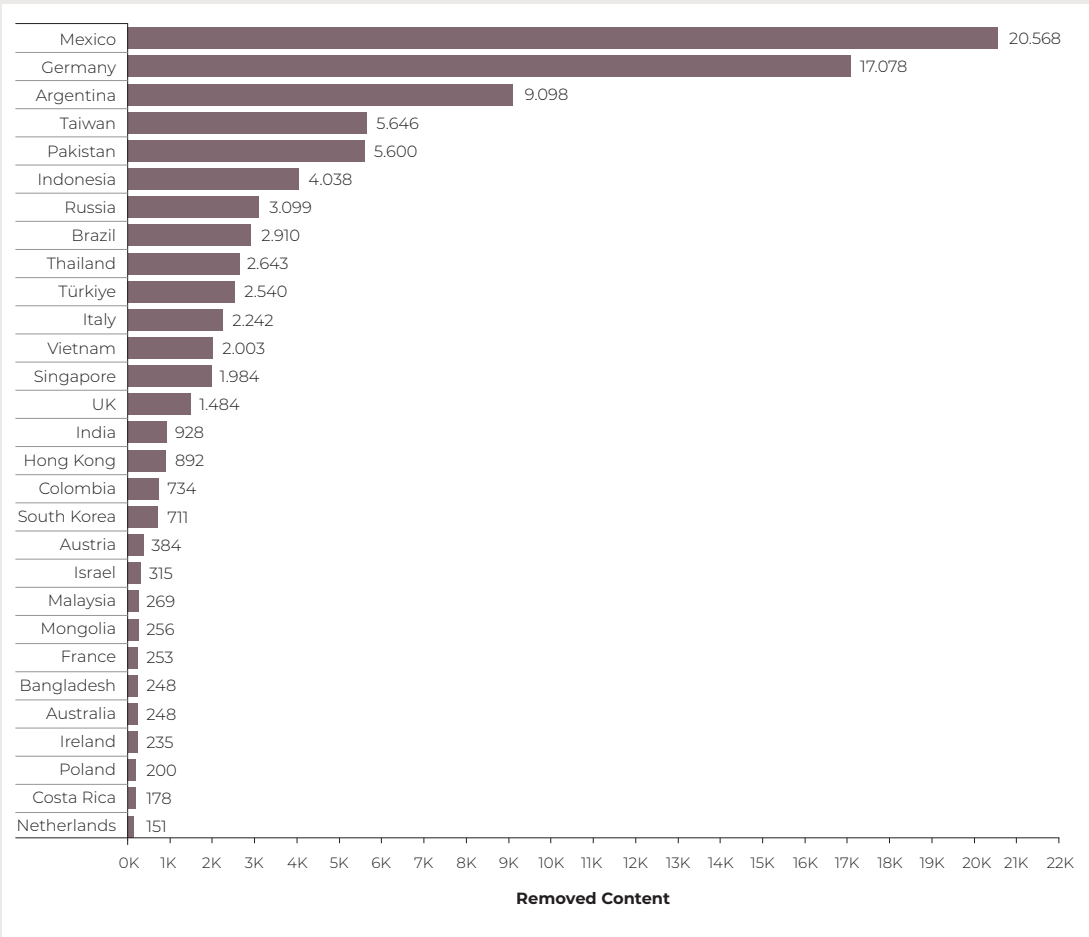
¹⁶¹ See <https://transparency.facebook.com/content-restrictions>

Figure 30: Number of Content Items Removed by Facebook from Türkiye by Reporting Period: 2013-2021



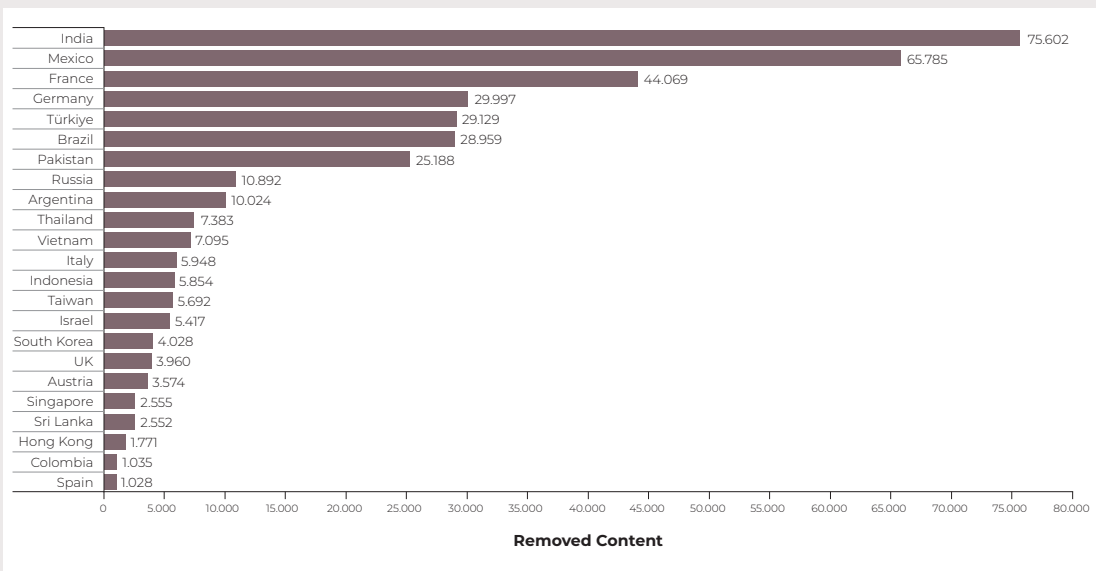
Statistical data for 2021 shows that **Mexico** ranked first with **20.568** content items removed and was followed by **Germany**, with **17.078** items removed and **Argentina** with **9.098** items removed. **Türkiye**, instead, ranked tenth in this category with **2.540** items removed.

Figure 31: Total Number of Removed Content Items by Country According to Facebook 2021 Transparency Report



When Facebook's worldwide statistics are assessed, it is determined that Facebook has restricted access to a total of **395.455** content items from its platform by the end of 2021, including **95.031** content items restricted in 2021. Among the countries where the highest number of content items were restricted or removed from Facebook, **India** ranked first with **75.602** items and was followed by **Mexico** with **65.785** items and **France** with **44.069** items. While **Germany** ranked fourth in this category with **29.997** content items, **Türkiye** ranked fifth with **29.159** items.

Figure 32: Facebook Transparency Reports 2013-2021: Total Number of Removed Content Items by Country



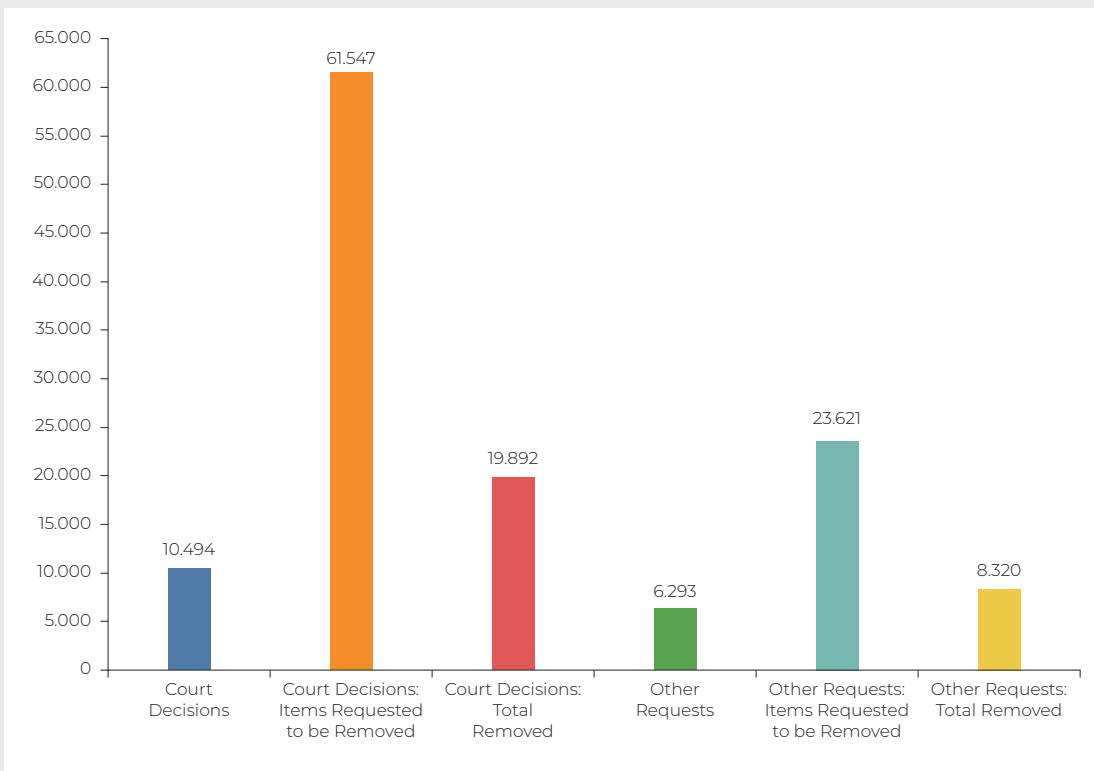
Unlike Twitter, Facebook does not provide further details or disclose the details of removal requests or requesting organisations. Facebook has stated that most of the **2.540** items removed or restricted upon requests submitted from Türkiye in 2021 were removed upon the requests submitted by BTK, courts, the Association of Access Providers, the Ministry of Health, and the Ministry of Customs and Trade within the scope of Law No. 5651.

RANKING OF TÜRKİYE IN GOOGLE TRANSPARENCY REPORTS

Google started to publish transparency reports in the second half of 2009. The transparency reports include detailed statistical data 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.

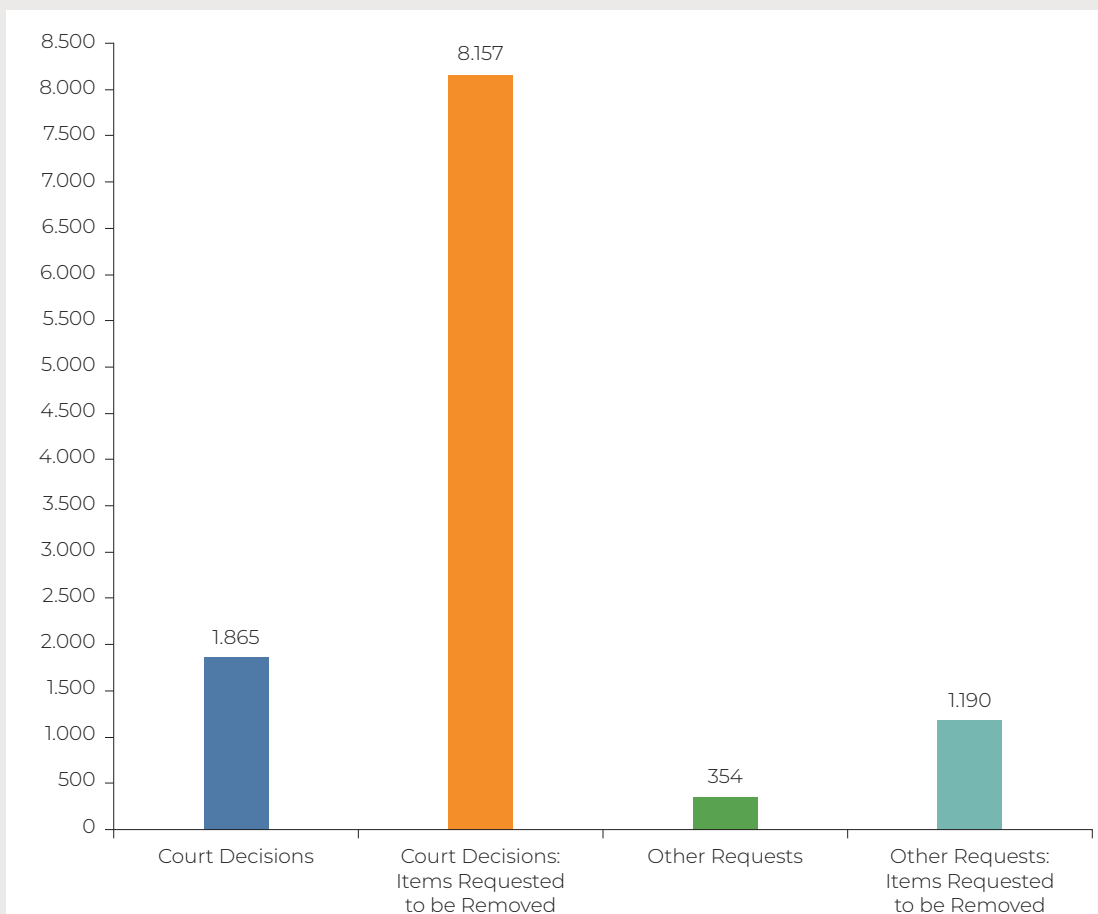
A total of **16.787 content removal requests** were submitted to Google from Türkiye by the end of 2021, including **10.494 court decisions** and **6.293 other requests** (BTK, police units, public institutions and natural or legal persons). A total of **16.787** requests were submitted for the removal of a total of **85.168 content items**. **61.547** of these content items were requested to be removed subject to court decisions, while **23.621** were based on other requests.

