

EngelliWeb 2022

The Constitutional Court in the Shadow of Criminal Judgeships of Peace

YAMAN AKDENİZ - OZAN GÜVEN



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İFADE ÖZGÜRLÜĞÜ DERNEĞİ

The Constitutional Court in the Shadow of Criminal Judgeships of Peace

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**THE CONSTITUTIONAL COURT IN THE SHADOW OF
CRIMINAL JUDGESHIPS OF PEACE**

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• RESEARCH •

Freedom of Expression Association and the 2022 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.

EngelliWeb was launched in 2008 as a civil society initiative and shared with the public 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 research under the roof of the Association. Within the scope of these activities, the 2018 EngelliWeb Report on the ongoing Internet censorship in Türkiye was published in June 2019,ⁱ the 2019 EngelliWeb report in July 2020,ⁱⁱ the 2020 EngelliWeb report in August 2021,ⁱⁱⁱ and finally the 2021 report in October 2022.^{iv} Moreover, an advisory report was prepared for the United Nations’ 2020 Türkiye Report in the context of its Universal Periodic Review (“UPR”) mechanism, and statistical data as of

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

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

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

^{iv} Freedom of Expression Association Türkiye, EngelliWeb 2021: The Year of the Offended Reputation, Honour and Dignity of High-Level Public Personalities, October, 2022, https://ifade.org.tr/reports/EngelliWeb_2021_Eng.pdf

that date was shared with the public in November 2019.^v The annual reports published by the Freedom of Expression Association continue to be widely covered in national and international media and are frequently referred to in the sessions of the Grand National Assembly of Türkiye where amendments to Law No. 5651 are discussed.^{vi}

The EngelliWeb 2022 report, as a continuation of the 2018-2021 EngelliWeb reports, is entitled *The Constitutional Court in the Shadow of Criminal Judgeships of Peace*. This is because, as will be seen in the report and as in previous years, thousands of news articles and other content of public interest were blocked, removed from publication, censored and deleted from the archives as a result of the “personal rights violations” judgments. Thematically, the 2022 report will demonstrate that the decisions of the Constitutional Court are ineffective, that since September 2020 it has not ruled on the applications submitted under article 8/A of Law No. 5651, that although the decisions of the criminal judgeships of peace under this provision completely ignore the jurisprudence and the principled approach of the Constitutional Court, no pilot judgment has been implemented and structural problems have not been identified. More seriously, the 2022 report will also detail that, despite identifying “structural problems” with article 9 of Law No. 5651 in October 2021, the Constitutional Court **did not implement** its own “pilot judgment” and did not rule on any article 9 applications in 2022, thus becoming part of the ongoing problem and turning into an ineffective domestic remedy.

In the framework of the EngelliWeb project, it was found that 35.023 news articles (URL addresses) were blocked, and 29.253 news articles (URL addresses) were taken down, removed, or deleted by 6.509 different decisions issued by 543 different criminal judgeships of peace for the purposes of “protecting personal rights” subject to article 9 of the Law No. 5651 **from 2014 until the end of 2022**. As in previous years, these decisions were mainly issued by criminal judgeships of peace at the requests of high-ranking public figures, as well as some public institutions and companies close to the government during 2022. Similarly, the application of article 8/A of Law No. 5651, which aims to protect national security and public order, continued in the hands of criminal judgeships of peace also during 2022 and Kurdish and opposition news websites were frequently and successively blocked, especially at the request of provincial gendarmerie commands. In June 2022, at the request of the RTÜK, the Radio and Television Supreme Council, access to the entire news websites of Voice of America and Deutsche Welle (“DW”) were also blocked subject to article 29/A of Law No. 6112 on the Establishment of Radio and Television and Broadcasting Services as the news providers did not obtain “a licence” from the authority.

As assessed in detail in the 2022 report, the practice of blocking access to the Internet and removing and deleting content continued at full speed, as in previous years. The amendments made in July 2020, in particular the sanction of “removal of content” added to article 9 of Law No. 5651, were frequently used in 2022 and criminal judgeships of peace continued to impose the sanction of removing news and content from publication, in addition to the sanction of access blocking. Foreign social

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

vi See. 23.07.2020 TBMM Adalet Komisyonu Tutanakları (The minutes of TGNA Justice Committee); 28.07.2020 TBMM Tutanakları (The minutes of TGNA); 11.02.2021 TBMM Tutanakları (The minutes of TGNA); 06.04.2021 TBMM Tutanakları (The minutes of TGNA); 13.10.2021 TBMM Tutanakları (The minutes of TGNA); 10.12.2021 TBMM Tutanakları (The minutes of TGNA); 24.03.2022 TBMM Tutanakları (The minutes of TGNA); 23.03.2023 TBMM Tutanakları (The minutes of TGNA); 06.04.2023 TBMM Tutanakları (The minutes of TGNA).

network providers with more than one million daily hits from Türkiye established their legal representative offices in Türkiye during 2021,^{vii} but their legal responsibilities were tightened and expanded by Law No. 7418 on Amendments to the Press Law and Certain Laws, which was enacted by the Turkish Grand National Assembly (“TGNA”) in October 2022. EngelliWeb’s annual reports will no longer include detailed evaluations of legal issues surrounding the social network providers as well as an assessment of their transparency reports as in previous years. However, **a separate thematic report** evaluating the legal obligations of social network providers and their local and international transparency reports will be published in the **50 Shades of Censorship** series of the Freedom of Expression Association publications later in the year.

In addition to these evaluations, 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 that have been blocked from Türkiye and/or have been subject to content removal decisions significantly increased in 2022. In this context, **the number of websites blocked from Türkiye reached 712.558 by the end of 2022.**

The General Assembly of the Constitutional Court, in its decision in the case of *Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others*, which was announced on 27.10.2021 and the reasoning of which was published in the Official Gazette on 07.01.2022, identified structural problems in article 9 of Law No. 5651 and decided to apply the pilot judgment procedure.^{viii} The Constitutional Court stated that although the rule in article 9 provides a legitimate reason for the protection of personal rights, the provision does not “describe how the 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. The Court also indicated that indefinite access blocking practices and restrictions are a severe intervention tool. 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 identified 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.^{xi} The deadline set by the Constitutional Court expired on 06.01.2023.

In October 2022, while debating the draft Law No. 7418 on Amendments to the Press Law and Certain Laws, the Parliament made some amendments to articles 8 and 9 of Law No. 5651, but completely ignored the pilot judgment of the Constitutional Court. As a result, Parliament did not resolve the “structural problems” identified in article 9 of Law No. 5651. In this context, as can be seen in our 2022 report, nothing has changed in practice, the pilot judgment of the Constitutional Court has had no visible effect; on the contrary, censorship practices have continued unchanged and even increased. In other words, criminal judgeships of peace have continued to apply Law No. 5651 “in their own way” and as will be detailed in our 2022 report, the judge-

vii See TGNA, Reply to the Written Parliamentary Question regarding the social media platforms that have appointed representatives in Türkiye after the entry into force of Law No. 5651, 04.05.2021, <https://www2.tbmm.gov.tr/d27/77-42898sgc.pdf>

viii *Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others*, No. 2018/14884, 27.10.2021, O.G. 07.01.2022-31712.

ix *Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others* No. 2018/14884, 27.10.2021, § 131.

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

xi For the list of 334 applications that were postponed by the Constitutional Court pursuant to the pilot judgment, see <https://www.anayasa.gov.tr/media/8051/pilotkararlar01.pdf>

ships refrained from implementing both the Ali Kılık^{xii} and Keskin Kalem and Others^{xiii} judgments of the Constitutional Court and the important principles laid by the Court.

During this process, the Constitutional Court has also failed to fulfil the requirements of the pilot judgment and has not issued any ruling on article 9 of Law No. 5651 from 07.01.2022 until the date of publication of our 2022 Report. Furthermore, a more concerning situation is that, the 334 applications postponed for consideration based on the pilot judgment have still not been resolved and still pending.^{xiv} Similarly, the Constitutional Court has completely overlooked article 8/A of Law No. 5651 and issued its last decision regarding article 8/A in September 2020.^{xv} Consequently, while severe interventions made against news websites such as OdaTV, Independent Turkish, and JinNews under article 8/A have been ongoing for over two years, the Constitutional Court continues to remain silent regarding these interventions.

Although the Constitutional Court has issued approximately 40 different judgments on the Internet and access-blocking practices, including the Wikipedia decision, the Court's principled approach has not had a positive impact on the access-blocking decisions issued by the criminal judgeships of peace in 2022, just like in the 2019-2021 period. As our previous reports, our 2022 report will also evaluate the application of the "prima facie violation" approach within the scope of the access-blocking decisions issued in 2022. The Constitutional Court adopted the "prima facie violation" approach with its decision on the **Ali Kılık application**^{xvi} and the Keskin Kalem pilot judgment,^{xvii} which is a continuation of this decision and requested the principles to be applied in access blocking decisions to be issued on the grounds of violation of personal rights within the scope of article 9 of Law No. 5651. The Constitutional Court, in its **BirGün İletişim ve Yayıncılık Ticaret A. Ş. decision**,^{xviii} also required the "prima facie violation" approach to be applied to access blocking decisions based on grounds such as national security and public order within the scope of article 8/A.

The main purpose of the publication of this report is to **ensure that the permanent damage caused by censorship is not completely erased from collective memory** and to document the extent of censorship in Türkiye with examples, as in previous reports. Within this context, the website of the Freedom of Expression Association^{xix} became active in 2020, and the EngelliWeb section of the website^{xx} and the EngelliWeb Twitter account^{xxi} started sharing news and announcements about blocked websites and domain names that were also included in this report, as well as news content, social media accounts and other content to which access has been blocked and/or content that has been decided to be removed. As will be noted in this 2022 report, as a result of these publications, the Freedom of Expression Association became the target of a series of requests and decisions to block access and remove content from its website. In this context, it is not surprising that, first in March 2023, the En-

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

xiii Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others, No. 2018/14884, 27.10.2021.

xiv For the list of 334 applications that were postponed by the Constitutional Court pursuant to the pilot judgment, see <https://www.anayasa.gov.tr/media/8051/pilotkararlar01.pdf>

xv Ali Ergin Demirhan (2) (Sendika.Org) Application, No: 2017/35947, 09.09.2020.

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

xvii Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application, No: 2018/14884, 27.10.2021, O.G. 07.01.2022-31712.

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

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

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

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

gelliWeb section^{xxii} of our Association’s website and more than 500 announcements in this section were blocked by the Rize Criminal Judgeship of Peace.^{xxiii} Subsequently, in May 2023, the entire EngelliWeb 2021 report of the Freedom of Expression Association, entitled *The Year of Offended Reputation, Honour and Dignity of High-Level Public Personalities*, was blocked by the Şile Criminal Judgeship of Peace.^{xxiv} While the appeals against these decisions were rejected, the applications to the Constitutional Court are still pending. As a result, our efforts to expose, document, and archive the permanent damage caused by censorship have been undermined and made more difficult.

The **methodology of this study** includes a monthly scanning of approximately **226 million** domain names; a weekly scanning of **21 million** current news articles from 90 different news websites; a monthly scanning of approximately **33 million archived news articles**; the real-time connectivity tracking and monitoring of whether **166 different domain names**, including Wikipedia, YouTube, Twitter, Facebook, and certain news websites that are blocked from Türkiye; the identification of the blocked, removed, or country withheld content including videos, social media accounts and content items from Türkiye 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.

As in previous years, the 2022 EngelliWeb Report was written by Professor Yaman Akdeniz (Istanbul Bilgi University, Faculty of Law, Faculty Member) and expert researcher Ozan Güven. We would like to thank the Lumen database, which indirectly contributed significantly to the preparation of this study.^{xxv} We would also like to thank İFÖD lawyers Dilara Alpan, Sevgi Kalan Güvercin, Dicle Demir and Melike Türkay and our student intern Deniz Onuk for their contributions to the analysis of the Constitutional Court’s Ali Kılık judgment in relation to the 2022 decisions of the criminal judgeships of peace and for preparing the summaries of the decisions referred to in this report. We would also like to thank Dr. Ali Rıza Çoban for the English translation of this report. Finally, many thanks to Dr Can Cemgil for patiently reading the final version of the manuscript from beginning to end, comma by comma, and for his valuable contributions throughout the project.

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

^{xxiii} Rize Criminal Judgeship of Peace, no. no.2023/1003, 20.03.2023. See also İFÖD’s announcement, 20.03.2023, <https://ifade.org.tr/engelliweb/engelliweb-erisime-engellendi/>

^{xxiv} Şile Criminal Judgeship of Peace, no. 2023/1003, 18.05.2023. See, <https://ifade.org.tr/engelliweb/engelliweb-2021-raporu-erisime-engellendi/>

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

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The EngelliWeb Report of the Freedom of Expression Association provides an assessment of the growing practice of Internet censorship and access blocking in Türkiye, as of the end of 2022. 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 introduced since then.

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

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

¹ See the written question no. 7/8292, 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, 22.04.2019 <https://www2.tbmm.gov.tr/d27/7/7-8292sgc.pdf>

al level **since other countries do not officially and collectively disclose such data**² as grounds for not disclosing such data. On 25.04.2019, the Ministry of Transport and 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 have been asked within the Assembly in either the 2020, 2021 or the 2022 sessions.

The EngelliWeb 2022 report, prepared by the Freedom of Expression Association, aims to provide the public with detailed statistical information on websites and domain names that have been blocked by Türkiye, news articles (URL addresses) whose access has been blocked and/or whose content has been decided to be removed, and social media accounts and content both for the year 2022 and in general until the end of 2022. It remains the intention of İFÖD to continue to share such data and analysis with the general public on a regular basis.

ACCESS TO 712.558 WEBSITES WAS BLOCKED FROM TÜRKİYE BY THE END OF 2022

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 of 2018**, while this number reached **408.494** by the end of **2019** and **467.011** by the end of **2020**, and **finally 574.798** by the end of **2021**. 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 137.717** new domain names were blocked from Türkiye during **2022**. Along with the **137.717 domain names and websites** blocked in **2022**, a total of **712.558** websites and domain names have been blocked from Türkiye by a total of **616.239** separate decisions issued by **814** separate institutions including criminal judgeships of peace by the end of 2022 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 2022 (**137.717**) compared to previous years (2021: **107.714**, 2020: **58.872**, 2019: **61.383**, 2018: **94.601**). Therefore, access-blocking practices increasingly continued in 2022, with a number much higher than the average (**44.535** websites per year) for the 16-year period (2007-2022) since the Law No. 5651 came into force and access-blocking practices have been deployed.

It was also found that by the end of 2022, access to **150.000** URL addresses, **9.800** Twitter accounts, **55.500** tweets, **16.585** YouTube videos, **12.000** Facebook content, and **11.150** Instagram content was blocked subject to Law No. 5651 and other legal provisions.