Figure 33: Türkiye in Google Transparency Reports: Combined Requests for 2009-2021



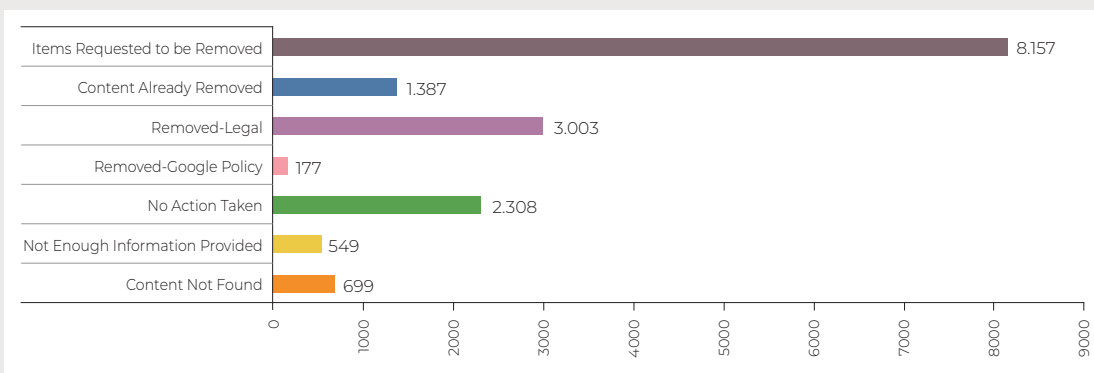
19.892 of the **61.547** content items requested by the courts to be removed were removed or withheld by Google from Türkiye. Similarly, Google removed or withheld **8.320** content items from Türkiye subject to **23.621** content removal requests sent other than through court decisions. As can be seen in figure 34, a total of **2.219** requests, including **1.865** court decisions and **351** other removal requests, were submitted from Türkiye to Google in **2021**. **9.347** content items were specified in these removal requests, out of which **8.157** were based on court decisions, while **1.190** were based on other requests.

Figure 34: Türkiye in Google Transparency Reports: Combined Requests for 2021



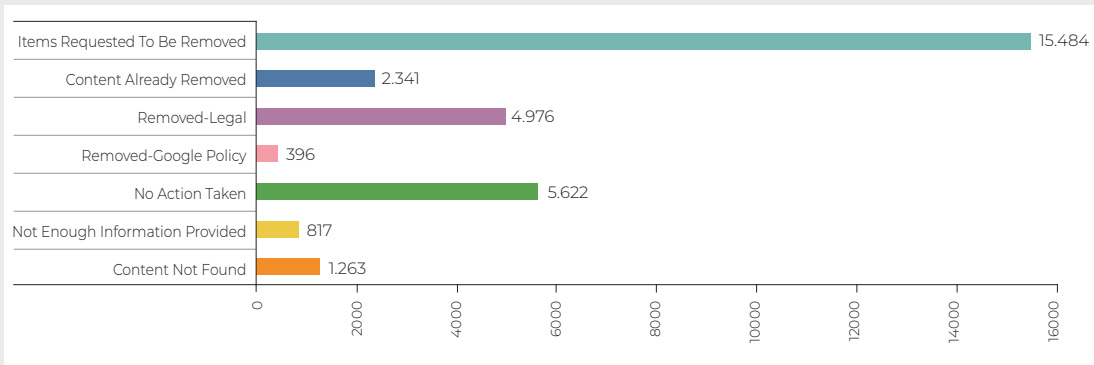
Since 2020, Google started to provide altered and more detailed information on the actions taken upon the requests submitted. In its **2021** transparency report, which was prepared in accordance with this new approach, Google noted that it removed or withheld a total of **3.180** content items from Türkiye, including **3.003** content items removed or withheld subject to court decisions and **177** content items removed or withheld due to violation of Google's policies. Google also stated that **699** content items could not be located, there was not sufficient information on **549** content items, they did not take any action regarding **2.308** content items and **1.387** content items had already been removed.

Figure 35: Google: Action Taken with Regards to Requests Submitted from Türkiye: 2021



According to the new reporting approach, Google stated that it removed or **withheld a total of 5,372 content items from Türkiye in 2020 and 2021**, including **4,976** content items removed or withheld subject to court decisions and **396** content items removed or withheld due to violation of Google’s policies. Google also noted that **1,263** content items could not be located, there was not sufficient information on **817** content items, they did not take any action involving **5,622** content items and **2,341** content items had already been removed previously.

Figure 36: Google: Actions Taken with Regards to Requests Submitted from Türkiye: 2020-2021

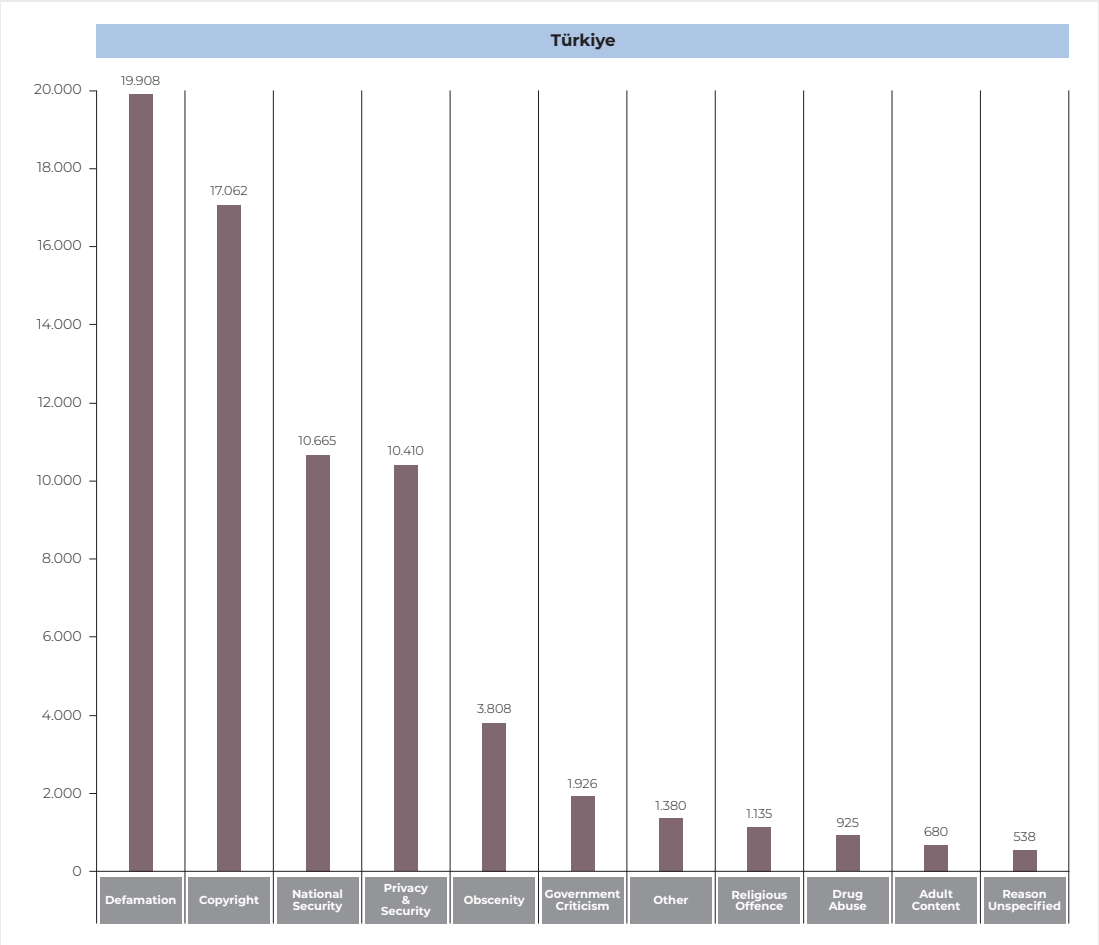


A notable example provided in Google’s **2021 Transparency Reports** was the court decision involving a request by a gendarmerie command for the removal of a social networking app on Google Play on the grounds that it violated the personal rights of the Gendarmerie Command. Google noted that it did not comply with the decision of the criminal judgeship of peace but appealed against it. Google also stated that it withheld six books on Google Play Store from Türkiye upon six separate court decisions submitted by the Information Technologies and Communication Board, which requested the removal of these books on the grounds that they contained the speeches of a religious leader who is known as the leader of a terrorist or-

ganization in Türkiye. Similarly, Google announced that it withheld a YouTube video from Türkiye upon a court decision submitted by BTK, which requested the removal of a video including the trailer of a movie about the Kurdish-Turkish conflict, on the grounds of national security.

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

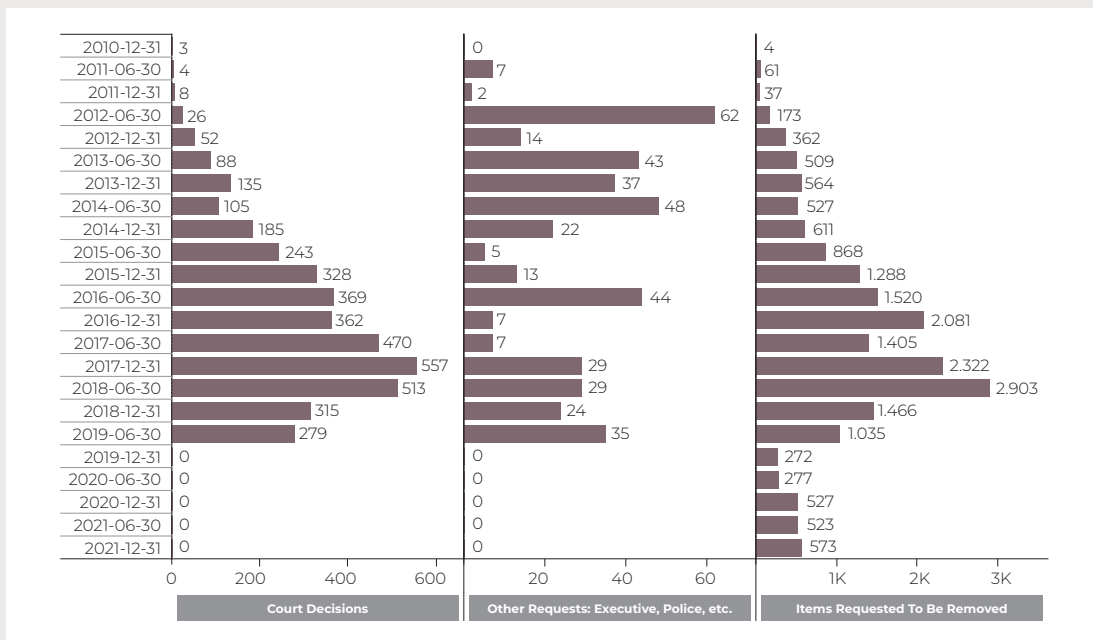
Figure 37: Total Number of Removal Requests (by Reason) Sent from Türkiye to Google



The most frequent reason for the requests submitted to Google from Türkiye was defamation. The breakdown of the last 11 years is provided in the figures below. **By the end of 2021**, Turkish authorities requested the removal of **19,908** allegedly defamatory content items through a total of 4,042 court decisions and 428 other requests.¹⁶²

¹⁶² Google's detailed Transparency Reports have not included statistics on court decisions and other requests since the second half of 2019. Only the number of content items requested to be removed is included in the recent reports.

Figure 38: Türkiye in Google Transparency Reports: Total Number of Requests Involving Defamation



The defamation related examples provided by Google included the denial of the request of a high-ranking government official for the removal of a Google Drive file which contained an image of a book critical of the government;¹⁶³ the denial of a 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 Türkiye, despite a court decision¹⁶⁴ and the denial of a request for the removal of four Blogger posts which contained criticism of a prominent political figure in Türkiye, despite a court decision.¹⁶⁵ Similarly, Google stated that a court decision was sent for the removal of a Blogger post allegedly defaming the CEO of one of Türkiye'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 planning a "coup d'état"; and that no action was taken regarding the post.¹⁶⁶ More recently, a high-ranking political figure has submitted a court decision for the removal of a Blogger post. Google stated that they removed the post from the Blogger service in Türkiye as the court ruled that the Blogger post in question contained unsubstantiated accusations and insults against the political figure in question, as well as profanity against both the political figure in question and their family members.¹⁶⁷

¹⁶³ July-December 2018.

¹⁶⁴ July-December 2016.

¹⁶⁵ July-December 2015.

¹⁶⁶ January-June 2015.

¹⁶⁷ July-December 2020.

Google did not remove two news articles about a high-ranking politician who was allegedly involved in illegal reconstruction and built a mansion without the necessary licenses, despite the decision of a criminal judgeship of peace.¹⁶⁸ Another Google example focused on three court decisions issued for the removal of 24 news articles and the delisting of 27 Google Search results which alleged that the owner of a leading holding company, who is also a family member of a high-ranking politician, was laundering money via his/her bank accounts abroad. Google stated that it did not take any action on these decisions.¹⁶⁹ Moreover, Google noted that it did not comply with the decision of a criminal judgeship of peace to delist 11 URLs from Google Search on the grounds that they alleged that a businessperson breached U.S. embargoes by way of corruption in Türkiye, considering the public interest and the public status of the requester.¹⁷⁰ Similarly, Google did not comply with a decision issued by a criminal judgeship of peace for the removal of 53 URLs from Google Search and a blog post from Blogger on the grounds that they contained allegations about the relationship between a high-ranking politician and a businessperson and money laundering activities. In the last example, Google stated that it did not comply with the decision issued by a criminal judgeship of peace for the removal of seven blog posts from Blogger involving the protests of supporters of a football club against the government during a match.¹⁷¹

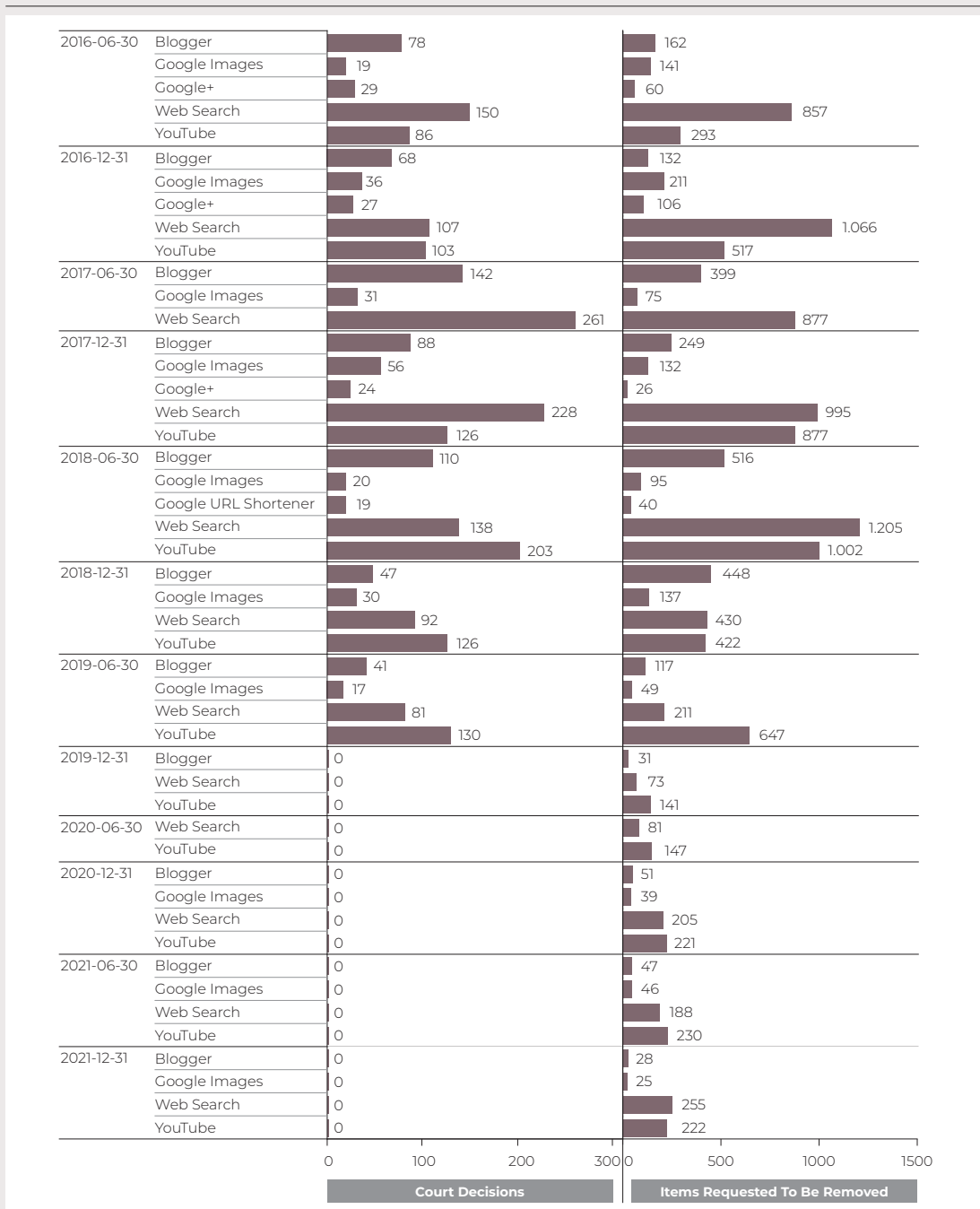
¹⁶⁸ January-June 2021.

¹⁶⁹ January-June 2021.

¹⁷⁰ July-December 2021.

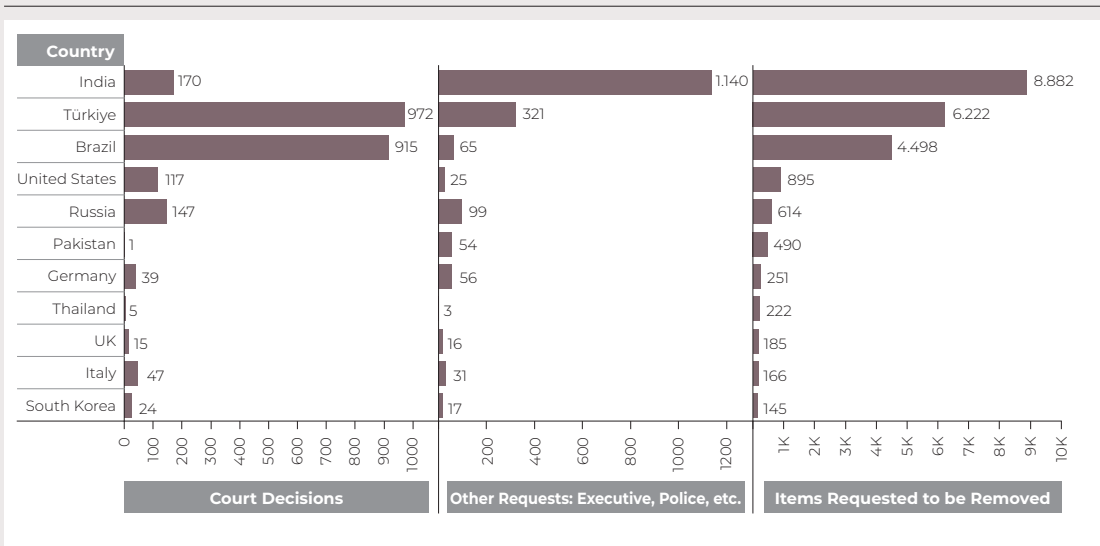
¹⁷¹ July-December 2021.

Figure 39: Türkiye in Google Transparency Reports
(Total Number of Product Based Requests Involving Defamation): 2016-2021



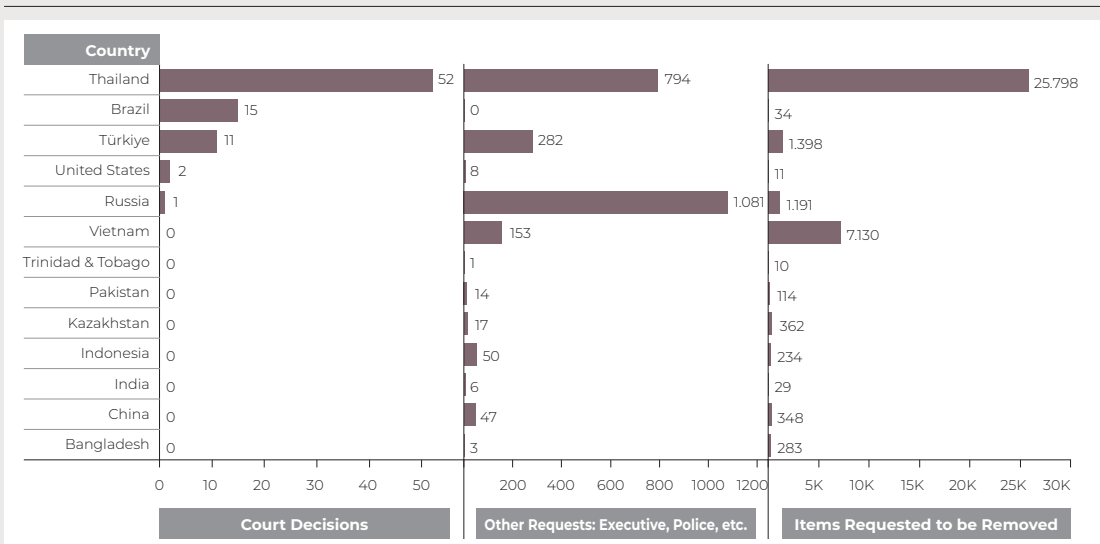
An assessment of requests for the removal of content from YouTube on the grounds of **defamation** shows that **by the end of 2021**, the highest number of requests were sent from **India** with **8.882** requests. **Türkiye** ranked second with **6.222** requests, but it ranked first in the category of the highest number of court decisions sent to Google (972 decisions).

Figure 40: YouTube: Total Number of Defamation Related Requests



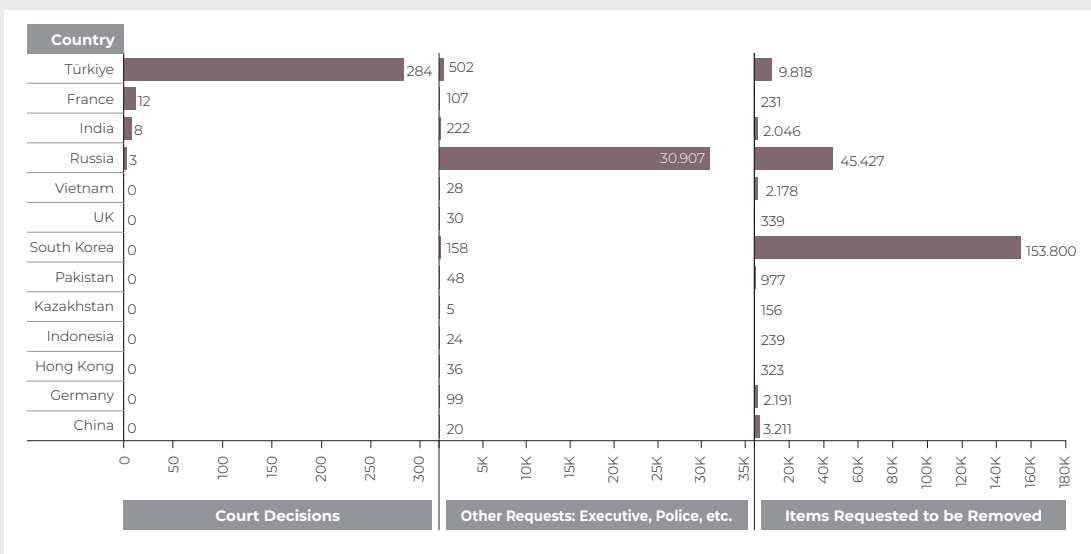
Similarly, an assessment of requests for the removal of content from **YouTube** on the grounds of “**criticism of the government and official authorities**” reveals that **Thailand** ranked first with **25.789** requests, while **Vietnam** ranked second with **7.130** requests. They were followed by **Türkiye**, with **1.398** requests.