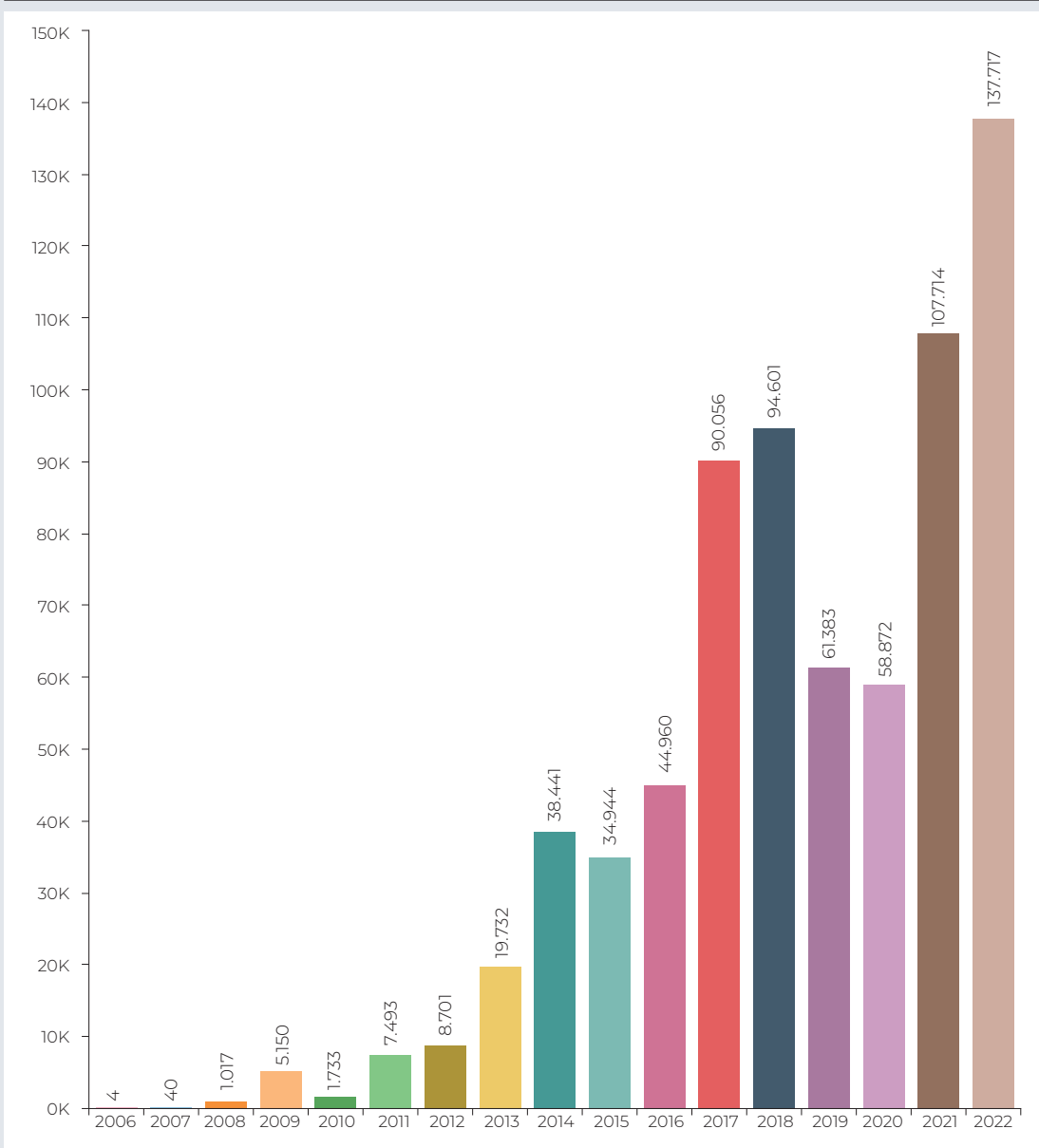
THE POWER AND LEGAL AUTHORITY TO BLOCK ACCESS FROM TÜRKİYE

As detailed in the EngelliWeb 2018-2021 reports, the authority to issue or request blocking decisions is granted to **judicial organs** (courts, criminal judgeships of

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

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

Figure 1: 2006-2022: Total Number of Blocked Websites from Türkiye



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 also 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 2022 to include access-blocking authority granted to the **Board of Advertisement** subject to Law No. 6502 on Protection of Consumers, access blocking and/or content removal authority granted to the **Ministry of Commerce** by the Law No. 6553 on the Regulation of Electronic Commerce, and access blocking authority granted to Information and Communication Technologies Authority (“BTK”) in relation with over the top services subject to Law No. 5809 on Electronic Communications. In this context, the following institutions and organizations are authorized to issue or request access-blocking decisions as of end of 2022:

- **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
- **the Information Technologies and Communication Board**⁸
- **Association of Access Providers (“ESB”)**⁹
- **Turkish Medicines and Medical Devices Agency (“TITCK”)**¹⁰ of the Ministry of Health

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 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 TIB was authorized under articles 8, 8/A and 9/A of the Law No. 5651 to block access with the provision of judicial approval in case of administrative blocking 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 The president of the 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.

8 By virtue of the power conferred by paragraph 17 of Article 60 of Law No. 5809 on Electronic Communications (Amendment: 13/10/2022-7418/38 Art.), the Information Technologies and Communication Board may decide to reduce the Internet traffic bandwidth of any over-the-top service provider or to block access to the relevant application or website that does not fulfil the obligations set out in paragraph 14 of article 9 of this Law, does not pay the administrative fine imposed by the Board pursuant to paragraph 16 of article 60, or does not fulfil the obligations set out by the regulations of the Board within six months of the notification to be issued by the Board, or provides services without authorisation.

9 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.

10 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.

- **Capital Markets Board**¹¹
- **Ministry of Agriculture and Forestry**¹²
- **Directorate of Tobacco and Alcohol**¹³ of the Ministry of Agriculture and Forestry
- Department of Games of Chance of the **Directorate General of National Lottery Administration**¹⁴
- **Jockey Club of Türkiye**¹⁵
- **Directorate of Spor Toto Organization**¹⁶

- 11 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.
- 12 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 followed. 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]).
- 13 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.
- 14 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.**
- 15 Under the Law No. 6132 on Horseracing, the Ministry of Agriculture and Forestry is authorized to organize horseracing 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.**
- 16 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

- The **High Board of Religious Affairs** of the Directorate of Religious Affairs¹⁷
- The **Board of Inspection and Recitation of the Quran** of the Directorate of Religious Affairs¹⁸
- **Radio and Television Supreme Council**¹⁹
- **Supreme Election Council**²⁰

Regulation on Duties, Authorizations, and Obligations of the Directorate of Spor Toto Organization (Official Gazette, 21.12.2008, no. 27.087).

- 17 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).
- 18 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 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.
- 19 By article 29/A (Added: 21.03.2018 – Law No. 7103/article 82), of 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).
- 20 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.

- **The Directorate General of Consumer Protection and Market Surveillance of the Ministry of Trade**²¹
- **Ministry of Treasury and Finance**²²
- All “**authorized bodies**” under the Law on Product Safety and Technical Regulations²³
- **Provincial Directors of Industry and Technology in the Ministry of Industry and Technology**²⁴
- **Governorships and the Ministry of the Interior**²⁵

- 21 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.
- 22 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 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), I. Tax Security.
- 23 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.”
- 24 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).
- 25 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

- **Banking Regulation and Supervision Agency**²⁶
- **Turkish Football Federation**²⁷
- **The “relevant persons” under the Juvenile Protection Law**²⁸

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.).

- 26 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 application 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).
- 27 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 broadcasts of **football matches played in the Republic of Türkiye** are found to be 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 the 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).
- 28 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.

- **Advertisement Board**²⁹
- **Ministry of Commerce**³⁰

As can be seen, **more than 25 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 2022

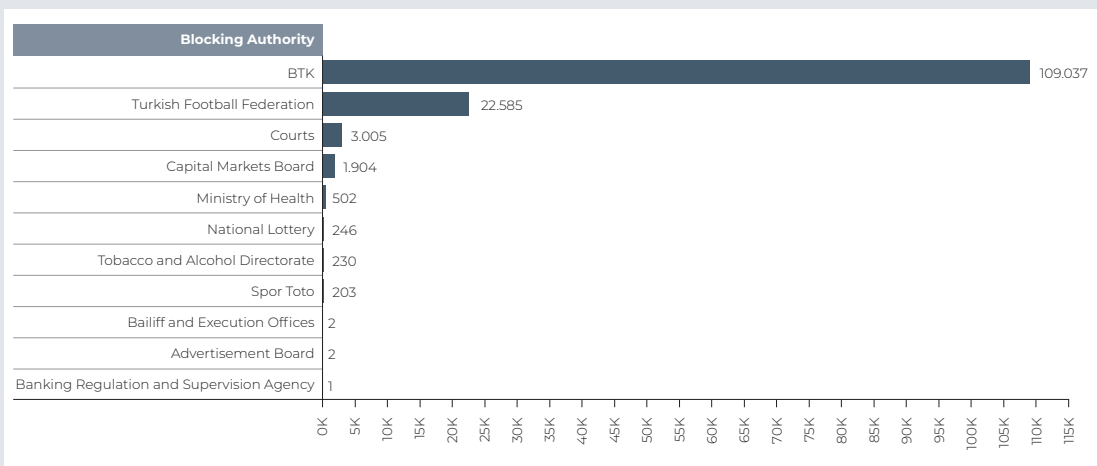
GENERAL ASSESSMENT OF DOMAIN NAME BLOCKING PRACTICES

As far as it could be determined by our efforts within the scope of the EngelliWeb project, access to a **total of 137.717** domain names was blocked from Türkiye. As can be seen in **figure 2**, the vast majority of the blocking decisions involving **109.037 domain names (79 %)** were issued by the President of the Information Technologies and Communication Board subject to article 8 of Law No. 5651. **22.585** domains were blocked in 2022 by the Turkish Football Federation, which was authorised to block access to websites in 2021. As a result, the courts moved to third place and accordingly, access to **3.005** domain names were blocked with decisions issued by criminal judgeships of peace, public prosecutors’ offices and by the courts. Moreover, **1.904** domains were blocked by the Capital Markets Board, **502** domain names were blocked by the Ministry of Health, Turkish Medicines and Medical Devices Agency, **246** domain names were blocked by the General Directorate of National Lottery Administration, **230** domain names were blocked by the Department of Tobacco and Alcohol (Ministry of Agriculture and Forestry), **two** domain names each were blocked by the Advertising Board and the Enforcement Directorates authorised in 2022, and **one** domain name was blocked by the Banking Regulation and Supervision Agency (“BDDK”).

²⁹ In addition to administrative fines, the Advertising Council may decide to block access to the publication, section or part (in the form of a URL, etc.) in which the offence has been committed, if the offence has been committed via the Internet, by virtue of the power conferred by paragraph 12 of article 77 of **Law No. 6502 on Consumer Protection**, relating to sanctions (additional sentences: 24.03.2022-7392/15 Art.). However, in cases where it is technically impossible to block access to the content involved in the infringement, or where the infringement cannot be prevented by blocking access to the relevant content, **a decision may be taken to block access to the entire website**. This decision will be sent to the Association of Access Providers for execution, in accordance with article 6/A of Law No. 5651. This decision may be appealed to the criminal judgeship of peace. The decision of the Criminal Judgeship of Peace may be appealed in accordance with the provisions of the Code of Criminal Procedure No. 5271, on 04.12.2004.

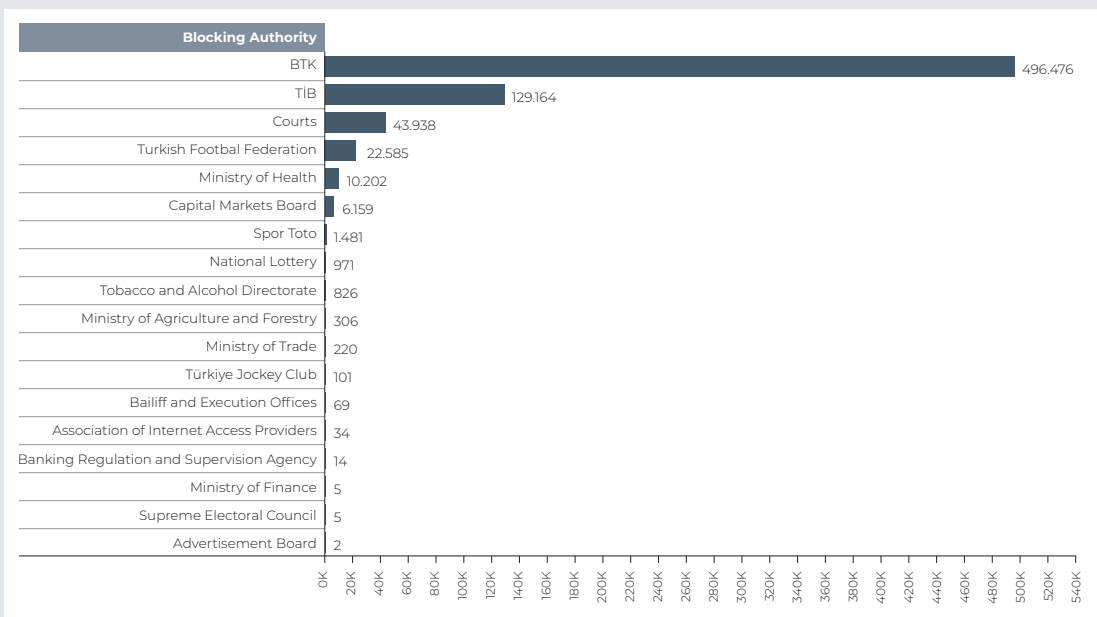
³⁰ With the amendments made to paragraph 3 of article 12 of **Law No. 6563 on the Regulation of Electronic Commerce**, regarding penal provisions (Addition: 01.07.2022-7416/6 Art.), the Ministry may issue a decision to remove content and/or block access to electronic commerce intermediary service providers and electronic commerce service providers who act in violation of Law No. 6563. These decisions shall be sent to the Association of Access Providers for implementation. The decisions to remove content and/or block access sent by the Association to the relevant content and hosting providers and access providers shall be implemented immediately by the relevant content and hosting providers and access providers. The decision to remove content and/or block access may be appealed to the criminal judgeship of peace. The decision of the criminal judgeship of peace may be appealed in accordance with the provisions of the Law No. 5271 on Criminal Procedure of 04.12.2004.

Figure 2: Number of Blocked Websites by the Blocking Authority (2022)



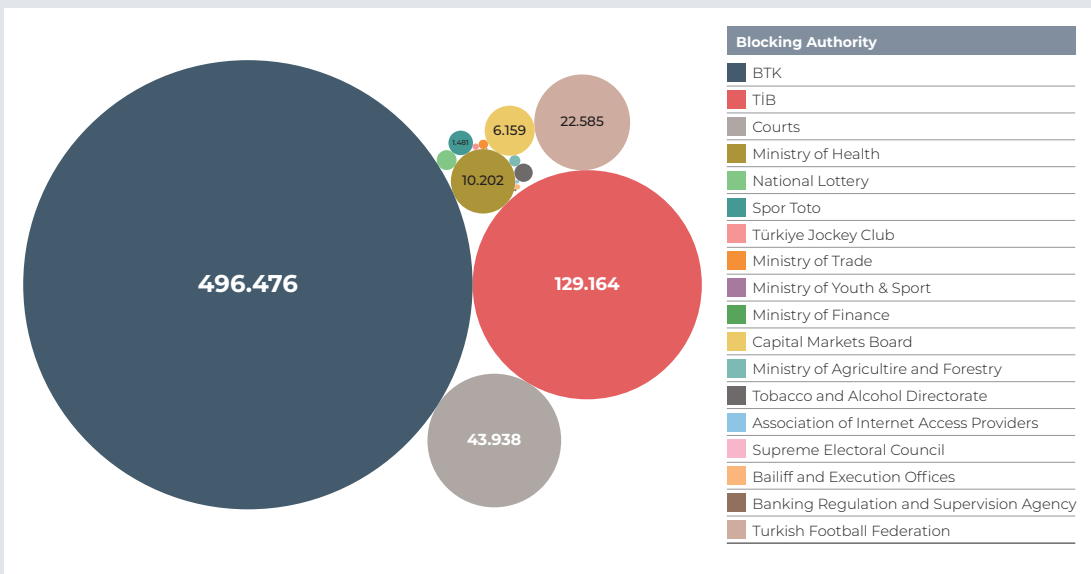
Together with these figures, **by the end of 2022, access to a total of 712.558 domain names** was blocked from Türkiye. As can be seen in **figures 3 and 4**, a total of **625.640 websites** were blocked from Türkiye **by administrative blocking decisions subject to article 8 of Law No. 5651**, including **129.164 domain names** blocked by TIB until its closure and **496.476 domain names** blocked by the **President of BTK**, since the closure of TIB. Access to **43.938 domain names and websites** was blocked by the **judicial organs** (criminal judgeships of peace, public prosecutors' offices and by the

Figure 3: Total Number of Blocked Websites by the Blocking Authority (2006-2022)



courts). Additionally, a total of **22.585** domains were blocked by the Turkish Football Federation, **10.202** websites were blocked by the Ministry of Health, **6.159** were blocked by the Capital Markets Board, **1.481** were blocked by the Directorate of Spor Toto Organization, **971** were blocked by the Directorate General of National Lottery Administration, **826** 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, **69** were blocked by execution offices, **34** were blocked by the Association of Access Providers, **14** were blocked by BDDK, **5** were blocked by the Supreme Election Council (“YSK”), **5** were blocked by the Ministry of Finance and **2** were blocked by the Advertisements Board.