Figure 41: YouTube: Total Number of Government Criticism Related Requests



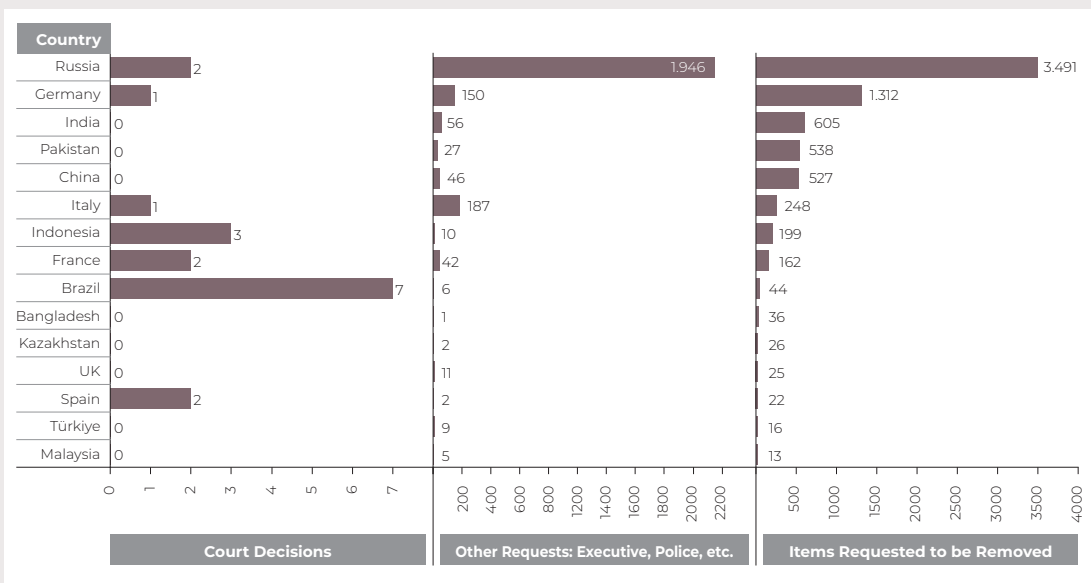
Although the leading countries changed in the category of “**national security**” in requests involving YouTube, Türkiye’s ranking remained similar, and it ranked third with **9.818** requests for content removal, after Kazakhstan (153,800 content items) and Russia (45,427 content items).

Figure 42: Requests Related to National Security: YouTube



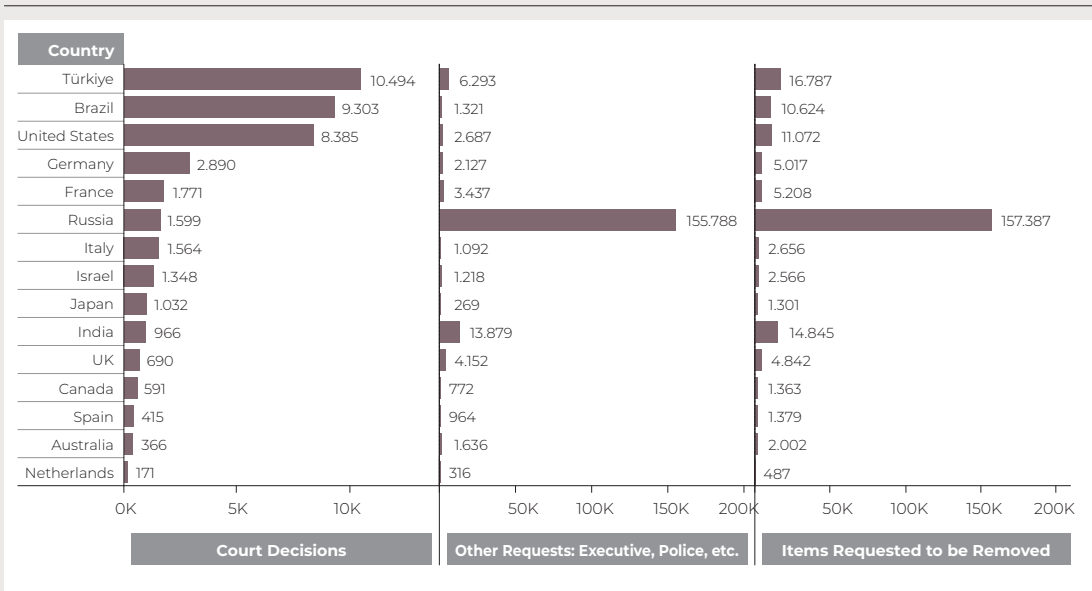
Moreover, when the category of content removal requests related to “**hate speech**” is assessed, a completely different picture emerges as hate speech is not among the categories **Türkiye** is sensitive about. While Russia, Germany, and India were the top three countries in this category, Türkiye ranked 14th with only 16 requests.

Figure 43: YouTube: Total Number of National Security Related Requests



By the end of 2021, a total of **282.053 requests** were sent to Google worldwide, including **51.727 court decisions** and **230.326 other requests**. As can be seen in the figures below, **Russia** submitted the highest number of content removal requests (**157.387 requests**) to Google as of the end of 2021. Most of the requests sent from Russia (**155.788**) were categorized under “**other requests**” rather than in the category of court decisions. Only **1.599** court decisions were sent from Russia to Google. **Türkiye ranked second** with **16.787 removal requests**, out of which **10.494** were based on court decisions, while **6.293** were other requests. Among the countries sending the highest number of court decisions, **Türkiye** ranked first with **10.494** decisions and was followed by Brazil, with 9.303 decisions, and the USA, with 8.385 decisions. In the category of other requests, Türkiye ranks fourth, after Russia, South Korea, and India.

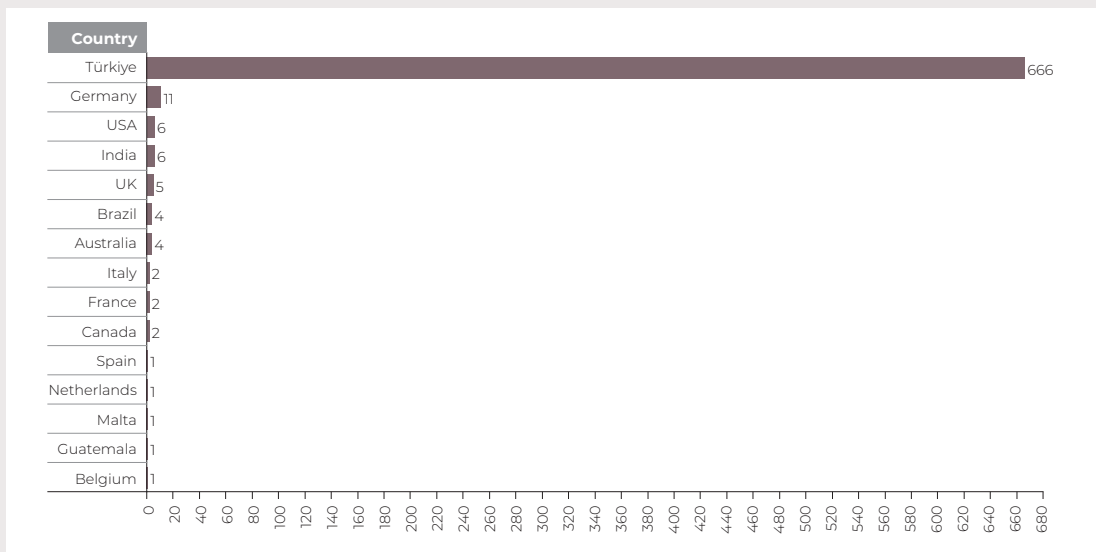
Figure 44: Total Number of Requests Sent to Google by Country: 2009-2021



RANKING OF TÜRKİYE IN WORDPRESS TRANSPARENCY REPORTS

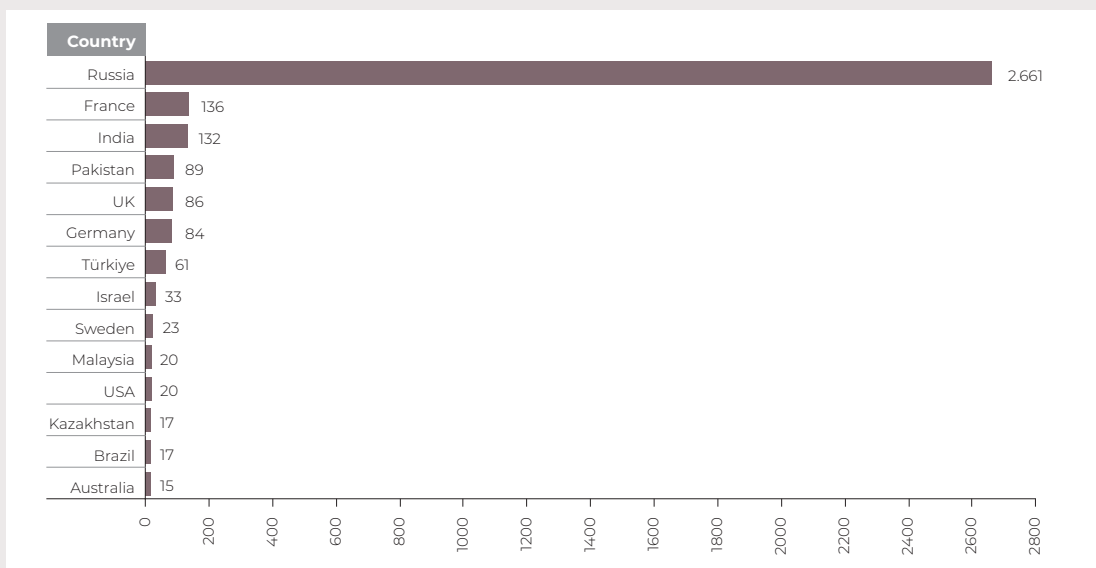
According to WordPress Transparency Reports, **666** of the **715 court decisions** that were submitted to WordPress worldwide from the beginning of 2014 until the end of 2021 were submitted from **Türkiye**. Türkiye is followed by Germany, with only 11 court decisions and India, with six court decisions. In 2021, **21** of the **23 court decisions** submitted to WordPress worldwide were submitted from **Türkiye**.

Figure 45: Total Number of Court Decisions in Wordpress Transparency Reports: 2013-2021



By the end of 2021, a total of 3.512 additional requests were submitted to Wordpress worldwide, other than the court decisions. In the category of “**other removal requests**”, **Russia** ranked first with 2.661 requests, while there were only 61 other requests submitted from **Türkiye** to Wordpress. No request was submitted from **Türkiye** in the category of “other requests” during 2020 or 2021.

Figure 46: Total Number of Other Requests in Wordpress Transparency Reports: 2013-2021



A total of 4.661 content items were specified for removal in 715 court decisions and 3.512 other requests. In total, **955 content items** were requested to be removed through 666 court decisions and 61 other requests sent from **Türkiye**. Türkiye

ranked second in this category, following Russia, which requested the removal of 1.879 content items. According to Wordpress, 53% of these removal requests were granted.

Figure 47: Total Number of Sites Specified for Removal According to Wordpress Transparency Reports (2013-2021)

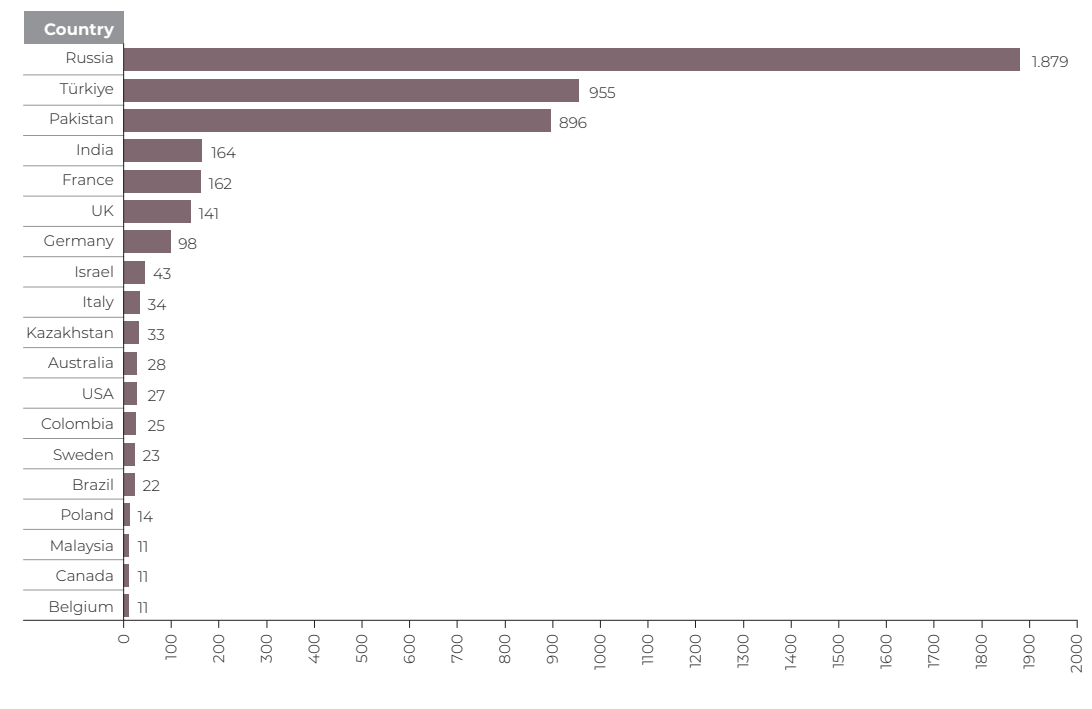
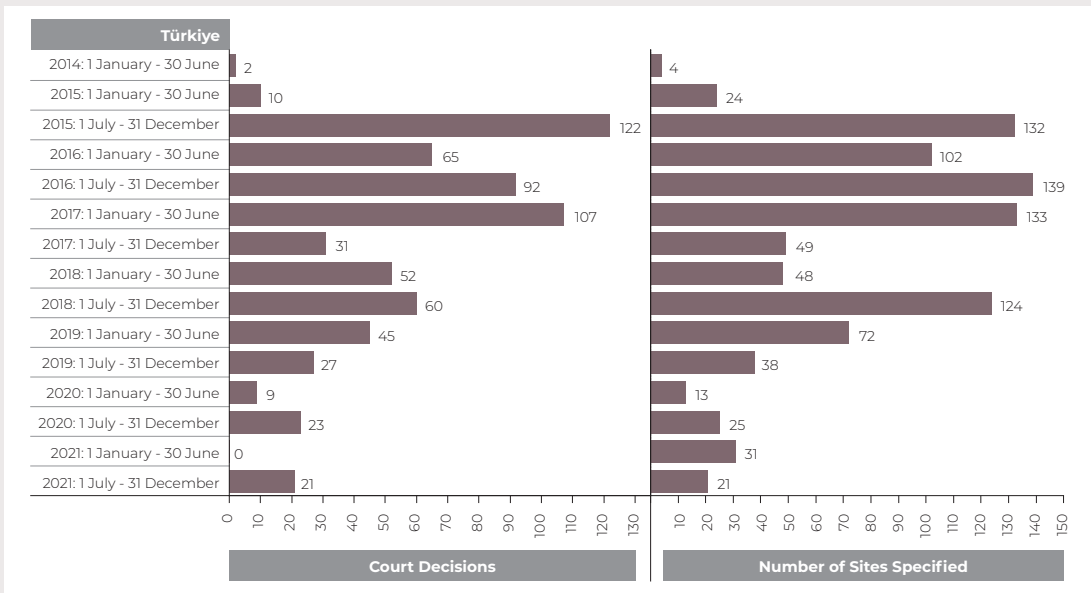