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



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

Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications was entered into force on 4 May 2007. Amendments made to article 8 of the Law No. 5651 in July 2020³¹ 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

³¹ 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.**”

any of the crimes and offences” as defined under the Turkish Criminal Code: encouragement and incitement of suicide;³² sexual exploitation and abuse of children;³³ facilitation of the use of drugs;³⁴ provision of substances dangerous for health;³⁵ obscenity;³⁶ prostitution;³⁷ gambling;³⁸ 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.³⁹ Article 32 of Law No. 7418 on Amendments to the Press Law and Certain Other Laws, which was passed by the Turkish Grand National Assembly in **October 2022**, added subparagraph (ç) to the first paragraph of article 8 of Law No. 5651 to include content that constitutes a crime against the activities⁴⁰ and personnel⁴¹ of the National Intelligence Organisation within the scope of catalogue crimes.

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.⁴²

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**

32 Article 84, Turkish Penal Code.

33 Article 103/1, Turkish Penal Code.

34 Article 190, Turkish Penal Code.

35 Article 194, Turkish Penal Code.

36 Article 226, Turkish Penal Code.

37 Article 227, Turkish Penal Code.

38 Article 228, Turkish Penal Code.

39 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.

40 Article 27(1) of Law No. 2937 on the State Intelligence Services and the National Intelligence Organisation stipulates that: “Anyone who illegally obtains, procures, steals, falsely produces, falsifies or destroys information and documents relating to the tasks and activities of the National Intelligence Organisation shall be sentenced to four to ten years’ imprisonment.”

41 Article 27(2) of Law No. 2937 on the State Intelligence Services and the National Intelligence Organisation stipulates that: “Whoever, by any means, discloses the identity, position, duties and activities of members of the National Intelligence Organisation and their families, or forges or alters the identity of members of the National Intelligence Organisation, or uses such forged documents, shall be sentenced to imprisonment for a term of three to seven years.”

42 See article 8/4, Law No. 5651.

annulled the relevant measure.⁴³ The Constitutional Court stated that the annulled power enabled the “administration to block access to websites *ex officio* and **without need of judicial approval** in case a publication constituting an offence is published in mass communication websites with consent with the intention of not committing an offence or facilitating the commission of an offence”. The Court emphasized the problem with this kind of *ex officio* decisions issued by the President of BTK without any judicial approval by finding it in violation of the principle of “**legal certainty**” which constitutes one of the fundamental principles of the rule of law. This principle entails that any legal regulation must be clear, precise, comprehensible, applicable, and objective beyond any doubt both for 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 approval 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 2022, 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 2022.

⁴³ Constitutional Court Judgment, E. 2015/76., K. 2017/153, 15.11.2017, Official Gazette, 07.02.2018, no. 30.325.

Figure 5: 2018-2022: BTK vs. Judgeships: Comparison of Blocking Decisions Subject to Article 8 (Law No. 5651)

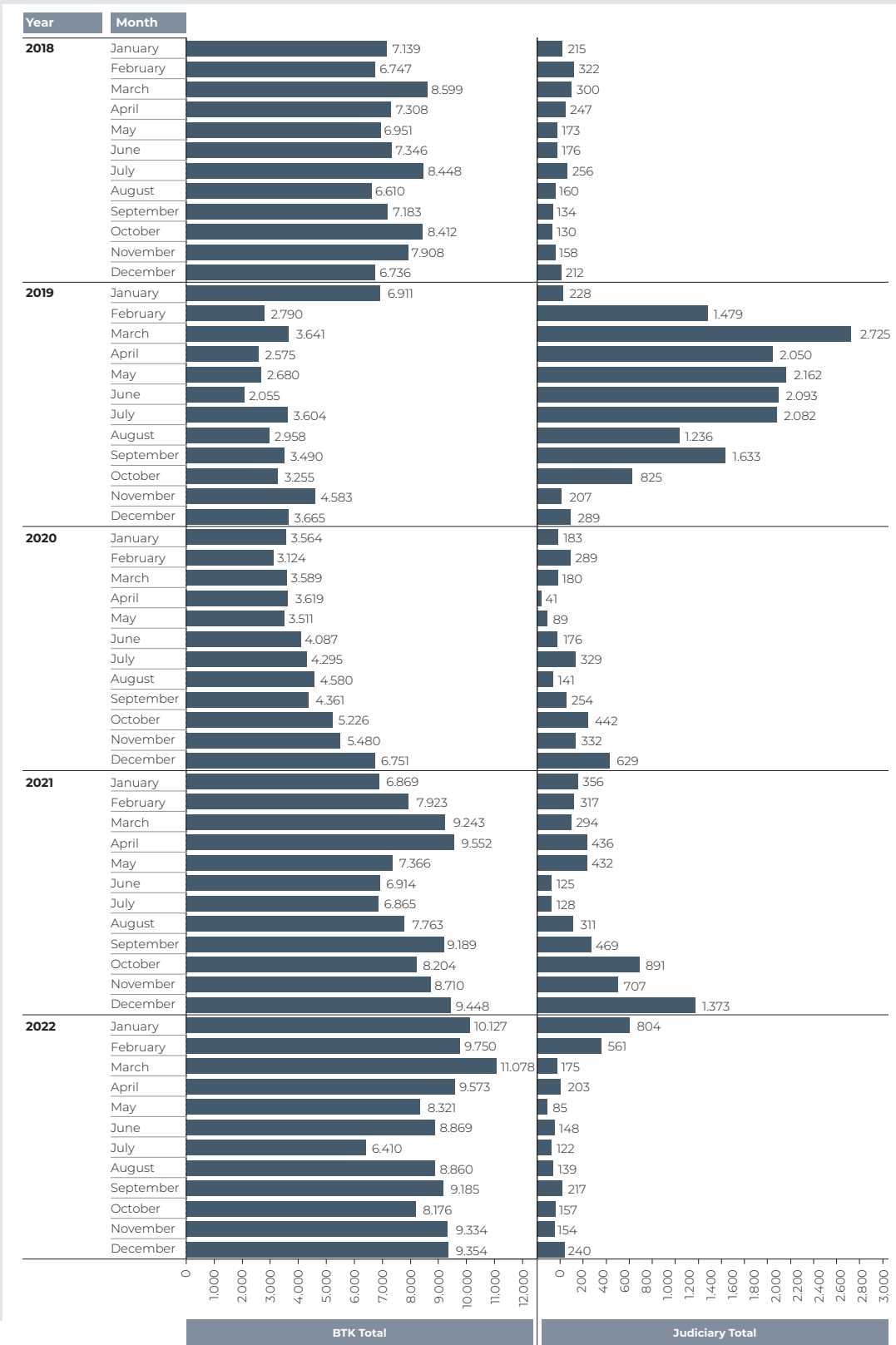
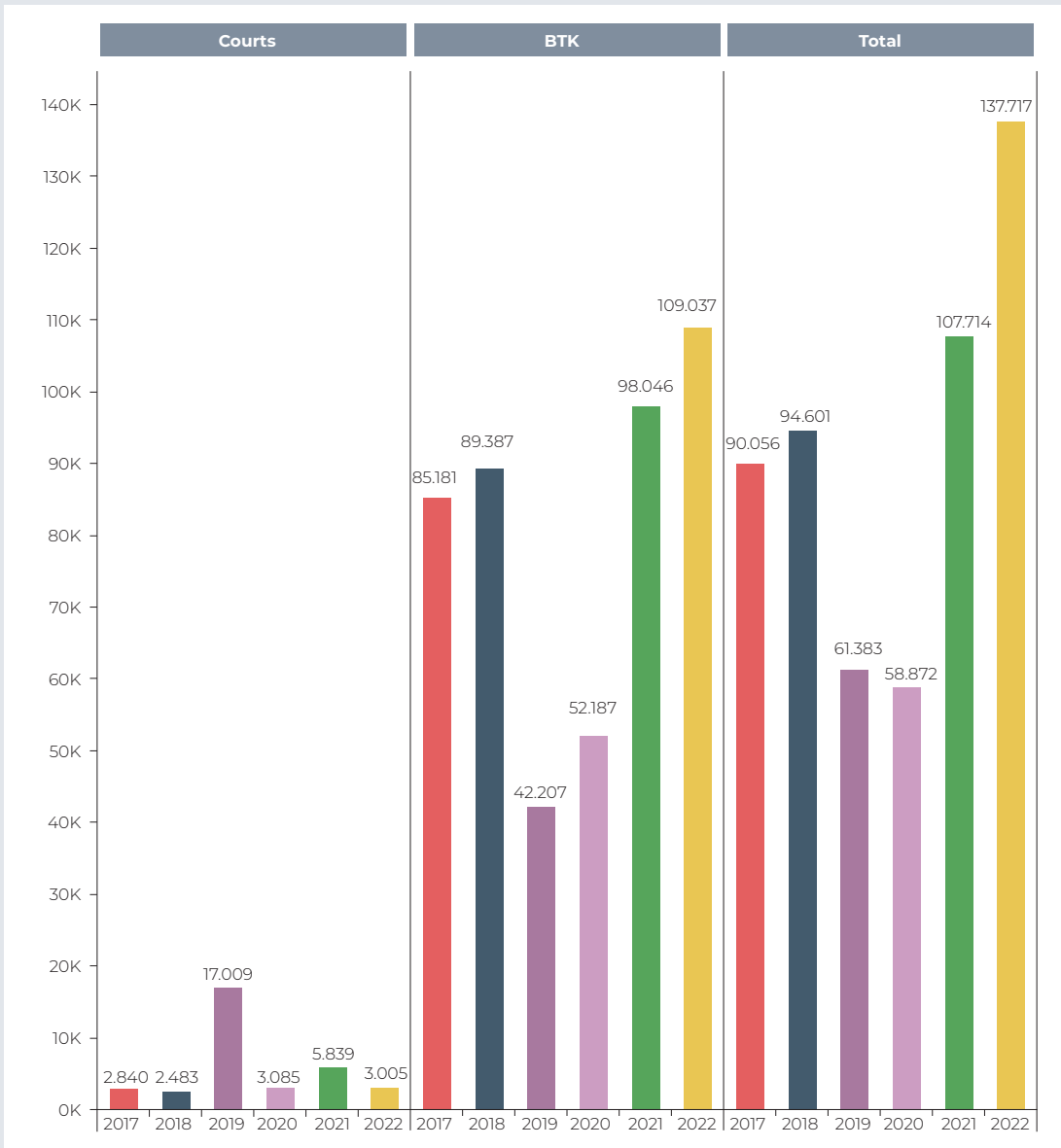
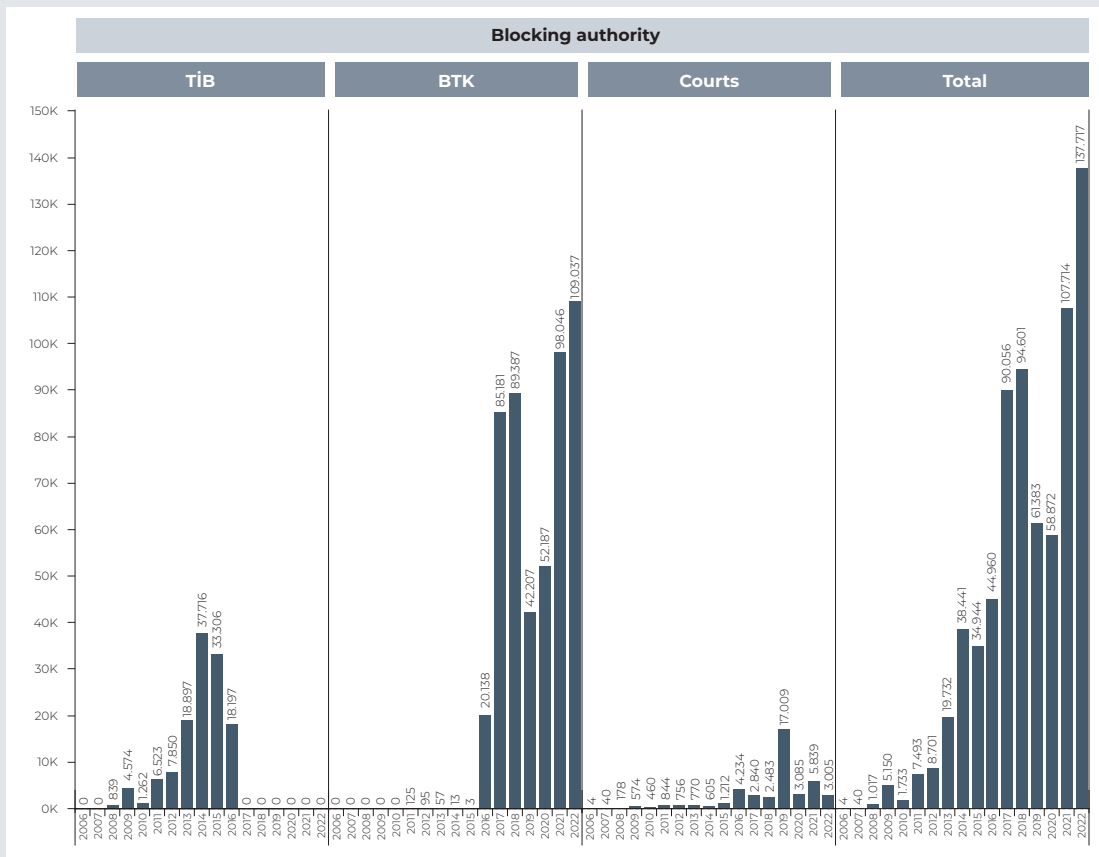


Figure 6: Comparison of Blocking Decisions Issued by BTK and the Judiciary (2017-2022)



This issue identified by EngelliWeb reports and the disregard of the Constitutional Court’s annulment of the authority to issue administrative injunctions regarding the “crime of obscenity” which has been in effect since 07.02.2019, when the Court’s decision came into force, and the problem of administrative measures being issued by the President of the BTK in contradiction to this decision, have been eliminated with a significant amendment made in article 8 of Law No. 5651 in October 2022. With article 32 of Law No. 7418 on the Amendment of the Press Law and Certain Other Laws, which was passed by the Grand National Assembly of Türkiye in October 2022,

Figure 7: 2006-2022: Comparison of Blocking Decisions Issued by TIB, BTK and the Judiciary by Year



the phrase “if the content or hosting provider of the publications ... is located abroad, or even if the content or hosting provider is not located abroad, the offences referred to in subparagraphs (2) and (5) and subparagraphs (6) and (7) and subparagraph (c) of paragraph (a) of the first paragraph” in paragraph (4) of article 8 of Law no. 5651 was removed from the text of the article. Thus, the authority of the President of the BTK have been expanded and the distinction between domestic and foreign websites present in paragraph 4 of article 8 has been abolished. The justification for this change in the proposed Law No. 7418 submitted to the Grand National Assembly of Türkiye, is explained as follows: “In order to eliminate the problems in determining the location of the content or hosting provider due to the decentralized and dynamic structure of the Internet and to end the authority debate, and in order to combat catalogue crimes more effectively, the distinction between domestic and international will be removed and uniformity will be ensured in the President’s blocking authority.”⁴⁴ Thus, the power that the Constitutional Court had declared to be contrary to the principle of “certainty” and therefore “allowing the administration to issue an ex officio decision to block access without the approval of a judge” and allow-

⁴⁴ See <https://www.tbmm.gov.tr/Yasama/KanunTeklifi/f72877c1-f87b-037b-e050-007f01005610>

ing arbitrariness has been returned to the President of the BTK in an expanded form, effectively disregarding the Constitutional Court's decision.

During 2022, as far as it could be determined by our efforts, access to **109.037 domain names and websites was blocked subject to 109.037 administrative blocking decisions** issued by the President of BTK. Of those blocked in 2022, **88.781** domain names (approximately **64%**) were related to gambling and betting sites.

SANCTIONS UNDER ARTICLE 8/A OF LAW NO. 5651

The Constitutional Court annulled⁴⁵ article 8(16) of Law No. 5651 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 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**.

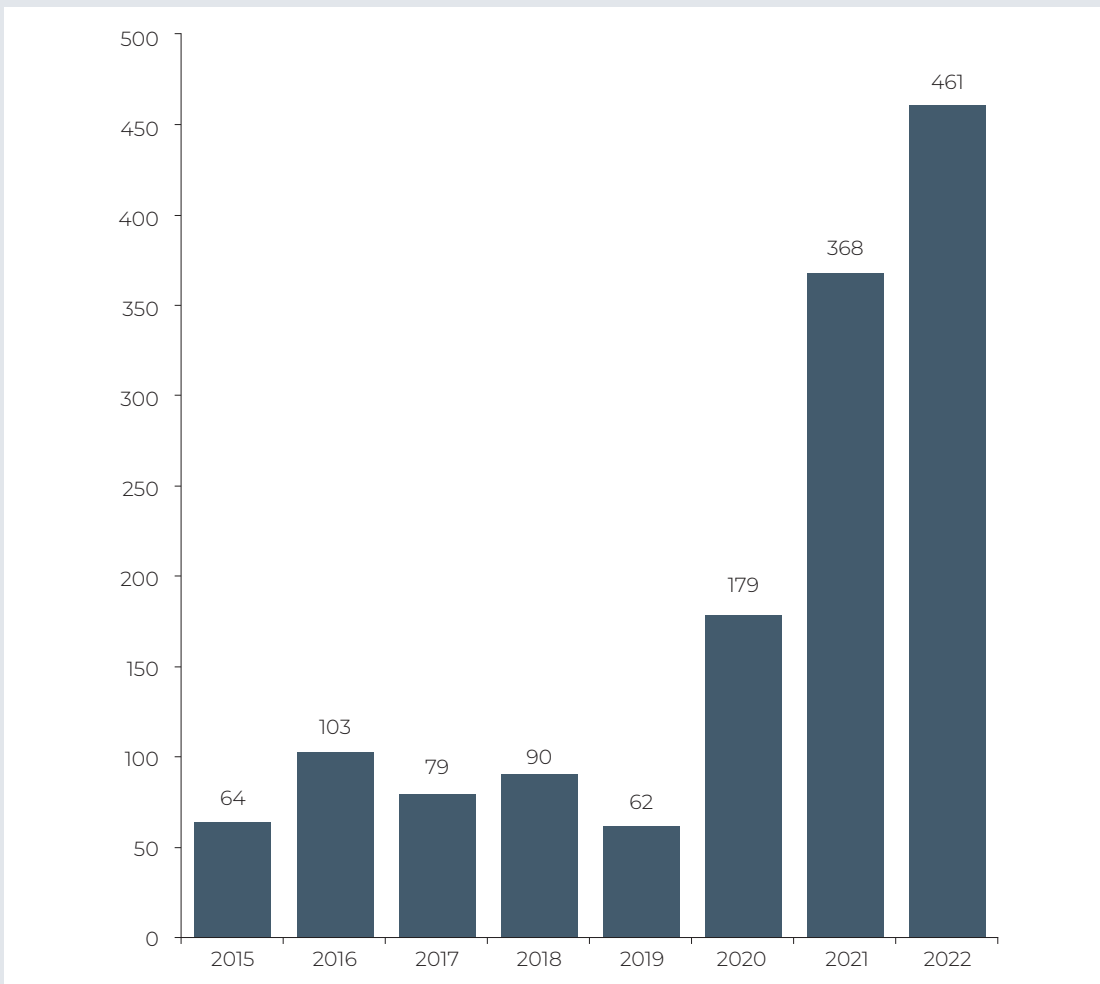
Additionally, subject to article 8/A, in circumstances where **delay would entail risk**, in order to protect the right to life or security of life and property, ensure national security, protect public order, prevent crimes, or protect public health; blocking and/or removal of such Internet content 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** 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.

⁴⁵ Constitutional Court Judgment E. 2014/149, K. 2014/151, 02.10.2014.

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



Article 8/A started to be used as a political 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.⁴⁶ As of **13.12.2016**, the administrative blocking

⁴⁶ See the decisions of the Gölbaşı Criminal Judgeship of Peace nos. 2015/609, 2015/631, 2015/645, 2015/646, 2015/647, 2015/648, 2015/650, 2015/662, 2015/672, 2015/682, 2015/691, 2015/705, 2015/710, 2015/713, 2015/720, 2015/723, 2015/728, 2015/751, 2015/759, 2015/763, 2015/765, 2015/769, 2015/771, 2015/774, 2015/778, 2015/779, 2015/790, 2015/792, 2015/810, 2015/828, 2015/829, 2015/837, 2015/839, 2015/840, 2015/845, 2015/860, 2015/861, 2015/871, 2015/878, 2015/887, 2015/891, 2015/897, 2015/898, 2015/899, 2015/902, 2015/903, 2015/915, 2015/930, 2015/931, 2015/937, 2015/947, 2015/955, 2015/958, 2015/960, 2015/972, 2015/1003, 2015/1012, 2015/1015, 2015/1021, 2015/1107, 2015/1169, 2015/1197, 2016/01, 2016/02, 2016/28, 2016/53, 2016/57, 2016/65, 2016/74, 2016/129, 2016/205, 2016/219, 2016/293, 2016/311, 2016/320, 2016/328, 2016/329, 2016/354, 2016/374, 2016/442, 2016/444, 2016/445, 2016/474, 2016/492, 2016/539, 2016/553, 2016/574, 2016/574, 2016/588, 2016/614, 2016/615, 2016/693, 2016/696, 2016/701, 2016/722, 2016/726, 2016/753, 2016/775, 2016/776, 2016/781, 2016/809, 2016/826, 2016/834, 2016/846, 2016/847, 2016/849, 2016/869, 2016/875, 2016/880, 2016/896, 2016/905, 2016/908, 2016/949, 2016/957, 2016/959, 2016/972, 2016/975, 2016/987, 2016/995, 2016/1002, 2016/1036, 2016/1040, 2016/1047, 2016/1076, 2016/1084,

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, **62** in 2019, 172 in 2020, and **368** in 2021. 8/A decisions were issued, respectively. The number of 8/A decisions issued increased significantly and reached **375** in **2021**. In 2022, the significant increase observed in 2021 continued and a total of **461** 8/A decisions were issued. By the end of 2022, a total of **1406 separate** decisions involving content removal and/or access blocking were issued by criminal judgeships of peace upon requests submitted within the scope of article 8/A. 2022 was also the year during which the highest number of article 8/A decisions (**461 decisions**) were issued since article 8/A entered into force. As will be explained below in detail, **approximately 25.573 websites**⁴⁷ 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 the decisions, it is observed that a total of **1406** decisions were issued by the end of 2022, 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 Communication Presidency, the majority of 8/A decisions were issued by the criminal judgeships of peace in Ankara by the end of 2019. As a result, the President of BTK started to submit requests to the criminal judgeships of peace in Ankara in December 2016, and the criminal judgeships of peace in Ankara issued a total of **233 8/A decisions** by the end of **2019**.

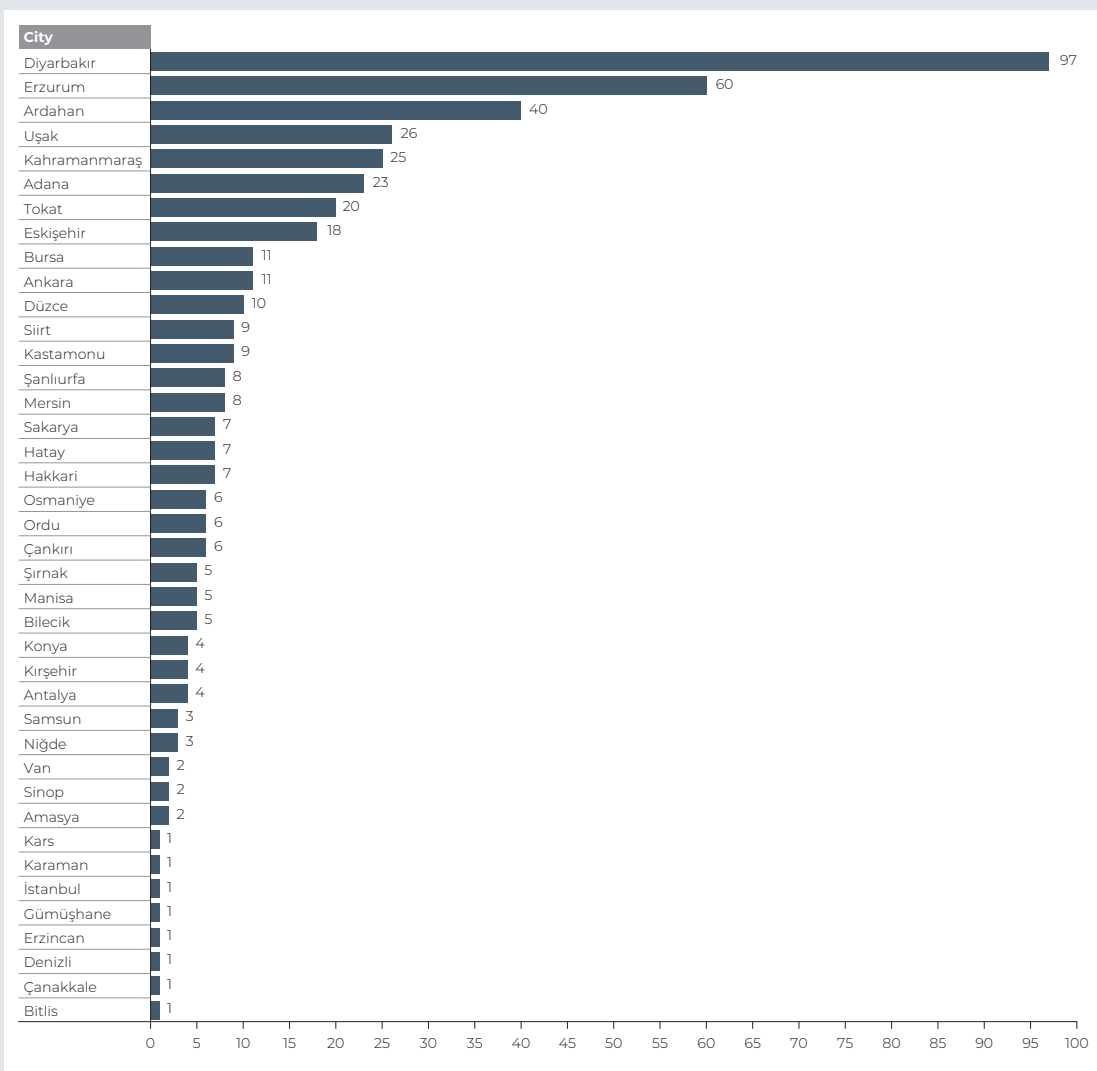
While **38** of the **233 8/A** blocking decisions issued by Ankara criminal judgeships of peace by the end of 2019 were issued by the Ankara 1st Criminal Judgeship of Peace; **35** were issued by the Ankara 5th Criminal Judgeship of Peace **34** were issued by the Ankara 3rd Criminal Judgeship of Peace, **34** were issued by the Ankara 6th Criminal Judgeship of Peace, **30** were issued by the Ankara 7th Criminal Judgeship of Peace, **28** were issued by the Ankara 2nd Criminal Judgeship of Peace, **25** were issued by the Ankara 4th Criminal Judgeship of Peace, **8** were issued by the Ankara 8th Criminal Judgeship of Peace, and **1** was issued by the Ankara 9th Criminal Judgeship of Peace. Furthermore, it was found that **11 8/A decisions** were issued by courts other than the Ankara criminal judgeships of peace by the end of 2019.⁴⁸

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.

⁴⁷ Domain names, news articles, news websites, and social media content.