Figure 48 shows the number of court decisions submitted by Türkiye and the number of items and WordPress pages specified in removal requests during each period. It is found that court decisions were submitted most frequently in the second half of 2015, while the highest number of removal requests were submitted in the year following the 15 July 2016 coup attempt. These court decisions were issued by criminal judgeships of peace subject to articles 8/A and 9 of Law No. 5651 and sent to WordPress.

Figure 48: Court Decisions and Content Removal Requests (by Period) Sent to WordPress from Türkiye



In 2021, a total of 21 court decisions were submitted from Türkiye, specifying the removal of 31 WordPress pages. Upon these requests, by the end of 2021, **510 (39%)** of the **1.294 Wordpress** sites withheld by WordPress worldwide, **were withheld from Türkiye along with their sub-pages**.¹⁷² 378 blog pages were withheld from Russia, while 308 were withheld from Pakistan. In practice, WordPress blocked those items from Türkiye and other countries through the “geoblocking” technology, and users attempting to access the blocked pages are greeted with the following notification message:

Screenshot 66: The notification message which appears on the restricted pages of Wordpress



¹⁷² See <https://transparency.automattic.com/wordpress-dot-com/country-block-list/wordpress-com-country-block-list-february-2022/>

In 2021, a total of 31 different WordPress blog addresses were blocked from Türkiye through this method subject to court decisions. The pages of Bursa City Council (<https://bursakentkonseyi.wordpress.com>) and Solidarity of Pontos (<https://yasayan-pontosdayanismasi.wordpress.com/>) were among the WordPress pages blocked from Türkiye in 2020. The Wordpress pages blocked in 2021 included the pages of TMSF Gerçekleri (<https://tmsfgercekleri.wordpress.com/>).¹⁷³ Wordpress complied with the decision issued by the Istanbul 10th Criminal Judgeship of Peace to block access to the Wordpress pages of journalist **Ahmet Nesin** (<https://ahmetnesin.wordpress.com/>) upon the request of President Erdoğan.¹⁷⁴ In the decision, the judgeship only stated that it “reached the conclusion and formed the opinion that [the pages] violate the presumption of the innocence of the claimant, are defamatory, intend to tarnish the honour and reputation of the claimant in the eyes of the society and the public, and go beyond the boundaries of criticism, and that the wording and manner of expression used in the posts violate the personal rights of the claimant.” However, the decision does not include any assessment of the Wordpress pages of Ahmet Nesin. On 16.07.2018, 116 separate Wordpress blog pages and content items (URL-based) were blocked and withheld from Türkiye subject to a single blocking decision of the Istanbul 6th Criminal Judgeship of Peace (no. 2018/3996) upon the request submitted by 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 boundaries of freedom of the press and the freedom of expression and constitute an attack on his personal rights.”

RANKING OF TÜRKİYE IN REDDIT TRANSPARENCY REPORTS

Among popular social media platforms, Reddit also included Türkiye in its Transparency Report in 2021, as in previous years.¹⁷⁵ As will be recalled, in November 2015, access to Reddit was blocked from Türkiye for a short period of time subject to a blocking decision of the Telecommunications Communication Presidency. In its 2015 Transparency Report, Reddit stated that no explanation was provided on the reason for the brief block.¹⁷⁶ In its 2021 report, Reddit stated that a total of **289** content removal requests were submitted from foreign countries. In this category, the **United Kingdom** ranked first with **52** requests and was followed by **India**, with **50** requests, and **Australia**, with **47** requests. **Türkiye** submitted only **3** requests in this category. In 2020, Reddit announced the number of removed content items for the first time and included the relevant data in its transparency report for 2021 too. In this context, the highest number of content removal requests (327) were submitted from South Korea, which was followed by Australia (198 requests) and the United Kingdom (184 requests). Only **3** content items were specified in the removal requests submitted from **Türkiye**. Reddit reported that it removed or withheld some of those content

¹⁷³ Karaisalı Criminal Judgeship of Peace, no. 2021/227, 10.12.2021.

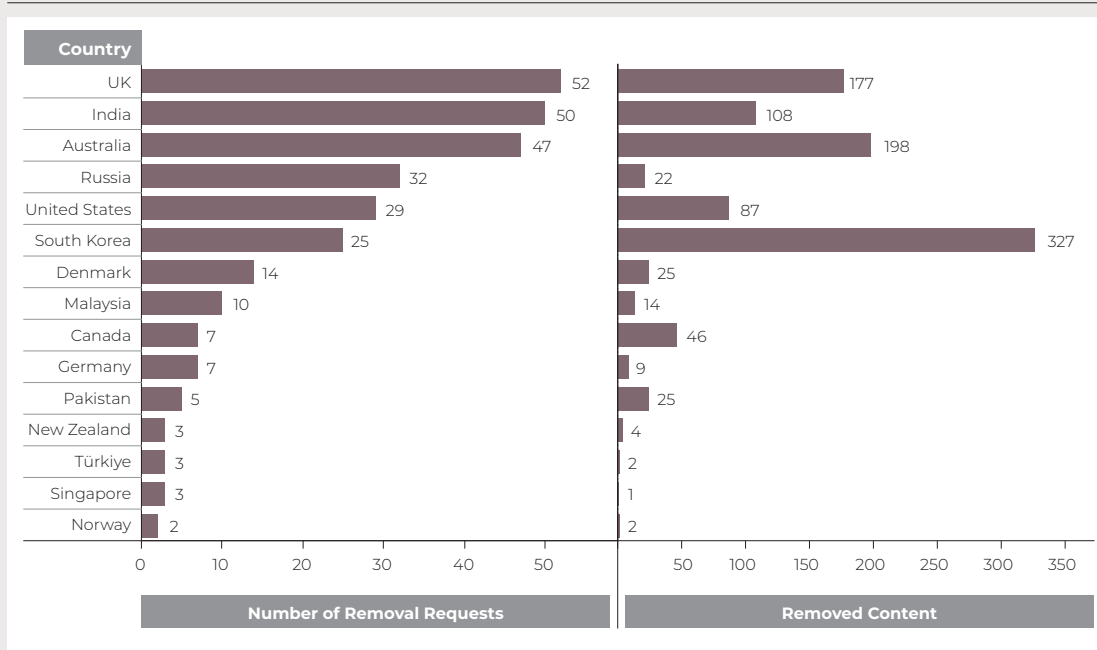
¹⁷⁴ Istanbul 10th Criminal Judgeship of Peace, no. 2021/3190, 28.05.2021.

¹⁷⁵ See the 2020 Reddit Transparency Report: <https://www.redditinc.com/policies/transparency-report-2020>. Also see the 2019 Reddit Transparency Report: <https://www.redditinc.com/policies/transparency-report-2019t-2019> and the 2018 Reddit Transparency Report: <https://www.redditinc.com/policies/transparency-report-2018>

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

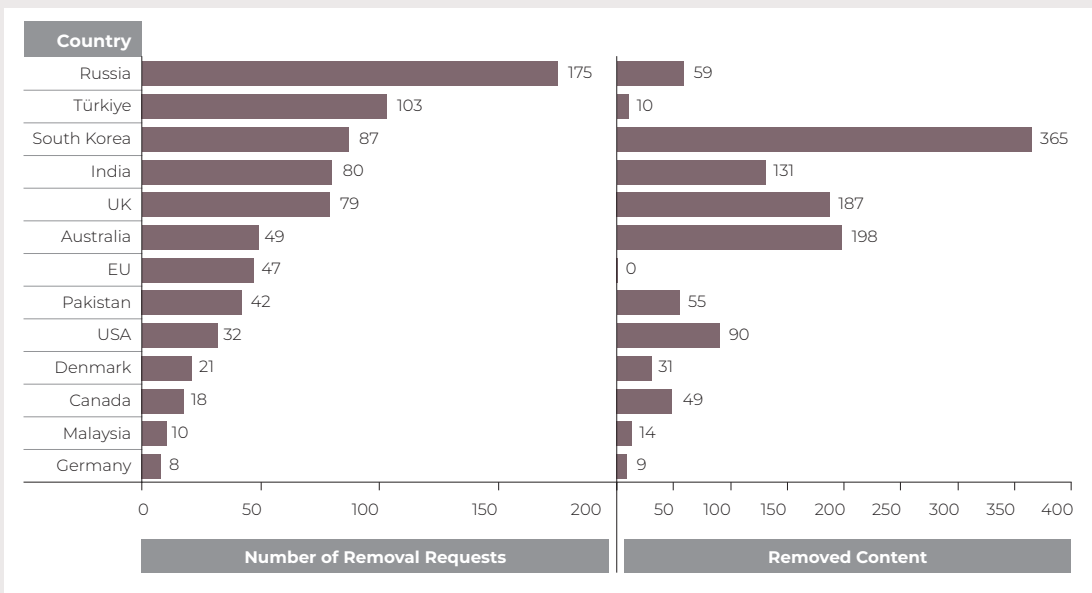
items, especially in circumstances where a court decision was submitted. Reddit also stated that it rejected some of these requests on the grounds of non-compliance with international law. As a result, Reddit granted all the requests submitted from South Korea and Australia and removed 327 content items and 198 content items, respectively. On the other hand, 177 of the 184 content items specified in the requests submitted from the United Kingdom were removed.

Figure 49: Reddit 2021 Transparency Report: Number of Removal Requests



A total of 773 content removal requests were submitted from the release of Reddit’s first transparency report in 2016 until the end of 2021. While **Russia** ranked first in the category of “total number of requests” with 175 requests, **Türkiye** ranked second with 103 requests and **South Korea** ranked third with 87 requests.

Figure 50: Reddit 2017-2021 Transparency Reports: Total Number of Removal Requests



A total of 1.208 content items were specified in the requests submitted to Reddit from 2017 to 2021. The highest number of content items (365 content items) were removed from **South Korea**, which was followed by **Australia** (198 content items) and the **United Kingdom** (187 content items). Only 10 content items were removed upon requests submitted from **Türkiye**.