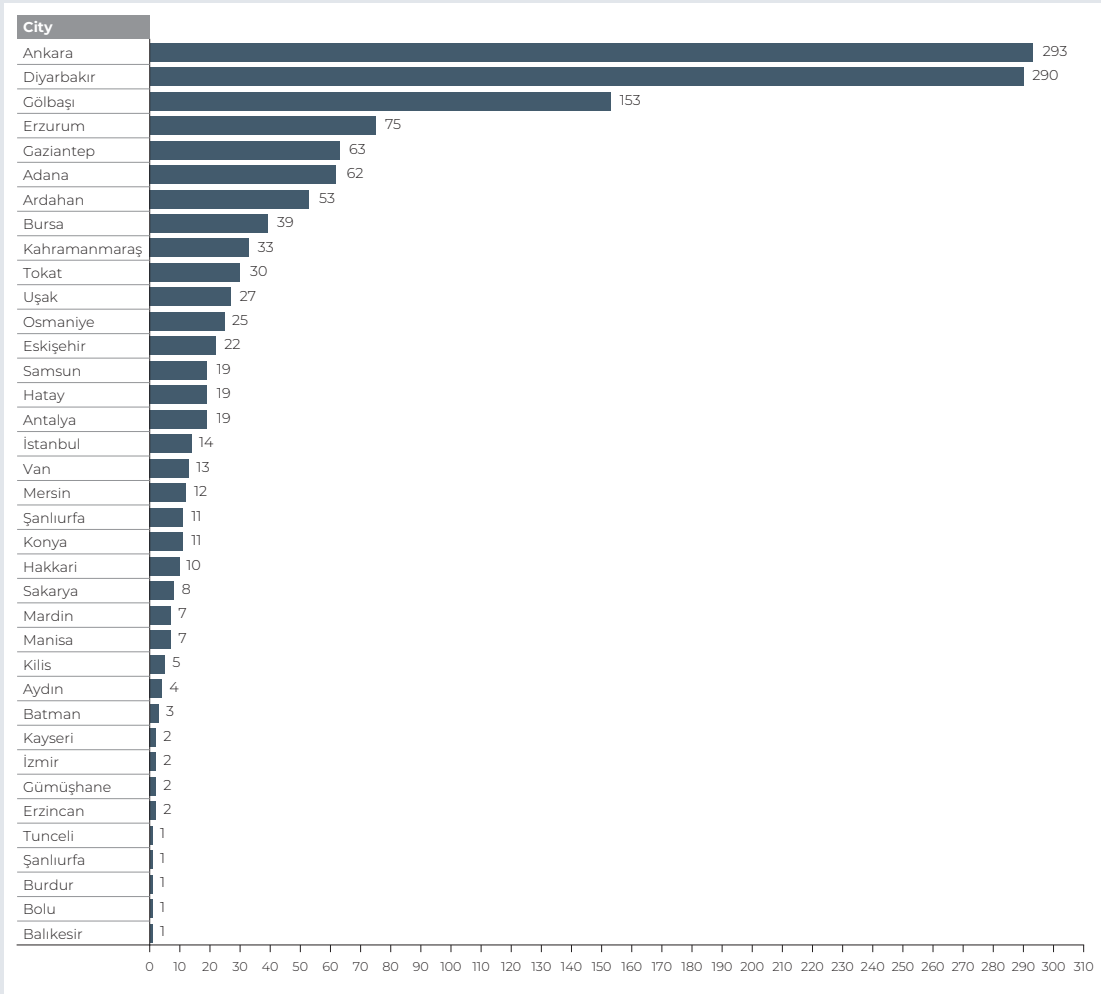
⁴⁸ These decisions were issued by the Adana 4th Criminal Judgeship of Peace; the Diyarbakır 2nd, 4th, and 5th Criminal Judgeships of Peace; the Istanbul Anatolia 8th Criminal Judgeship of Peace; the Istanbul 10th Criminal Judgeship of Peace; and the Istanbul 8th Criminal Judgeship of Peace.

Figure 9: 2022 8/A Decisions by Issuing City



Subsequently, a total of **179 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**). In **2022**, the criminal judgeships of peace in **Diyarbakır** issued

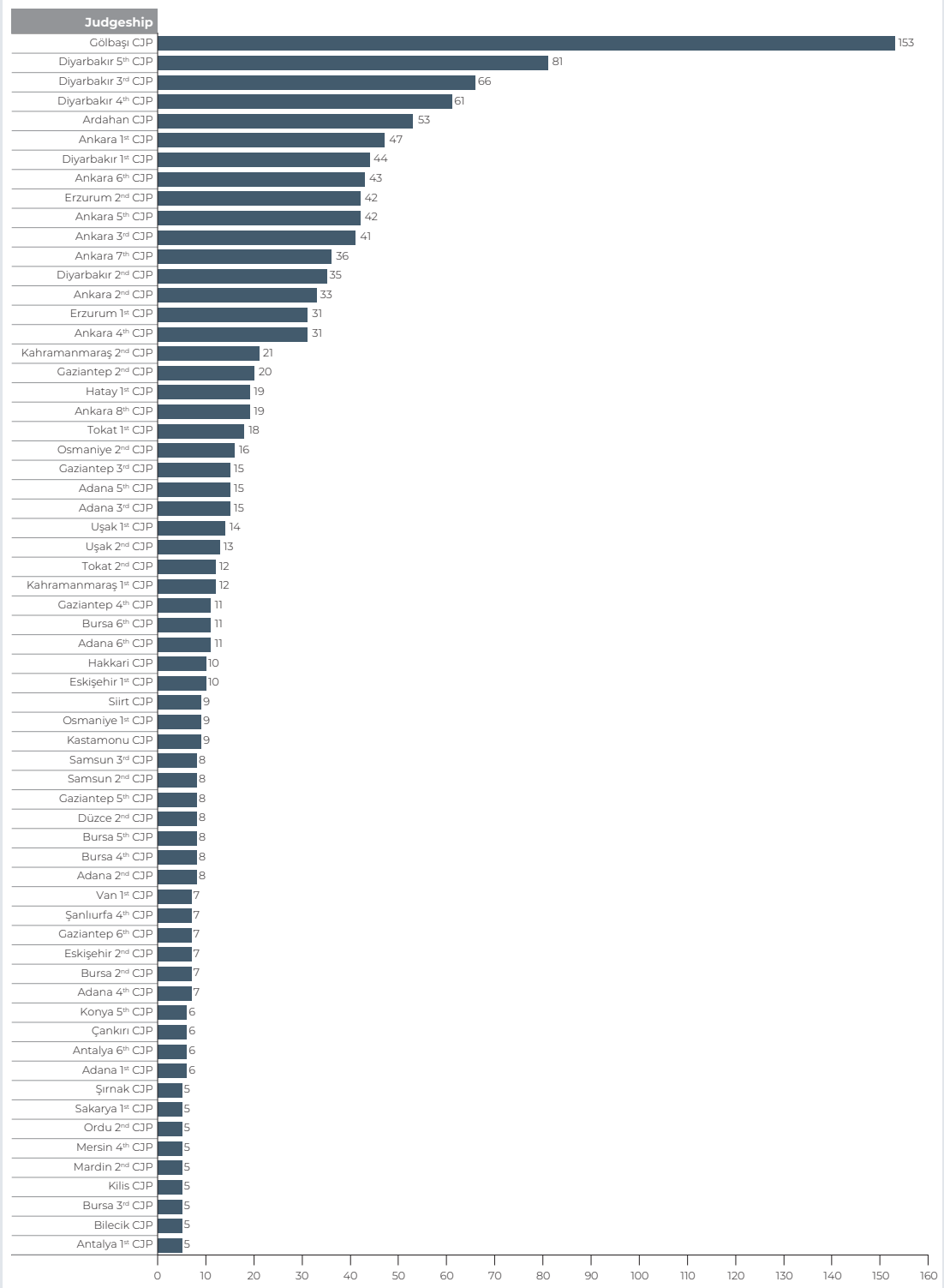
Figure 10: 2015-2022: 8/A Decisions by Issuing City



the highest number of 8/A decisions with a total of **97** decisions, while the criminal judgeships of peace in **Erzurum** ranked second with **60** decisions and the criminal judgeships of peace in **Ardahan** ranked third with **40** decisions.

Overall, criminal judgeships of peace based in **Ankara** ranked first with **293 8/A decisions**, which were then followed by criminal judgeships of peace based in **Diyarbakır**, which ranked second with **290 8/A decisions**; the **Gölbaşı Criminal Judgeship of Peace**, which ranked third with **153 8/A decisions**; and criminal judgeships of peace based in **Erzurum**, which ranked fourth with **75 8/A decisions**. **446 (32%)** of **1.406 8/A** decisions issued from 2015 to 2022 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.

Figure 11: Criminal Judgeships of Peace Issuing Decisions Subject to Article 8/A of Law No. 5651: 2015-2022



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, İstanbul, 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. In 2022, Düzce, Kastamonu, Siirt, Çankırın, Ordu, Bilecik, Şırnak, Kırşehir, Niğde, Amasya, Sinop, Bitlis, Çanakkale, Denizli, Karaman and Kars 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 2022 was the **Gölbâşı 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 **81 8/A decisions**, **34** of which were issued in 2022. The **Diyarbakır 3rd Criminal Judgeship of Peace** ranked third with **66 8/A decisions** and was followed by the **Diyarbakır 4th Criminal Judgeship of Peace (61 8/A decisions)**. Lastly, the **Ardahan Criminal Judgeship of Peace** ranked fifth with **53 8/A decisions**.

8/A DECISIONS ISSUED IN 2020 -2022 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 2019.⁴⁹ While **only 10 8/A decisions** had been issued outside Ankara before 2020, **142 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, 131 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,⁵⁰ websites selling narcotic substances and stimulants and websites **“making propaganda for a terrorist organization”** and that access to such websites was

⁴⁹ 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

⁵⁰ Sabah, “Müstehcen yayın yapan 88 siteye erişim engellendi” [88 obscene websites were blocked], 19.12.2020, <https://www.sabah.com.tr/yasam/2020/12/19/mustehcen-yayin-yapan-88-siteye-erisim-engellendi>; Sabah, “Jandarmadan siber operasyon: 204 siteye erişim engeli” [Cyber operation by the Gendarmerie: Access to 204 websites was blocked], 31.12.2020, <https://www.sabah.com.tr/yasam/2020/12/31/jandarmadan-siberoperasyon-204-siteye-erisim-engeli>

blocked.⁵¹ It was found that the **142 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 relation 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.

⁵¹ Diken, "Yasa dışı yayın yapan 137 internet sitesine erişim engeli" [Access to 137 websites which broadcast illegally was blocked], 01.12.2020, <http://www.diken.com.tr/yasa-disi-yayin-yapan-137-internet-sitesineerisim-engeli/>

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

In 2022, as a result of the requests of the Gendarmerie General Command and provincial gendarmerie commands, **123 decisions** of the criminal judgeship of peace, which were issued with reference to **article 8/A** and which were considered to be problematic, were identified. These 123 decisions were analysed in detail.

Number of Requests	Article 8/A Requests	Reference to Article 8/A	Article 8/A Decisions	Article 8 Decisions	Article 9 Decisions
123	120	91	0	0	123

In **120 of the 123 decisions** examined, a request was made under article 8/A. In 91 of the decisions, criminal judgeships of peace referred to article 8/A and took it into consideration in their assessments. However, none of these 123 decisions were issued by reference to **article 8/A**. Regardless of the requests made by the **gendarmerie**, criminal judgeships of peace issued all the 123 decisions subject to **article 9**, in relation to the **violation of personal rights**.

İFÖD instead has assessed that these 123 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 123 separate blocking decisions.

İFÖD Evaluation	123 Decisions
Article 8/A	123
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.

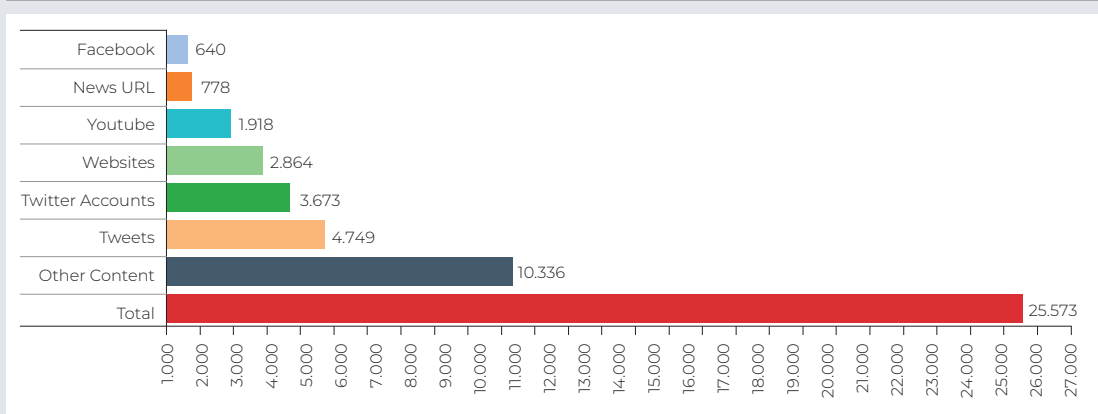
More examples can be provided; however, it can be seen that the number of requests for access-blocking or content removal submitted by the Presidency and the relevant ministries in “circumstances where delay would entail risk,” or subject to article 8/A started to decrease as a result of the involvement 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. In 2022, as in 2021, it is observed that the gendarmerie used article 8/A much more actively than the Presidency and the relevant ministries all over Türkiye, and as mentioned above, 2022 was the year with the highest number of 8/A decisions issued. However, criminal judgeships of peace outside Ankara, which do not have 8/A experience, have tried to fit the requests that should actually be evaluated under article 8/A of Law No. 5651 into their own article 9 template decision drafts, and incorrect decisions of the type mentioned

above have started to emerge, and therefore these decisions were sent to the ESB instead of the BTK for the execution of the decisions. The tendency to issue template decisions based on the requests of gendarmerie provincial commands continued to increase in 2022.

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

From 29.05.2015 to the end of 2022; **access to more than 25.573 Internet addresses**, including more than 2.860 news websites and domain names, more than 775 news articles, more than 3.600 Twitter accounts, more than 4.700 tweets, more than 600 Facebook content and more than 1.900 YouTube videos, **was blocked** subject to a **total of 1.406 8/A** decisions issued by **122 different** criminal judgeships of peace, as can be seen in detail in **figure 12**.⁵²

Figure 12: Approximate Number and Breakdown of Internet Content Blocked by 8/A Decisions: 2015-2022



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.org⁵³ 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, Güney-

⁵² 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 2022 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.

⁵³ 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.

doğu'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 2022. 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 security⁵⁴ 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**⁵⁵ and **Independent Türkçe**⁵⁶ was blocked by 8/A decisions, and the practice of blocking access to these websites continue as of the end of 2022, 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;⁵⁷ 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. As will be detailed below, almost all appeals against such blocking orders are rejected and applications to the Constitutional Court are not decided for several years.

ANALYSIS OF THE BLOCKED CONTENT SUBJECT TO ARTICLE 8/A DECISIONS ISSUED IN 2022

As can be seen in **figure 13**, it was found that **a total of 1.668 Internet addresses**, most of which were tweets, were blocked in 2022 by **461 8/A decisions** issued by 72 criminal judgships of peace. Accordingly, it was found that **260 news websites and domain names**, **452 Twitter accounts**; **901 tweets**; **22 Facebook content**; and **23 YouTube videos** were blocked.

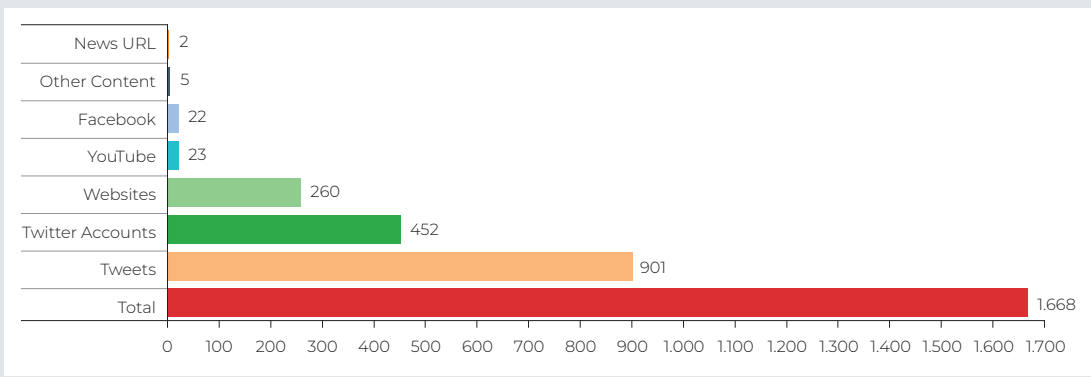
⁵⁴ Ankara 1st Criminal Judgship of Peace, no. 2017/2956, 29.04.2017. The Ankara 1st Criminal Judgship of Peace rejected the objections with its decision no. 2017/3150, 04.05.2017 by stating that there was not any consideration requiring the decision no. 2017/2956, 29.04.2017 to be revised. The Ankara 2nd Criminal Judgship of 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 without any reasoning "since nothing inaccurate was found to exist in the decision of the Ankara 1st Criminal Judgship of Peace, no. 2017/3150."