RANKING OF TÜRKİYE IN TIKTOK TRANSPARENCY REPORTS

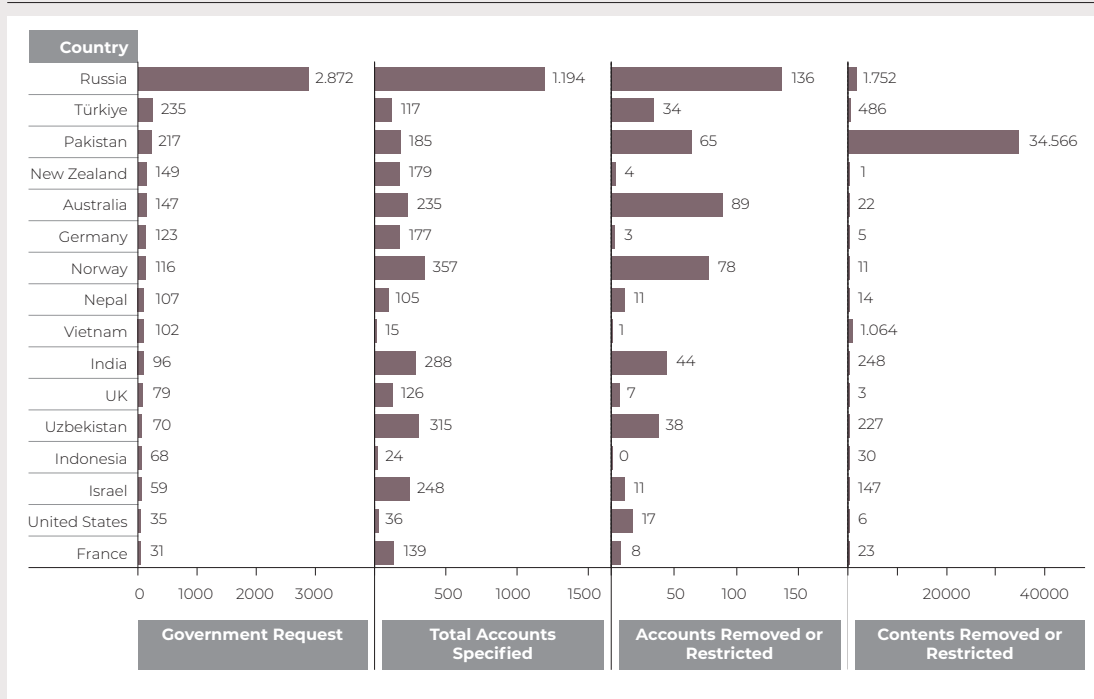
The video sharing platform TikTok was launched in 2017 and started to release bi-annual transparency reports in 2019, just like other social media platforms included in this report.¹⁷⁷ A total of 4.776 government requests were submitted to TikTok from 2019 and 2021. Most of these requests (4.156 requests) were submitted to TikTok in 2021. In these requests, a total of 4.267 TikTok accounts were specified for removal. Again, the majority of these requests (2.586 accounts) were submitted in 2021. TikTok announced that a total of 721 (17%) accounts were deleted or restricted. Most of these accounts (431 accounts - 60%) were deleted or restricted in 2020. In 2021, TikTok started to disclose the number of content items specified in removal or restriction requests and stated that 39.539 content items were specified in the removal requests submitted in 2021. A total of 38.759 content items were removed or restricted by TikTok from 2019 to 2021.

While **Russia** submitted the highest number of requests (2.872 requests), **Türkiye** ranked second with 235 requests and was followed by **Pakistan**, with 217 requests. The highest number of requests for account deletion (1.194 accounts) were also submitted from Russia, which was followed by Norway (357 accounts), Uzbekistan (315

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

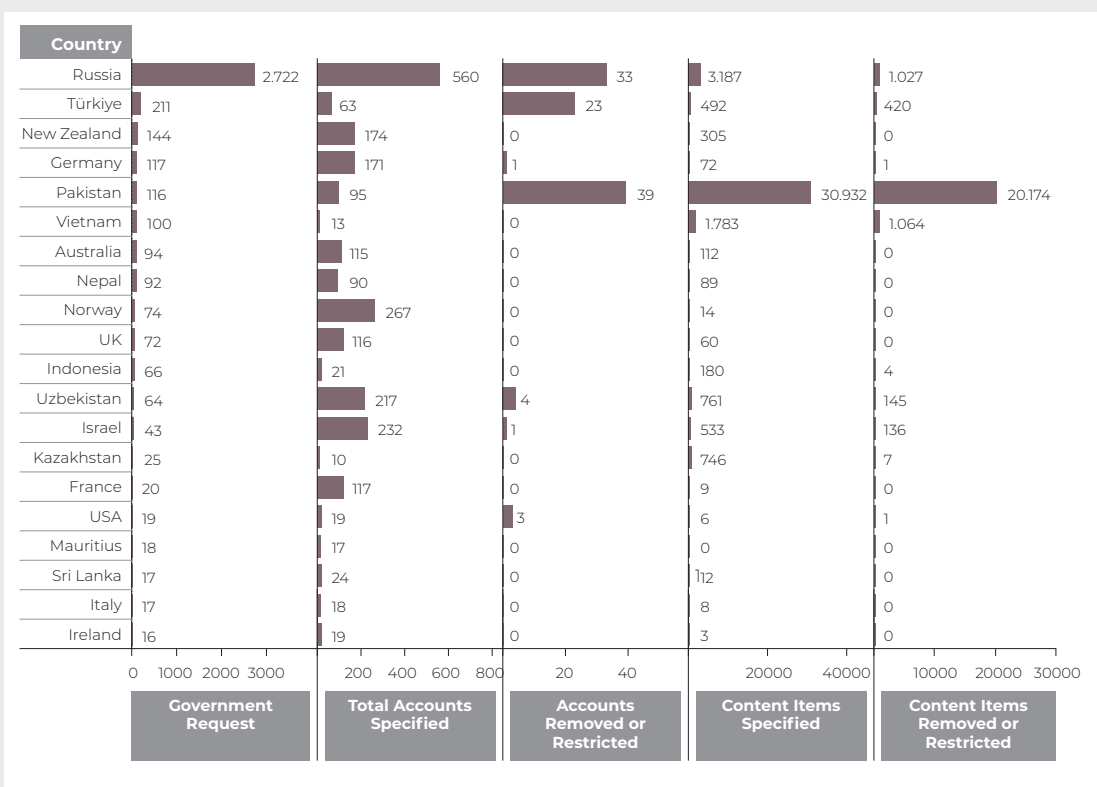
accounts), and **Türkiye** (117 accounts). The highest number of accounts deleted upon these requests were deleted from Russia (136 accounts). Moreover, 89 accounts were deleted from Australia, while 78 accounts were deleted from Norway. 34 accounts were deleted or restricted from **Türkiye**. In the category of removed or restricted content items, Pakistan ranked first with 34.566 content items and was followed by Russia, with 1.752 content items, and Vietnam, with 1.064 content items. A total of 486 content items were restricted or removed from **Türkiye**.

Figure 51: TikTok Transparency Reports 2019-2021



A similar picture emerged in terms of TikTok statistics for 2021. While Russia submitted the highest number of requests (2.722 requests), **Türkiye** ranked second with 211 requests and was followed by New Zealand with 144 requests. The highest number of requests for account deletion were also submitted from Russia with 560 requests. Norway submitted 267 requests for account deletion, while Israel and **Türkiye** submitted 232 requests and 63 requests, respectively. The highest number of accounts deleted or restricted upon these requests were deleted from Pakistan (39 requests), which was followed by Russia with 33 accounts. 23 accounts were deleted or restricted from **Türkiye**. In the category of content items specified in removal requests, Pakistan ranked first with 30.952 and was followed by Russia (3.187 content items) and Vietnam (1.783 content items). 492 content items were specified in the requests submitted from **Türkiye**. Lastly, while Pakistan ranked first in the category of the “removed or restricted content items” with 20.174 content items, Vietnam ranked second with 1.064 and was followed by Russia with 1.027 content items. A total of 420 content items were restricted or removed from **Türkiye**.

Figure 52: TikTok Transparency Report 2021

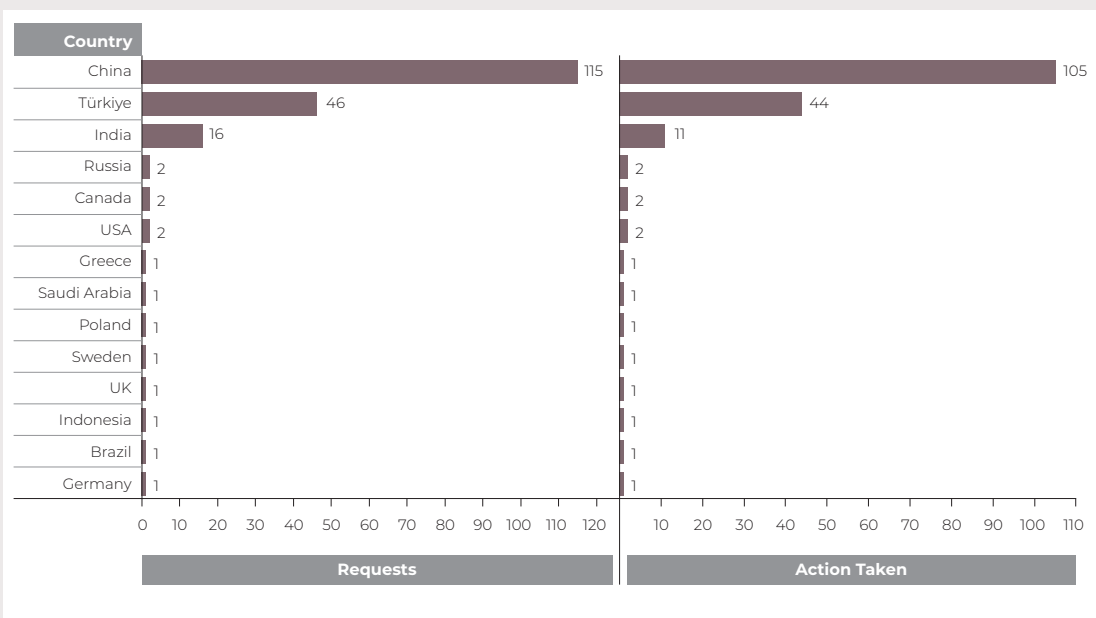


RANKING OF TÜRKİYE IN LINKEDIN TRANSPARENCY REPORTS

LinkedIn is a professional social networking and social sharing platform founded in late 2002 with the aim of enabling people in the business world to communicate with others and exchange their knowledge with one another. LinkedIn has been releasing transparency reports since 2011 and has been including account deletion and content removal requests submitted by governments in its transparency reports since 2018.¹⁷⁸ As can be seen in these reports, LinkedIn's reports contain much less information compared to the transparency reports released by other social media platforms. In LinkedIn's reports, only the number of requests submitted by governments and the number of requests processed are disclosed. In this context, the highest number of requests were submitted to LinkedIn from China (115 requests) from 2018 to 2021, while **Türkiye** ranked second (46 requests), and India ranked third (16 requests). Similarly, the highest number of actions were taken upon the requests submitted from China (103 requests), while 44 requests from **Türkiye** were processed in total.

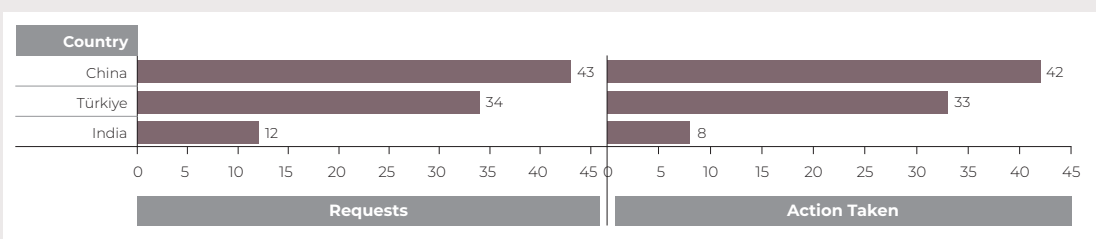
¹⁷⁸ See <https://about.linkedin.com/transparency/government-requests-report>

Figure 53: LinkedIn Transparency Reports 2018-2021



In 2021, 43 requests were submitted to LinkedIn from China, while 34 were submitted from **Türkiye**, and 12 were submitted from India. In its transparency report for 2021, LinkedIn stated that it processed 42 requests from China, 33 requests from **Türkiye**, and 8 requests from India.