⁵⁵ The domain name odatv.com was blocked subject to the order of the Ankara 4th Criminal Judgship of Peace, no. 2020/2117, 07.03.2020. Domain names www.odatv.com.tr and www.odatv.net were blocked subject to the order of the Ankara 8th Criminal Judgship 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 Judgship 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 Judgship of Peace, no. 2020/2727, 20.03.2020.

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

⁵⁷ Bianet, "Yazarın 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-jiyan-orgengellendi>

Figure 13: Breakdown of Internet Content Blocked by 8/A Decisions in 2022



During 2022, 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 **21** times, the website of **Nuçe Ciwan** was blocked **17** times, the website of **Kızıl Bayrak** was blocked **16** times, the website of **Özgür Gelecek** was blocked **15** times, the website of **Yeni Demokrasi** was blocked **11** times throughout the year in 2022.

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



In total, Nuçe Ciwan was blocked **156** times, Demokrasi.com and Kızıl Bayrak **79** times, Sendika.org **62** times, ANF **56** times, ETHA and Özgür Gelecek **53** times and Jin News **52** times with 8/A decisions.

Furthermore, in 2022, with an article 8/A decision of the Ankara 7th Criminal Judgeship of Peace on 11.01.2022, social media posts about the suicide of 20-year-old Enes Kara, a student of Elazığ Fırat University, Faculty of Medicine, due to the pressure and future worries in the communal dormitory where he was staying, were blocked on the grounds of protecting national security and public order upon the request of the General Directorate of Security.⁵⁸

58 Ankara 7th Criminal Judgeship of Peace, no. 2022/771, 11.01.2022.

Screenshot 3: Contents blocked by the Ankara 7th Criminal Judgeship of Peace



In 2022, unexpectedly and at the request of the Çanakkale Provincial Gendarmerie Command, access to <https://www.nfb.ca/>, the domain name of the official website of the National Film Board of Canada, the website of the Internet music and podcast platform iHeart.com and <https://amp.artigercek.com>, the mobile version of the Artı Gerçek news website, was blocked with the decision of the Çanakkale 1st Criminal Judgeship of Peace (26.10.2022, 2022/3482).

Screenshot 4: Websites blocked by the Çanakkale 1st Criminal Judgeship of Peace



The decision of the Çanakkale 1st Criminal Judgeship of Peace did not include any specific assessment of the official website of the National Film Board of Canada, the music and podcast platform iheart or the mobile version of the news website Artı Gerçek, but stated in general terms about the 14 blocked addresses that the request of the Çanakkale Provincial Gendarmerie Command was accepted because it was understood that “publications/posts for propaganda purposes praising/exalting/sup-

porting the structures, members, actions and activities of the PKK/KCK terrorist organisation were made publicly on the blocked websites, thus causing deterioration of national security and public order”.

The two user based appeals against the decision of the Çanakkale 1st Criminal Judgeship of Peace, filed separately for the National Film Board of Canada website and the iheart music and podcast platform were rejected, while the appeal filed on behalf of Artı Gerçek was partially accepted. However, with the decision of the Çanakkale 2nd Criminal Judgeship of Peace (no. 2023/1324, 25.04.2023), while the appeal was accepted in terms of the mobile version of the news website, this time an article written by Ali Çatakçın and published on the website on 30.04.2022 entitled “Türkiye’nin Güney Kürdistan ‘operasyon’u ve Erdoğan’ın seçim planı” [“Türkiye’s South Kurdistan ‘operation’ and Erdoğan’s election plan”] was blocked. As the decision was final, no further appeal could be lodged and an individual application was made directly to the Constitutional Court. Individual applications were also made to the Constitutional Court for the website of the National Film Board of Canada and the music and podcast platform iheart.

Screenshot 5: Column blocked by the Çanakkale 2nd Criminal Judgeship of Peace



As a result, in 2022, as in previous years, almost all sources that opposed or questioned government policies, offered alternative views on the Kurdish issue, or provided news or shared content that was not covered in the mainstream media during the conflict were considered to be sources that disrupt public order, praise terrorism and incite crime subject to article 8/A. In recent decisions issued upon the requests of the gendarmerie, the criminal judgeships of peace have stated that such news websites and social media posts praised “the PKK-KCK, YPG-PYD organisation, mislead public opinion against the state of Republic of Türkiye and created unfair and negative perceptions” and therefore it was important to block them in order to protect national security and public order. Moreover, with these the official website of the **National Film Board of Canada** and the online music and podcast platform **iheart.com** were also blocked during 2022. These platforms, which do not pose any problems or risks in terms of

national security and are not likely to disrupt public order, will remain blocked from Türkiye for approximately five years pending a decision by the Constitutional Court.

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.⁵⁹ Access to BirGün’s article as well as 111 other Internet addresses were blocked by a decision of the Gölbaşı Criminal Judgeship of Peace.⁶⁰ As BirGün’s appeal was rejected, BirGün applied to the Constitutional Court about the access-blocking decisions of the Gölbaşı Criminal 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**.⁶¹ 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”⁶² 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.⁶³

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

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

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

62 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.

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

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:⁶⁴

- 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.
- 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

⁶⁴ BirGün İletişim and Yayıncılık Ticaret A.Ş. Application, No: 2015/18936, 22.05.2019, § 74.

- 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 – **unless there is one or more of the reasons stated above** - does not justify an intervention.”⁶⁵

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.⁶⁶ Similarly, in 2019, the Constitutional Court ruled that freedom of expression and freedom of the press were violated by the decisions blocking the news website **Yüksekova Güncel**,⁶⁷ the news websites **Siyasihaber.org** and **Siyasihaber1.org**, and the Twitter account of **Siyasihaber.org**.⁶⁸ On the other hand, the Constitutional Court declared the user-based applications of Yaman Akdeniz and Kerem Altıparmak inadmissible.⁶⁹

In 2020, the Constitutional Court first issued a judgment on the applications involving the **Wikipedia** platform,⁷⁰ then decided on two separate applications made on behalf of **Sendika.org**,⁷¹ involving article 8/A. In its judgment on the **Wikimedia Foundation and Others** application⁷² 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

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

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

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

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

69 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.

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

71 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.

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

due to the denial of access to such a resource.”⁷³ 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.”⁷⁴ Moreover, the Constitutional Court noted that it was difficult to “**identify the purpose of the decision of blocking access to the website in question**.”⁷⁵ 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.”⁷⁶ 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.”⁷⁷

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.⁷⁸ 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.”⁷⁹ 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.”⁸⁰ 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

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

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

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

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

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

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

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

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

by blocking access to the entire website.”⁸¹ 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 27.10.2020⁸² 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 BTK⁸³ 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**.⁸⁴ In its judgment, which was the continuation of its initial judgment, the Constitutional Court stated that a total of 61 access-blocking decisions had been issued involving the domain names used by Sendika.org which were created by adding consecutive numbers to its original domain name until the end of 2017, and the practice of blocking access to the websites **“sendika10.org, sendika18.org, sendika28.org, sendika46.org, sendika47.org, sendika55.org, sendika56.org, and sendika61.org”**,⁸⁵ 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.”⁸⁶ 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.

In **2022** as well as in **2021**, the Constitutional Court did not decide on any application under article 8/A of Law No. 5651. In other words, since September 2020, the Constitutional Court has forgotten about article 8/A of Law No. 5651 and has not decided

⁸¹ Ali Ergin Demirhan (Sendika.Org) Application, No: 2015/16368, 11.03.2020, § 39.

⁸² Gölbaşı Criminal Judgeship of Peace, no. 2020/1454, 27.10.2020.

⁸³ Gölbaşı Criminal Judgeship of Peace, no. 2020/1495, 30.10.2020.

⁸⁴ Ali Ergin Demirhan (2) Application, No: 2017/35947, 09.09.2020, Official Gazette: 04.11.2020, No: 31294.

⁸⁵ 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.

⁸⁶ Ali Ergin Demirhan (2) Application, No: 2017/35947, 09.09.2020, § 41.

on any application, has not started a pilot judgment practice regarding the 8/A applications that have accumulated before it. Basically, the Court has so far refrained from identifying structural problems related to article 8/A. Therefore, the applications made on behalf of OdaTV, Independent Türkçe, and JinNews during 2020, as well as other applications, continue to await the judgments of the Constitutional Court. For example, Diken’s news articles “Ankara’nın göbeğinde yine bombalı saldırı- [Another bomb attack in the centre of Ankara]” and “Düpedüz sansür, Bakan Albayrak hacklendi. Diken’in haberine erişim engeli getirildi-[Outright censorship, Minister Albayrak got hacked. Access to Diken’s news articles was blocked]” have not been decided since **March 2017**, and the individual application regarding Tamer Çilingir’s article entitled “Denizi kara olalı Pontos... [Pontos since the sea became black...]” published in Artı Gerçek has not been decided since **April 2017**. More worryingly, even the Ministry of Justice’s opinion on these applications has not been requested by the Court. Similarly, the website of journalist Murat Aksoy (www.murat-aksoy.com), which was blocked subject to article 8/A by a decision of the Gölbaşı Criminal Judgeship of Peace (no. 2016/846, 02.08.2016), is still pending despite an application made in **March 2017**. Unlike the others, the Ministry of Justice submitted its opinion on this application to the Constitutional Court in **December 2019** and Aksoy’s lawyers sent their response to the Ministry of Justice’s opinion in **January 2020**. Even then, the Constitutional Court has not yet decided on this case.

Screenshot 6: News articles blocked subject to article 8/A



Similarly, as in previous years, the criminal judgeships of peace issuing 8/A decisions continued to completely ignore the Constitutional Court’s binding jurisprudence on article 8/A in 2022. The BirGün judgment, which is the first principled decision of the Constitutional Court on article 8/A, was published in the Official Gazette on 12.07.2019. However, **none** of the 8/A judgments issued by the criminal judgeships of peace after this date included any reference to the established case-law of the Constitutional Court with regards to article 8/A or any assessment of “prima facie violation”. In other words, **none** of the 179 8/A decisions issued by 55 different criminal

judgeships of peace in 2020, none of the 368 8/A decisions issued by 76 different criminal judgeships of peace in 2021, none of the 461 8/A decisions issued by 72 different criminal judgeships of peace in 2022 referred to the Constitutional Court's **BirGün** decision or the aforementioned **Wikipedia** and **Sendika.org** decisions, or made a **“prima facie violation” assessment** of Article 8/A. Therefore, criminal judgeships of peace continue to issue access blocking orders despite the gross violation judgments of the Constitutional Court, as if these principled judgements did not exist. While the practice continues in this direction, the Constitutional Court, instead of identifying structural problems and implementing pilot judgment procedure, has swept the 8/A problem under the carpet since September 2020 and preferred to leave the dusty files under the carpet.

On the other hand, although 8/A applications have started to be considered as a priority at the European Court of Human Rights, these files have also been shelved for the moment by the ECtHR. In March 2022, the Court declared the Wikimedia Foundation's 2019 application⁸⁷ inadmissible on the grounds that the Constitutional Court had found a violation.⁸⁸ Although, in 2020, the ECtHR successively prioritized communicating to the Government the applications of Sendika.Org⁸⁹ and academics Yaman Akdeniz and Kerem Altıparmak,⁹⁰ by the end of 2022, the ECtHR had not ruled on these pending applications.

SANCTIONS UNDER 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 personal privacy.”** 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

⁸⁷ *Wikimedia Foundation Inc. v. Türkiye*, no. 25479/19. Application date: 29.04.2019, Communication date: 02.07.2019.

⁸⁸ *Wikimedia Foundation Inc. v. Türkiye*, no. 25479/19, 24.03.2022. See also, Yaman Akdeniz, “*The Calm Before the Storm? The Inadmissibility Decision in Wikimedia Foundation v. Türkiye*,” Strasbourg Observers, 18.04.2022, <https://strasbourgobservers.com/2022/04/18/the-calm-before-the-storm-the-inadmissibility-decision-in-wikimedia-foundation-v-turkey/>

⁸⁹ *Ali Ergin Demirhan (Sendika.org) v. Türkiye*, no. 10509/20. Application date: 10.02.2020. Communication date: 27.07.2020.

⁹⁰ *Akdeniz & Altıparmak v. Türkiye*, no. 5568/20. Application date: 14.01.2020. Communication date: 26.08.2020. Similarly, see, *Akdeniz & Altıparmak v. Türkiye*, no. 35278/20. Application date: 28.07.2020. Communication date: 09.02.2021.

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.⁹¹

With the amendments made by Law No. 7418 in October 2022, the Association can now “notify decisions on the removal of content and/or access blocking to email addresses that can be identified on the relevant content or hosting provider’s web pages.”⁹² Furthermore, if the same content that is subject to decisions of the criminal judgeships of peace is found to be published on other Internet addresses, the affected individual can apply to the Association for their removal and/or access blocking. In such cases, the existing judgeship decision will also be implemented for these addresses by the Association. However, the provision does not apply to decisions for the wholesale blocking of access to the entire website. In other words, the Association can never issue a blanket access blocking decision. With the amendment made by Law No. 7418, individuals have the right to appeal to the relevant judgeship that issued the initial decision, which serves as the basis for the Association’s decision, against decisions taken by the Association under article 9(9) of Law No. 5651.

Before, the October 2022 amendments, radical amendments were already 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.

In practice, the sanction of access blocking can only be implemented by Internet service providers and the Association of Access Providers, the sanction of content removal can only be applied by content providers and the sanction of disassociation from Internet addresses can only be carried out by search engines. In other words, Internet service providers cannot remove content, and content providers cannot block access to the news and content they publish.

DOMAIN NAMES, URL’S, NEWS ARTICLES AND CONTENTS 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

⁹¹ Article 6/A(7) Access blocking decisions shall be sent to the Association for due process. In this context, the notification made to the Association shall be deemed to have been made to the access providers. (Additional sentence: 13/10/2022-7418/31 Art.) With the 31st article of the Law dated 13/10/2022 and numbered 7418, the phrases “of access outside the scope of article 8 of this Law” in these paragraphs have been changed as “of access.”

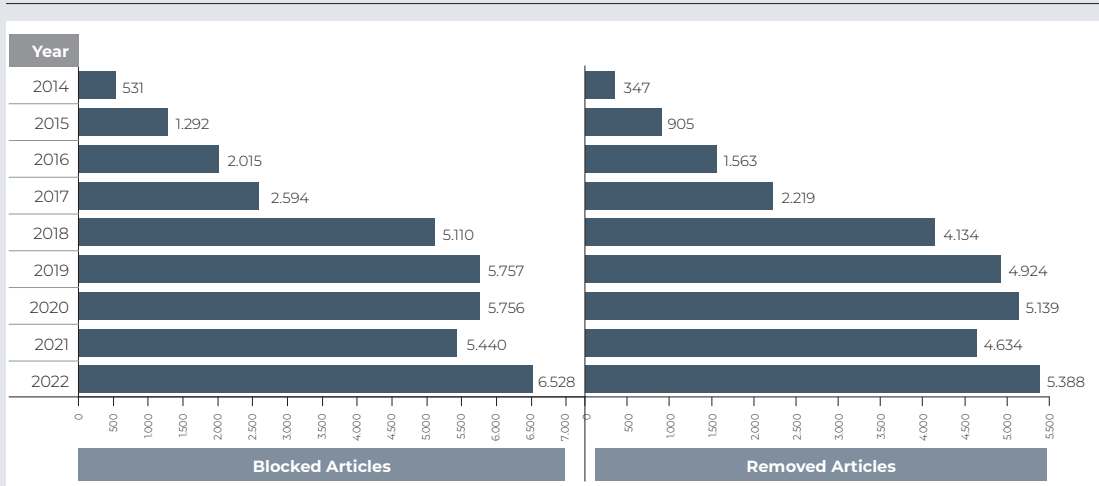
⁹² Article 6/A(11) (Added:13/10/2022-Law No.7418, article 31).