Figure 54: LinkedIn Transparency Report 2021



SOCIAL MEDIA ACCOUNTS INVESTIGATED IN 2021

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

According to weekly statements and statistical data, it is observed that in 2018, **26.996 social media accounts** were investigated, and legal actions were taken against **13.544 accounts**. However, in the statement of the Ministry of the Interior dated 31.12.2018 and titled “**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 action was taken against 18.376 people**.¹⁷⁹

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

According to monthly data released in 2020, it is observed that **75.292 social media accounts** were investigated, and legal action was taken against **32.390 accounts**. Subsequently, 2.397 persons were detained, and 77 persons were arrested within the scope of these investigations. In addition, 340.212 digital materials were examined in 2020. From 15.07.2016 until the end of 2020, a total of 2.348.230 digital materials were

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

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

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

examined.¹⁸² In the 2020 Annual Report published by the Directorate General for Security,¹⁸³ the Ministry of the Interior stated that they conducted operations against 61.897 social media accounts with allegedly criminal posts involving FETÖ/PDY activities, DAESH activities, PKK activities, insults to government officials, drug abuse, child abuse, illegal payment systems, extremist left-wing organizations and illegal betting, and that legal action was taken against a total of 30.091 users identified, as part of **virtual patrol** activities. In addition, it was noted that legal action was taken against 4.348 social media accounts within the scope of Law No. 6222 on the Prevention of Violence and Disorder at Sporting Events. Finally, according to the statement of the Ministry of the Interior on 05.04.2020, a total of 7.127 social media accounts were examined throughout Türkiye regarding the COVID-19 outbreak. As a result of these examinations, 496 people were detained and 10 people were arrested for their social media posts about the COVID-19 outbreak.¹⁸⁴

In **2021**, the monthly and yearly data were significantly higher. A total of **146.167 social media accounts were investigated**, and **legal action was taken against 60.051 accounts in 2021**.¹⁸⁵ According to the **2021 Annual Report**, published by the Directorate General for Security, affiliated with the Ministry of the Interior, a total of **106.808**

Figure 55: Data on Social Media Investigations and Judicial Processes by the Ministry of the Interior: 2021



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

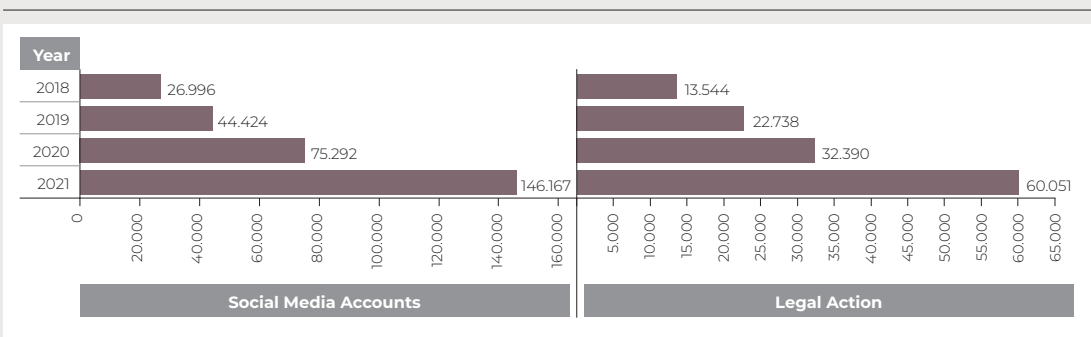
¹⁸³ See 2020 Annual Report, published by the Directorate General for Security, affiliated with the Ministry of the Interior, https://www.egm.gov.tr/kurumlar/egm.gov.tr/IcSite/strateji/Planlama/2020_IDARE_FAALİYET_RAPORU.pdf

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

¹⁸⁵ Anadolu Agency, “İçişleri Bakanlığı Sözcüsü Çataklı: 2021’de 1140 terörist etkisiz hale getirildi” [İsmail Çataklı, Spokesperson of the Ministry of the Interior, says, “Türkiye neutralized 1140 terrorists in 2021”], 04.01.2022, <https://www.aa.com.tr/tr/gundem/icisleri-bakanligi-sozcusu-catakli-2021de-1140-terorist-etkisiz-hale-getirildi/2464934>

social media accounts were investigated in relation to crimes of “making propaganda for a terrorist organization, particularly for FETÖ, PDY, PKK/KCK, DAESH, and extreme left-wing terrorist organizations; selling drugs and encouraging the use of drugs; explicitly inciting people to enmity and hatred; causing violence against women and animals; insulting the President of Türkiye; acting against the indivisible integrity of the state and public safety; humiliating the Turkish people, the Republic of Türkiye, public institutions and government bodies; and crimes against Atatürk” as part of **virtual patrol activities**, and that 46.646 users were identified.¹⁸⁶

Figure 56: Ministry of Interior Data: Number of Social Media Related Criminal Investigations (2018-2021)



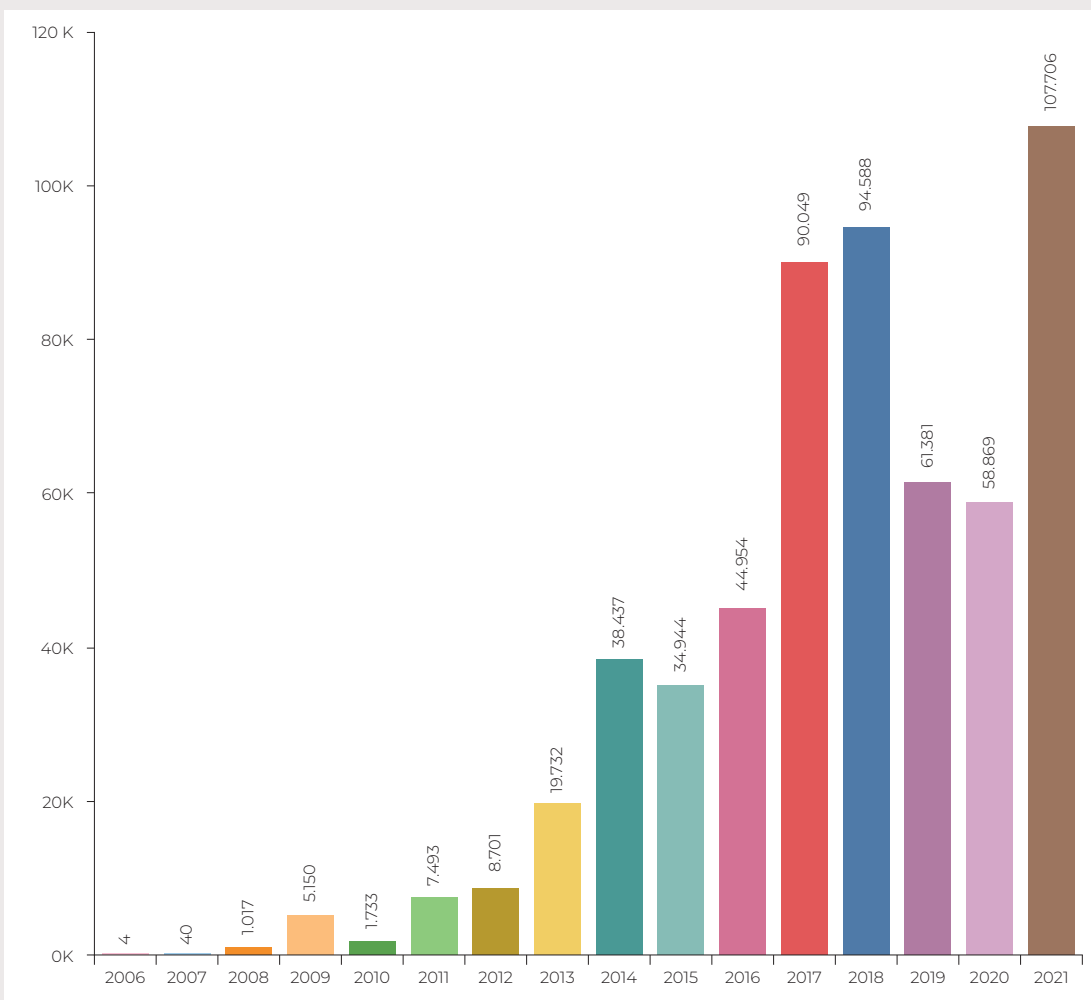
While a total of 146.712 social media accounts were investigated from 2018 to 2020, the total number of accounts investigated reached 292.879 by the end of 2021, with 146.167 accounts investigated in 2021. Therefore, the number of accounts investigated in 2021 is almost equal to the total number of accounts investigated from 2018 to 2020. As a result, legal action was taken against 128.723 accounts by the end of 2021. No data has been disclosed regarding the detention or arrest decisions issued or the judicial process carried out as a result of the legal actions taken from 2018 to 2020. In 2021, it was announced that 1.911 persons were detained and 73 persons were arrested. In conclusion, the number of accounts investigated in 2021 is remarkable compared to previous years.

CONCLUSION AND OVERALL EVALUATION

Within the scope of the 2021 EngelliWeb report, prepared by the Freedom of Expression Association, it is determined that by the end of 2021, **574.798 websites and domain names** were blocked from Türkiye. As can be seen in the table below, as part of the EngelliWeb project, it was found that the number of blocked websites and domain names was **40** in **2007**, **1.017** in **2008**, **5.150** in **2009**, **1.733** in **2010**, **7.493** in **2011**, **8.701** in **2012**, **19.732** in **2013**, **38.437** in **2014**, **34.944** in **2015**, **44.954** in **2016**, **90.049** in **2017**, **94.588** in **2018**, **61.381** in **2019**, **58.869** in **2020**, and **107.706** in **2021**.

¹⁸⁶ See 2021 Annual Report, published by the Directorate General for Security, affiliated with the Ministry of the Interior, https://www.egm.gov.tr/kurumlar/egm.gov.tr/lcSite/strateji/Planlama/2021_IDARE_FAALIYET_RAPORU.pdf

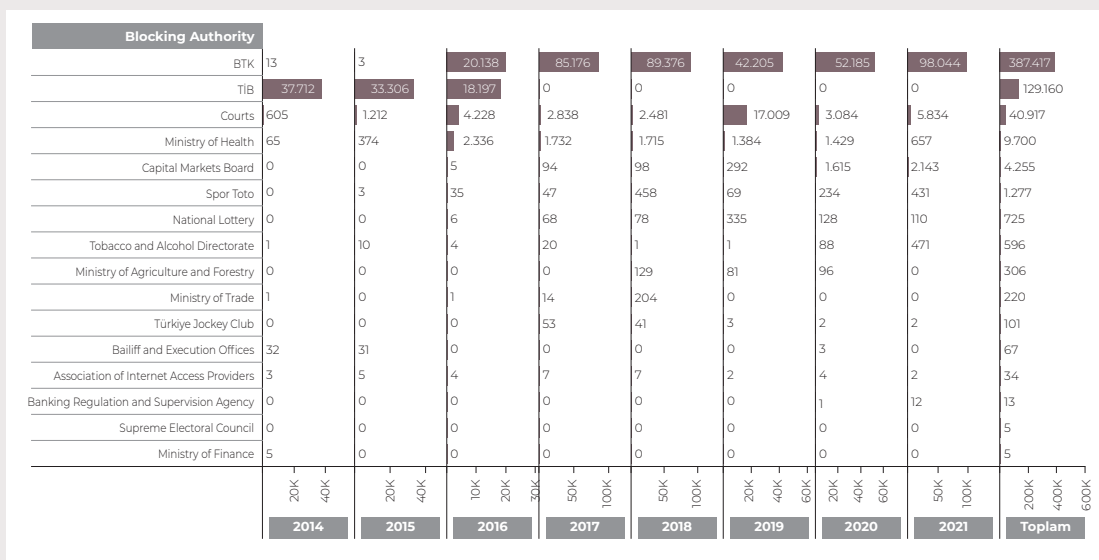
Figure 57: Total Number of Blocked Websites from Türkiye: 2006-2021



The **574.798** websites and domain names that were blocked from Türkiye by the end of 2021 were blocked subject to **504.700** separate blocking decisions issued by **789** separate authorities. By the end of 2021, a total of **516.574** websites were **blocked from Türkiye by administrative blocking decisions** subject to article 8 of Law No. 5651, including **129.160** blocked by TIB until its closure and **387.414** blocked by the **President of BTK** following the closure of TIB. Access to **40.917 domain names and websites** was blocked by **judicial organs** (criminal judgeships of peace, public prosecutors' offices, and the courts). In general, a total of **9.700** websites were blocked by the Ministry of Health, **4.225** were blocked by the Capital Markets Board, **1.277** were blocked by the Directorate of Spor Toto Organization, **725** were blocked by the Directorate General of National Lottery Administration, **596** were blocked by the Directorate of Tobacco and Alcohol, **306** were blocked by the Ministry of Agriculture and Forestry, **220** were blocked by the Ministry of Customs and Trade, **101** were blocked by the Jockey Club of Türkiye, **67** were blocked by directorates of execution, **34** were

blocked by the Association of Access Providers **13** were blocked by the Banking Regulation and Supervision Agency (“BDDK”), **5** were blocked by the Supreme Election Council, and **5** were blocked by the Ministry of Finance.