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 judgeships 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 judgeships 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 **35.023** news articles (URLs) were blocked and **29.253** news articles (URLs) were removed or deleted subject to **6.509 separate decisions** issued by **543** separate judgeships subject to article 9 from **2014 to 2022**. As can be seen in figure 14, it was found that the number of news articles (URLs) blocked was **531** in 2014, **1.292** in 2015, **2.015** in 2016, **2.594** in 2017, **5.110** in 2018, **5.757** in 2019, **5.756** in 2020, **5.440** in 2021 and finally **6.528** in 2022.⁹⁴

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



⁹³ Statistics of 2018 to 2022 had not yet been available as of the date of this report.

⁹⁴ Since the 2022 report also includes retrospectively detected URL addresses, there has been a deviation from the figures stated in the 2018-2021 EngelliWeb reports. These changes were updated and reflected in the 2022 report.

STATISTICAL INFORMATION ABOUT THE BLOCKED AND REMOVED NEWS ARTICLES (URL-BASED) – 2022

During 2022, it was found that **6.528 news articles (URL)** were blocked subject to a total of **954 separate decisions** issued by **270 separate criminal judgeships of peace** subject to article 9 of Law No. 5651. In addition to the 6.528 blocked articles, **5.388**

Figure 15: Number of Blocked News Articles (URL): 2022

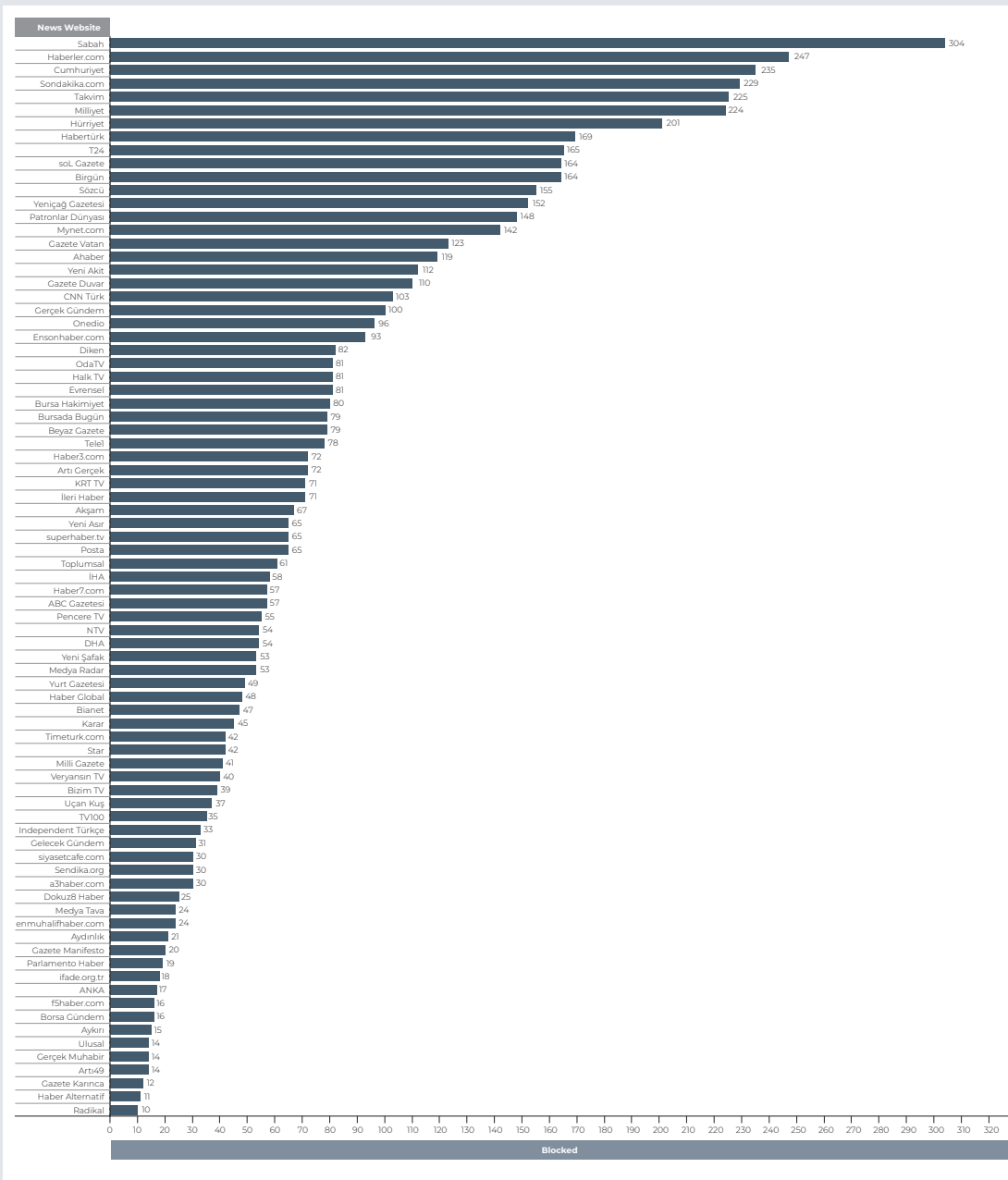
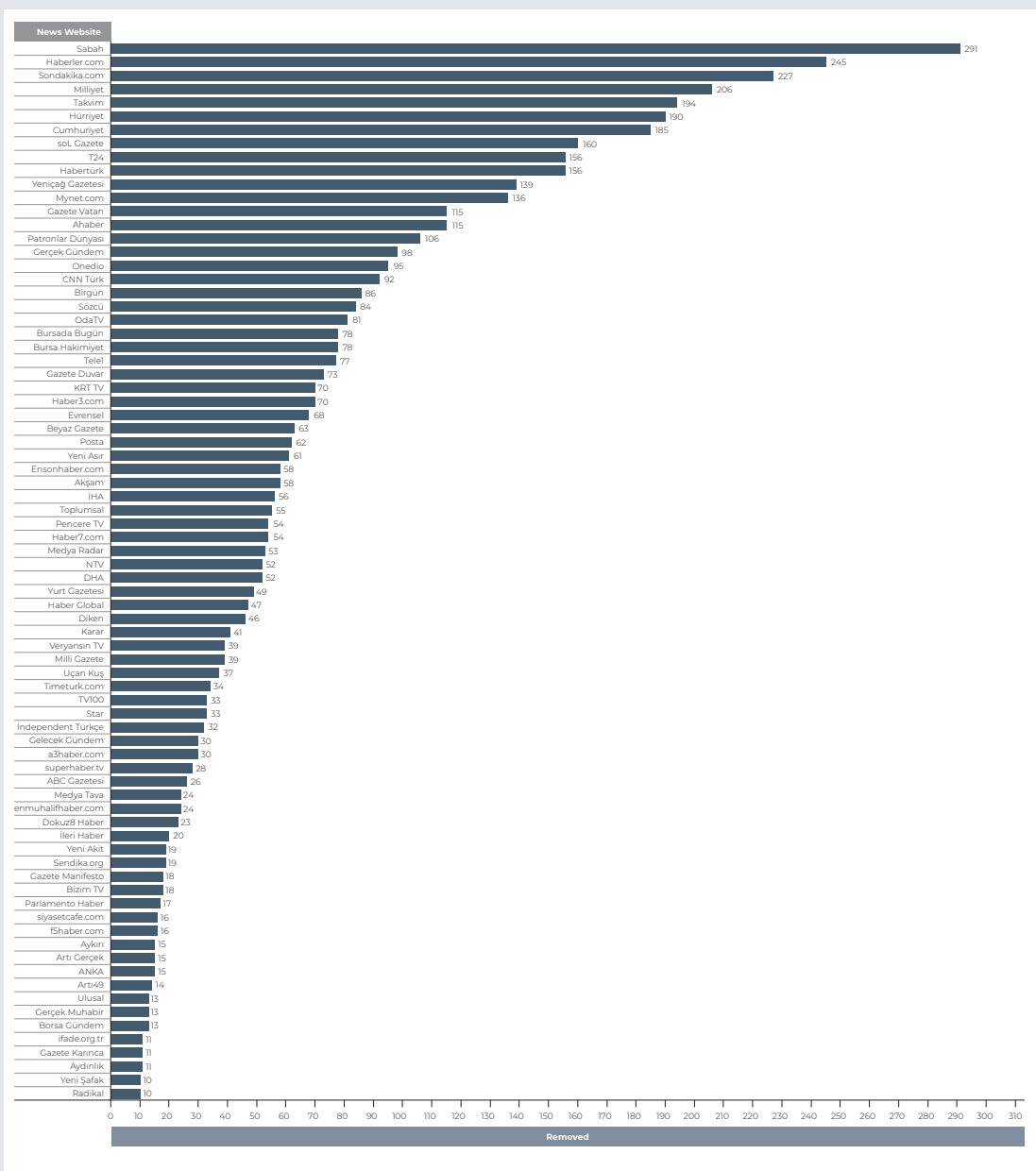


Figure 16: Number of Removed and Deleted News Articles (URL): 2022



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 removal decisions also started to be notified 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 is unknown.

In 2022, the daily newspaper **Sabah** ranked **first** in the category of “the news website with the highest number of blocked news articles” with **304 blocked news articles**. **Sabah** removed **291 (96%)** of those blocked news articles from its website. **Haberler.com** ranked **second** with **247** blocked news articles. Haberler.com removed 245 of 247 blocked news articles (**99%**) from its website. Website of the daily newspaper **Cumhuriyet** ranked **third** with **235 blocked news articles**. Cumhuriyet removed 185 (**79 %**) of the 275 blocked news articles from its website. The news website **Sondakika.com** ranked **fourth** with **229 blocked news articles**. Sondakika.com removed **227 (99%)** of the blocked news articles from its website. Sondakika.com was followed by **Takvim** the with **225 blocked news articles**. Takvim removed **194 (86%)** of the blocked news articles from its website. **Figure 15** shows the **129** news websites at least 10 news articles of which were blocked in 2022, 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 **82%** in 2021. This rate was calculated as **83%** in 2022 .

Another related category reviewed for the year of 2022 is “**removed and deleted news articles.**” In this category, as can be seen in figure 16, **Sabah** once again ranked first by removing or deleting **291 news articles**. Sabah was followed by **Haberler.com**, which removed or deleted **245 news articles**, and **Sondakika.com** which removed or deleted **227 news articles**. **Milliyet** ranked fourth with **206 removed or deleted news articles**, while **Takvim** ranked fifth with **194 removed or deleted news articles**. Figure 16 shows the websites that removed at least 10 of their news articles among 129 websites in 2022, 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 2022, 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 2022

Rank	News Website	Number of Blocked URL	Number of Deleted URL	The Rate of Deleting
1	Sabah	304	291	96%
2	Haberler.com	247	245	99%
3	Cumhuriyet	235	185	79%
4	Sondakika.com	229	227	99%
5	Takvim	225	194	86%
6	Milliyet	224	206	92%
7	Hürriyet	201	190	95%
8	Habertürk	169	156	92%
9	T24	165	156	95%
10	BirGün	164	86	52%
11	soL Gazete	164	160	98%
12	Sözcü	155	84	54%
13	Yeniçağ Gazetesi	152	139	91%

Table 1 (Continued): Access-Blocking League Table by the Number of News Articles Blocked in 2022

Rank	News Website	Number of Blocked URL	Number of Deleted URL	The Rate of Deleting
14	Patronlar Dünyası	148	106	72%
15	Mynet.com	142	136	96%
16	Gazete Vatan	123	115	93%
17	Ahaber	119	115	97%
18	Yeni Akit	112	19	17%
19	Gazete Duvar	110	73	66%
20	CNN Türk	103	92	89%
21	Gerçek Gündem	100	98	98%
22	Onedio	96	95	99%
23	Ensonhaber.com	93	58	62%
24	Diken	82	46	56%
25	Halk TV	81	7	9%

EXAMPLES OF ACCESS BLOCKING AND CONTENT REMOVAL PRACTICES IN 2022

An assessment of the decisions issued by criminal judgeships of peace in 2022 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. As in 2021, the increase in the number of such decisions also continued in 2022. 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 2022 as in previous years. 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 example, upon the request of President Erdoğan, it was decided to block access to and remove from publication the news articles about the cartoons involving President Erdoğan published in foreign media with the decision of the Istanbul Anatolia 1st Criminal Judgeship of Peace on **18.08.2022** (no. 2022/5300). This decision included several news articles published on the Diken news website, 63 Ekşi Sözlük platform content items and two tweets about the cartoons about Erdoğan by different cartoonists, especially by the world-famous Brazilian cartoonist Carlos Latuff. The judgeship ruled that “the articles and cartoons contained insulting statements and statements which violate personal rights”. However, this unjustified ruling did not explain which news article and which statements violated the claimant’s personal rights and how they violated his personal rights considering that these were politically motivated cartoons.

Screenshot 7: News articles sanctioned by the Istanbul Anatolia 1st Criminal Judgeship of Peace

DiKEN

Ekathimerini karikatüristinin gözünden Erdoğan...

03/03/2016 16:34

Başbakan Tayyip Erdoğan'a yönelik yolsuzluk suçlamaları dünya basınının da gündeminde... Yunan gazetesi Ekathimerini'den bir karikatür...



DiKEN

Ünlü karikatürist Latuff'un kaleminden Erdoğan'ın Gazze çıkışı: Cepleri İsrail'i le

30/07/2016 16:14

Dünyaca ünlü Brezilyalı karikatürist Carlos Latuff, Başbakan Tayyip Erdoğan'ın İsrail'in Gazze saldırısı konusundaki sert açıklamalarını karikatürleştirdi.



DiKEN

'Erdoğan karikatürleri külliyatı'na yenileri eklendi

24/10/2016 20:02

Cumhurbaşkanı Tayyip Erdoğan'a yönelik yolsuzluk suçlamaları resmettiği bir karikatürü nedeniyle 'basın yoluyla hakaret' davasında yargılanan beraat eden çizir Musa Kart'a dünyaca ünlü karikatüristlerden destek yaşıyor.



Screenshot 8: News articles sanctioned by the Istanbul Anatolia 1st Criminal Judgeship of Peace

DiKEN

Alman karikatüristler Erdoğan'ı fena 'çizdi'

01/08/2015 08:56

ELMAS TOPCU
@topcuemas

Ankara'nın, İŞİD'e karşı hava saldırılarını başlatacağını açıklaması, ardından daha çok Kuzey Irak'taki PKK kamplarını bombalaması ve iddialara göre sivillerin de bulunduğu bazı köylerin de saldırıdan nasibini alması Almanya'da hararetle



DiKEN

Alman dergisine göre 'Erdoğan'ın ikili oyunu': İŞİD'e gizli destek, sembolik saldırı

09/08/2015 13:06

Almanya'nın saygın dergilerinden Focus'ta 'Erdoğan'ın ikili oyunu' başlığıyla yayınlanan analizde, Cumhurbaşkanı Tayyip Erdoğan'ın İŞİD'e gizli destek verirken, sembolik olarak saldırıya savunuldu.

Analizde Türkiye'deki son gelişmeler madde madde analiz edildi.