Figure 58: Websites Blocked from Türkiye by the Blocking Authority: 2014-2021



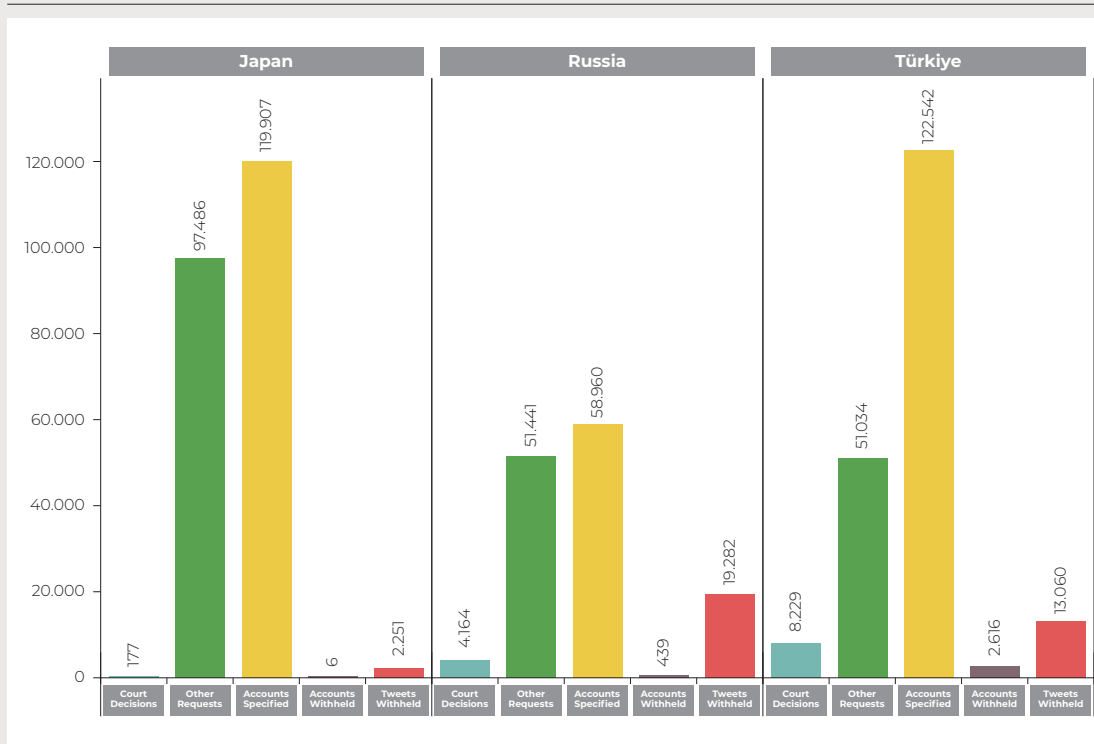
On the other hand, as part of the EngelliWeb project, it was found that a total of **28.474** news articles (URL-based) were blocked and that **22.941** news articles (URL) were deleted or removed in accordance with article 9 of Law No. 5651. These URL addresses were blocked subject to **5.986** separate decisions issued by **509 separate criminal judgements of peace**. While 2019 ranked first with a total of **5.761** blocked news articles, 2020 was the year when the highest number of news articles (**5.057** news articles) were deleted or removed. As a result of the increase in the number of decisions finding “violation of personal rights,” **5.436** news articles of public interest were blocked and **4.445 news articles** were removed from publication and censored. The majority of **839 separate decisions** issued by **251 separate criminal judgements of peace** were issued upon the requests of **high-ranking public figures**, as well as public institutions, and companies close to the government. Criminal judgements of peace ignored freedom of expression and freedom of the press principles, the public’s right to information and public interest issues and almost acted as the **guardians** of the offended reputation, honour, and dignity of high-ranking public figures. With these decisions, not only political news articles of public interest, but also historical news articles were removed from digital and press archives and were **destroyed**. As stated in İFÖD’s *The Right Not To Be Forgotten on the Internet: Freedom of Expression Assessment of the Application of the Turkish Right to be Forgotten Measures under Law No. 5651* report,¹⁸⁷ decisions issued and sanction imposed by criminal judgements of peace un-

¹⁸⁷ Freedom of Expression Association, *The Right NOT To Be Forgotten on the Internet: Freedom of Expression Assessment of the Application of the Turkish Right to be Forgotten Measures under Law No. 5651*, January 2023, ISBN: 978-605-69446-8-0, https://ifade.org.tr/reports/UnutulmamaHakki_2021_Eng.pdf

der Law No. 5651 undermine the public's **right to conduct retrospective research**¹⁸⁸ and significantly damage **online archives**. However, as stated by the European Court of Human Rights, public interest is not limited to the date of publication of the news stories or articles or to current events and can also be retrospective; therefore, digital archives are also protected under Article 10 of the Convention.¹⁸⁹ On the contrary, in Türkiye, **online archives** are under constant pressure and danger.

As in previous reports, the 2021 report also showed that the rise in censorship in Türkiye has reached an astonishing level as shown in the annual transparency reports published by social media platforms. The ranking of Türkiye in Twitter Transparency Reports is strikingly worrying, especially when compared to other countries. Since the rate of political debates and expressions is higher in Twitter than in other social media platforms in Türkiye, the total number of court decisions, the total number of accounts specified, and the total number of accounts withheld are much higher in Türkiye than in Russia and Japan, its immediate followers, as shown in figure 59. While Japan and Russia only outranked Türkiye in the category of “other legal requests,” Türkiye fell behind Russia in the category of “number of tweets withheld” at the end of 2021.

Figure 59: Comparison of Japan, Russia, and Türkiye in Twitter Transparency Reports



¹⁸⁸ M.L. and W.W./Germany, nos. 60798/10 and 65599/10, 28.06.2018, §§ 101-102.

¹⁸⁹ Fuchsmann/Germany, no. 71233/13, 19.10.2017, §§ 37-39. Also see Times Newspapers/United Kingdom (nos 1 and 2), nos. 3002/03 and 23676/03, § 45, ECHR 2009

While the grim picture that emerged in our 2018, 2019 and 2020 reports continued, the impact of the legal amendments made in 2020 started to be felt in 2021 and content providers removed a higher number of content items. In fact, it is observed and experienced that censorship is practiced more effectively especially with the news articles removed and destroyed.

While hundreds of blocking decisions are issued systematically, the approach of the Constitutional Court of Türkiye towards access to the Internet, freedom of expression and freedom of the press has also been addressed in detail in our previous reports. An assessment of the performance of the Constitutional Court shows that the Constitutional Court did not issue any judgment involving article 8/A of Law No. 5651 in 2021, nor did it issue a judgment on any application under article 9 of Law No. 5651 until October 2021. In October, the Court finally found structural problems with article 9 in the Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application and issued a pilot judgment.¹⁹⁰ With the increasing number of new applications, the number of applications on which no judgment has been issued since 2015 is now notable. As stated in our previous reports, Internet is a vital communications network, and certain practices that can only be defined as censorship and violations of freedom of expression and freedom of the press, should be handled in a more expeditious manner by the Constitutional Court. Moreover, the judgments issued belatedly by the Constitutional Court are ignored by criminal judgeships of peace when deciding on access-blocking or content removal decisions and access-blocking and content removal decisions are issued as if the Constitutional Court did not exist or did not issue any judgment on any practice in this matter. The Constitutional Court also refrains from issuing judgments on individual applications regarding such decisions. In the Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others application, the Constitutional Court submitted its pilot judgment to the Turkish Grand National Assembly and made a series of recommendations¹⁹¹ to ensure that the existing structural problems within article 9 is reviewed and “the provision causing a violation is annulled or revised to prevent any other violations.”¹⁹² The Court also ruled that its pilot judgment **shall not be applied for a year**.¹⁹³ Therefore, even though the Constitutional Court has identified structural problems and the Parliament is not obliged to comply with the judgment of the Constitutional Court, the Constitutional Court will only continue to review applications involving access-blocking and content removal practices due to violation of personal rights after **07.01.2023** at the earliest. It will not therefore review any pending application or any application to be submitted after the publication of its pilot judgment. In other words, the Court will not issue any article 9 related decision during 2022, while thousands of such decisions will be issued by the criminal judgeships of peace as in previous years regardless of the Constitutional Court’s pilot judgment.

Nevertheless, as can be seen in the principled judgments issued by the Constitutional Court with regards to articles 8/A and 9 of Law No. 5651, the Court repeatedly

¹⁹⁰ Application No. 2018/14884, 27.10.2021.

¹⁹¹ Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 137.

¹⁹² Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 152.

¹⁹³ Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 160.

stated that access-blocking and content removal decisions shall only be issued by criminal judgeships of peace in exceptional circumstances where the violation is obvious within the framework of the principle of “**prima facie violation**.” However, the analysis in this report showed that criminal judgeships of peace completely ignore the principle-based approach of the Constitutional Court when issuing their decisions, even though those decisions shall only be issued in exceptional circumstances in accordance with the principles laid down by the Constitutional Court. In our previous reports, we have stated that this is not a coincidence. As stated in our previous reports, it is clear that article 9 of Law No. 5651, which does not impose any obligation to assess whether there is a prima facie violation or not, does not qualify as a law in the material sense or **achieve the quality requirement** of Article 13 of the Constitution. The rule, as such, does not meet the requirements of the legality principle, such as clarity, precision and predictability or providing assurance against arbitrary interference. Therefore, the belated “pilot judgment” is merely stating a fact and should not be praised.

In 2021, only 65% of the decisions issued by criminal judgeships of peace referred to the Ali Kılık judgment,¹⁹⁴ where the Constitutional Court introduced the principles of “**prima facie violation**” with regards to article 9 of Law No. 5651. In this context, the principles of “**prima facie violation**” were only adopted in 229 of nearly 3.504 decisions issued in 2021. On the other hand, no decisions issued in 2021 or before subject to article 8/A referred to either the Ali Kılık judgment or the BirGün¹⁹⁵ judgment, which was issued by the Constitutional Court by adapting the Ali Kılık judgment principles to article 8/A. Therefore, **rather than solving the problems**, the Constitutional Court has become a part of the problems related to the enforcement of Law No. 5651 and its case-law has become **ineffective** as it is not implemented and ignored by the lower courts, despite its occasional judgments finding violations. This problem will continue in 2022 despite the pilot judgment of the Constitutional Court.

In brief, while the 16th anniversary of the Law No. 5651 is approaching, the complex **Internet Censorship Mechanism** of the state is alive and kicking and evolving actively and vigorously as never before. High-ranking public figures whose reputation, honour, and dignity have been offended made their marks in 2021. Many individuals lodged requests to criminal judgeships of peace to protect their reputation, honour, and dignity including President Erdoğan; Tolga Ağar, AKP’s MP for Elazığ and the son of Mehmet Ağar, former Minister of Justice and the Interior; Bilal Erdoğan; Naci İnci, Rector of Boğaziçi University; Adil Karaismailoğlu, Minister of Transport; and Fettah Tamince, a businessperson. Following the statements of Sedat Peker, the General Directorate of Security and the Anti-Cybercrime Department in the Gendarmerie General Command joined this list. Criminal judgeships of peace ruled that the personal rights of all of them, without exception, have been violated, disregarding freedom of expression and freedom of the press, and the case-law of the Constitutional Court and the European Court of Human Rights.

The Constitutional Court stated that “[i]n a democracy governed by the rule of law, restrictions shall not disproportionately prevent the enjoyment of freedoms, re-

¹⁹⁴ Ali Kılık Application, No: 2014/5552, 26.10.2017.

¹⁹⁵ BirGün İletişim ve Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019.

ardless of the purpose.”¹⁹⁶ Currently, there is no proportionate measure and higher judicial bodies have been defeated by the criminal judgements of peace.

As the scorching and destructive effect of the reinforced censorship and control mechanism continues, the purpose of the EngelliWeb reports is to ensure that the **permanent damage caused by censorship is not completely erased from our collective memory** and to document the extent of censorship with examples, as in previous reports. This documentation work will continue in the coming years.

¹⁹⁶ Ali Kılık Application, No: 2014/5552, 26.10.2017, § 88.



The EngelliWeb 2021 Report of İFÖD, the Freedom of Expression Association is a continuation of the EngelliWeb 2018, 2019 and 2020 reports and is entitled *The Year of the Offended Reputation, Honour, and Dignity of High Level Public Personalities*. The report will reveal that thousands of news articles and other content of public interest are censored and thereby destroyed through access-blocking and removing sanctions as a result of increasing number of decisions finding “violations of personal rights” high level public personalities. The 2021 EngelliWeb Report includes an overview of and considerations on increasing Internet censorship and access blocking practices in Türkiye by the end of 2021. This assessment is predominantly conducted by reference to the application of the Law No. 5651 on Regulation of Publications on the Internet and Suppression of Crimes Committed by Means of Such Publications, which was enacted about 15 years ago, and the assessment also includes other subsequent regulations in Türkiye.

In its 15 year history, no official statistical data on websites blocked from Türkiye was ever published by the government entities or by the relevant public authorities. A significant gap has been fulfilled with the publication of the EngelliWeb reports as a primary resource for statistical data and the annual reports have become a focal reference point in this field.

The EngelliWeb 2021 Report includes detailed statistical data on websites blocked from Türkiye, blocked or removed news articles (URL-based) and blocked or withheld social media accounts and social media content as of end of 2021. As will be seen in detail in the 2021 report, the practice to block widespread access to the Internet continued in Türkiye as in previous years. The amendments made in July 2020, particularly the introduction of the new sanction of “removal of content” through article 9 of Law No. 5651 was used frequently during 2021.

The purpose of the publication of this report is to ensure that the permanent damage of censorship is not completely erased from the collective memory and to document the extent of censorship with examples, as in previous reports. İFÖD, the Freedom of Expression Association will continue to release EngelliWeb reports every year. Follow our Twitter account (@engelliweb) and the website of the Association (<https://ifade.org.tr>) to stay up to date with access-blocking and censorship related news.

ISBN

978-605-69446-9-7



9 786056 944697

ifade.org.tr

İFÖD
İFADE ÖZGÜRLÜĞÜ DERNEĞİ