DiKEN

Latuff bu kez Davutoğlu'nu 'çizdi': Politik başarısızlık halinde camı kırıp Kürtleri bombalayınız

16/01/2015 17:34

'Ankara katliamı' üzerine çizdiği karikatürde saldırıdan Cumhurbaşkanı Tayyip Erdoğan'ı sorumlu tutan Brezilyalı ünlü karikatürist Carlos Latuff, bu kez de Erdoğan ve Başbakan Ahmet Davutoğlu'nun dış politikasını eleştirdi.



Screenshot 9: News articles sanctioned by the Istanbul Anatolia 1st Criminal Judgeship of Peace

DiKEN

Brezilyalı çizir Latuff'un 1 Kasım yorumu 'sert' oldu

02/11/2015 00:39

'Ankara katliamı' üzerine çizdiği karikatürde saldırıdan Cumhurbaşkanı Tayyip Erdoğan'ı sorumlu tutan Brezilyalı ünlü karikatürist Carlos Latuff, 1 Kasım seçim sonuçları da benzer bir karikatürle yorumladı.



DiKEN

Dünyaca ünlü karikatüristin 'sansürlen' çizimlerinde, başrol Erdoğan'ın

08/12/2015 12:16

Türkiye'deki gelişmeleri yakından takip eden ve Cumhurbaşkanı Tayyip Erdoğan'ı 'başlıbaşına bir karikatür' olarak niteleyen dünyaca ünlü Brezilyalı karikatürist Carlos Latuff da, sansür politikalarından nasibini aldı.



DiKEN

Latuff, Zaman'a baktı, Erdoğan'ı gördü

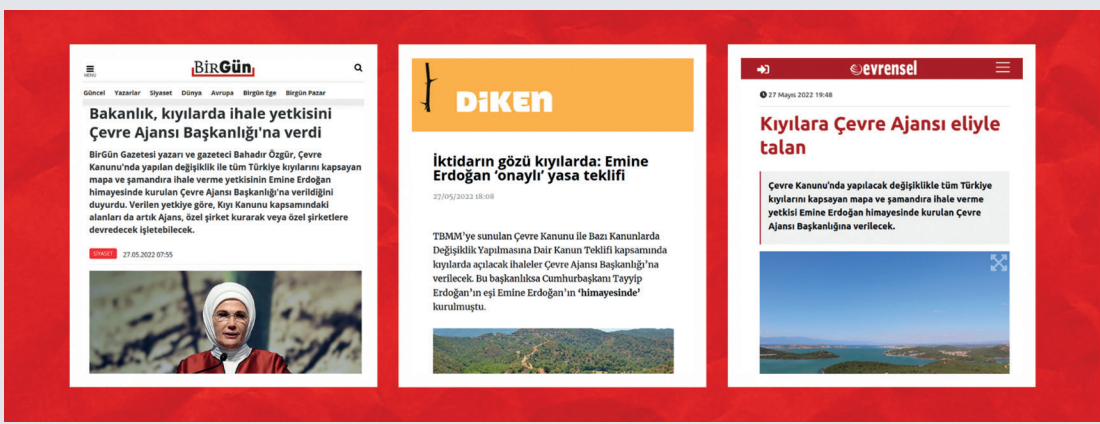
06/03/2016 12:33

Brezilyalı çizir Carlos Latuff, çizmeye devam ettiği Cumhurbaşkanı Tayyip Erdoğan'ı, bu kez de Zaman gazetesine laiyum atanmasını protesto edenlere yönelik polis şiddetinin başrolüne yerleştirdi.



President Erdoğan's wife Emine Erdoğan, in turn, requested the removal of 66 different Internet addresses, including news articles from Artı Gerçek, Cumhuriyet, Evrensel, BirGün and HalkTV, regarding the authorization of the Environmental Protection Agency, established under her auspices, to issue tenders for moorings and buoys for the entire Turkish coast through an amendment to the Environmental Protection Law. Emine Erdoğan's request was accepted with the decision of the Istanbul Anatolia 6th Criminal Judgeship of Peace on **03.06.2022** (no. 2022/5007). The Judgeship's decision stated in general terms that "the articles do not fall within the scope of the freedom to receive and impart news, comment, criticism and expression" and that "the reputation of the applicant has been damaged." Without explaining why and how the applicant's reputation was damaged, the judgeship ruled that her personal rights had been violated.

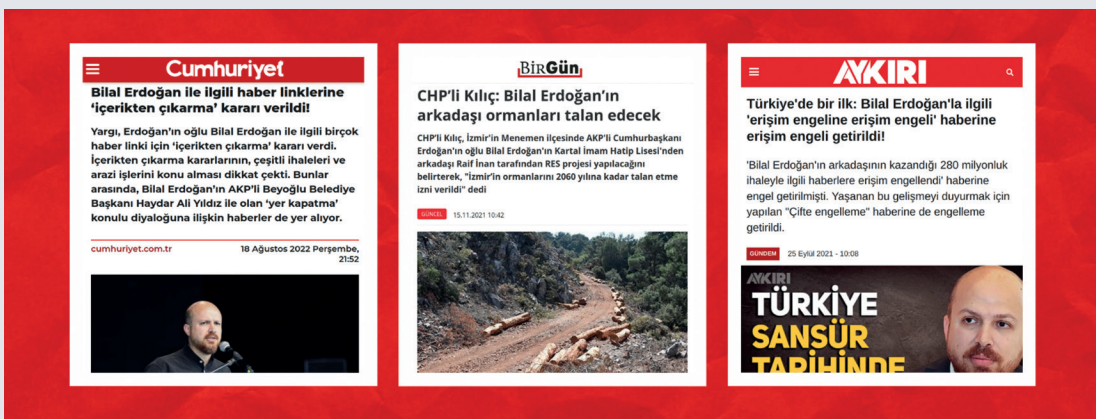
Screenshot 10: News articles sanctioned by the Istanbul Anatolia 6th Criminal Judgeship of Peace



As in previous years, as far as is known, all requests made to criminal judgeships of peace by Bilal Erdoğan, the son of President Erdoğan, alleging violation of his personal rights were accepted. Along with these requests, similar to the requests of President Erdoğan, a large number of Ekşi Sözlük, Facebook, YouTube and Twitter content, as well as a large number of news articles were blocked and/or removed. One of the decisions issued upon his request in 2022 resulted with the removal of content, including Cumhuriyet, T24, Gazete Duvar, BirGün and Sözcü's news articles, about a friend of Bilal Erdoğan's winning several state tenders, including the tender for the Yılmaz Wind Power Plant Project to be built in the Menemen district of Izmir. The request was partially accepted with the decision of Istanbul Anatolia 1st Criminal Judgeship of Peace on **18.08.2022** (no. 2021/5303). The judgeship ruled that "the content is in the nature of allegations that are not based on any document" in terms of 18 Internet addresses; while partially rejecting other content with the assessment that these do not "violate personal rights aimed solely at damaging the honour and reputation of the claimant, and the content-form balance is preserved."



Moreover, another request was made by Bilal Erdoğan to block access to the aforementioned news and similar content on the grounds of violation of personal rights. This time, with the decision of Istanbul Anatolia 6th Criminal Judgeship of Peace on **03.11.2022** (no. 2022/901), his request was partially accepted with regards to 36 Internet addresses. The judgeship, while rejecting the remainder of his requests stated that “the posts consist of thoughts and comments, which are not insulting, and they express personal opinions within the limits of severe criticism.” Among the content that has been blocked, there are news articles indicating that access has been blocked to news articles about contracts awarded to a friend of Bilal Erdoğan. In other words, access-blocking decisions have been issued not only for the news articles reporting the access-blocking decision but also for the news articles reporting the decision to block access to those articles.⁹⁵



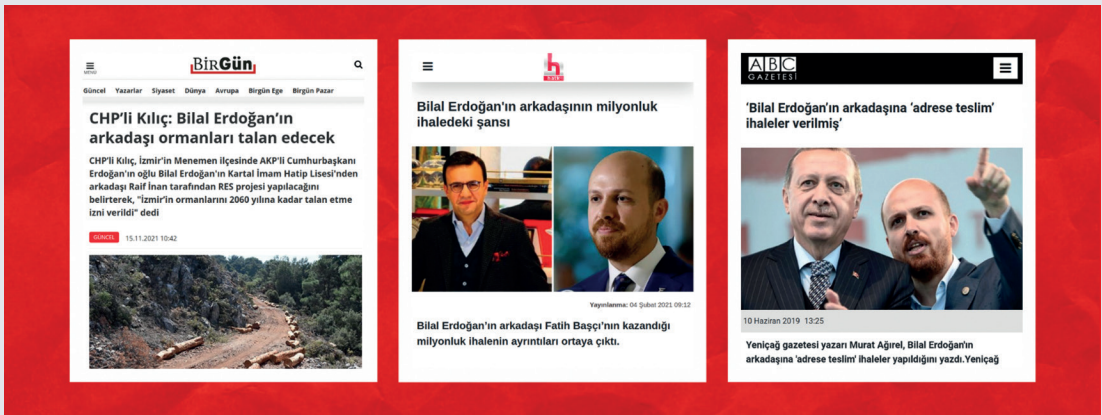
⁹⁵ News with similar content has been sanctioned many times before: Istanbul Anatolia 6th Criminal Judgeship of Peace, no. 2022/10280, 08.12.2022; Istanbul Anatolia 6th Criminal Judgeship of Peace, no. 2022/9014, 03.11.2022; Istanbul Anatolia 1st Criminal Judgeship of Peace, no. 2022/5303, 18.08.2022; Istanbul Anatolia 7th Criminal Judgeship of Peace, no. 2021/5160, 24.09.2021; Istanbul 3rd Criminal Judgeship of Peace, no. 2021/1541, 28.05.2021; Istanbul Anatolia 5th Criminal Judgeship of Peace, no. 2021/677, 10.02.2021; Bakırköy 3rd Criminal Judgeship of Peace, no. 2021/860, 05.02.2021; Bakırköy 5th Criminal Judgeship of Peace, no. 2021/762, 03.02.2021; Istanbul Anatolia 3rd Criminal Judgeship of Peace, no. 2021/845, 01.02.2021; Istanbul Anatolia 7th Criminal Judgeship of Peace, no. 2020/7797, 31.12.2020; Istanbul Anatolia 7th Criminal Judgeship of Peace, no. 2020/5273, 02.09.2020; Istanbul Anatolia 3rd Criminal Judgeship of Peace, no. 2020/5071, 11.08.2020.

Similarly, **Bilal Erdoğan** has requested the removal of content, including news articles published on news websites such as BirGün, Cumhuriyet, T24 and Sözcü, as well as YouTube videos and many tweets, claiming that his personal rights were violated on the same subject matter as the previous decision. The request was partially accepted by the decision of the Istanbul Anatolian 6th Criminal Judgeship of Peace on **03.11.2022** (no. 2022/10280) in terms of 42 pieces of content. However, for other content, his request was partially rejected based on an evaluation that stated, “the posts consist of thoughts and comments, they are not insulting and they express personal opinions within the boundaries of severe criticism.”

Screenshot 13: News articles blocked by the Istanbul Anatolia 6th Criminal Judgeship of Peace



Screenshot 14: News articles blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



President Erdoğan's lawyer Ahmet Özel has also requested the blocking of access to news articles and other content related to allegations that he threatened businessman Ufuk Cömertoğlu, who is accused of being a member of the Fethullah Gülen Terrorist Organization (“FETÖ”), citing violations of his personal rights. This request

was accepted by the decision of the Istanbul Anatolia 6th Criminal Judgeship of Peace on **29.06.2022** (no. 2022/5892) resulting in the blocking of access to 13 pieces of content. The decision stated in general terms that the news articles contained “content that is offensive to individuals and institutions which offends their honour and dignity and violates their personal rights.” Following this decision, access to the announcement of the Freedom of Expression Association on 13.10.2020 entitled “News on President Erdoğan’s Lawyer Ahmet Özel” was also blocked. In this announcement, it was reported that news articles with similar subjects, at the request of Ahmet Özel, had been blocked by a decision of the Istanbul 5th Criminal Judgeship of Peace on **13.10.2020** (no. 2020/4613).

Screenshot 15: İFÖD Announcement blocked by the Istanbul Anatolia 6th Criminal Judgeship of Peace



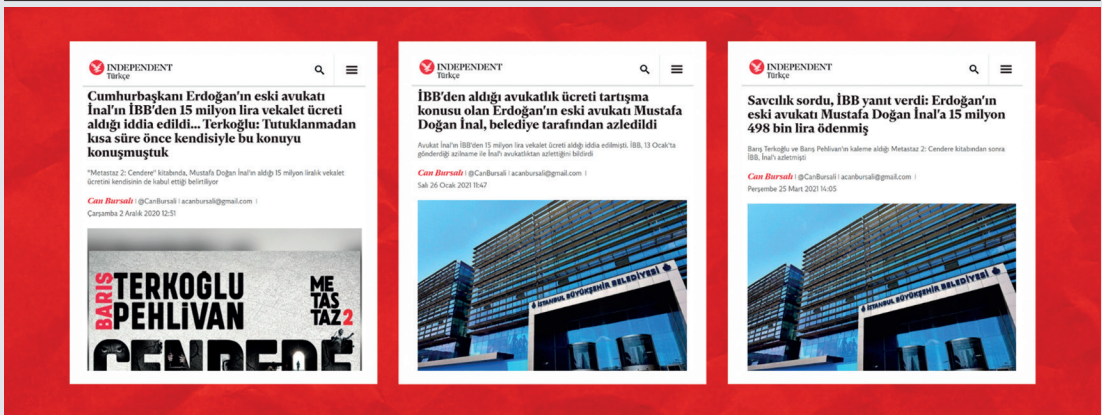
Allegations were made public by Ahmet Şık, a member of the Turkey Workers' Party, regarding the connection of Mustafa Doğan İnal, former lawyer of President Erdoğan, to a network that allegedly provided assistance to defendants in the trials related to FETÖ known as the “FETÖ Stock Exchange” in exchange for bribes. Following the disclosure of these allegations, numerous media outlets reported on the matter. Upon the request of İnal on the grounds of violation of his personal rights, access to the news articles on the subject were blocked in 2021 by the decision of Istanbul Anatolia 2nd Criminal Judgeship of Peace on **06.01.2021** (no 2021/103,), Istanbul Anatolia 4th Criminal Judgeship of Peace on **21.01.2021** (no. 2021/498), Istanbul Anatolia 4th Criminal Judgeship of Peace on **28.04.2021** (no. 2021/2896) and Istanbul Anatolia 3rd Criminal Judgeship of Peace on **09.09.2021** (no. 2021/5535). In 2022, İnal claimed that his personal rights were violated with similar news articles published on online news websites such as Evrensel, HalkTV and T24. His request was accepted with the decision of Istanbul Anatolia 6th Criminal Judgeship of Peace on **29.06.2022** (no. 2022/5896) resulting in the blocking of access. While 153 contents were included in the decision, it was stated in general terms that the content subject to the decision were “offensive to individuals and institutions, offending their honour and dignity and violating their personal rights in a way that is outside the scope of freedom of the press and Internet publishing.”

Screenshot 16: News articles blocked by the Istanbul Anatolia 6th Criminal Judgeship of Peace



Similarly, upon the request of **Mustafa Doğan İnâl**, a total of 130 news articles, related to the subject mentioned above, including from Bianet, Cumhuriyet and Nupel, were blocked with the decision of the Istanbul Anatolia 3rd Judgeship of Peace on **28.07.2022** (no. 2022/6002). According to the decision, there was no evidence supporting the claims made in the article, nor was there any statements taken from official documents. Therefore, the arbitrary claims made in the articles cannot be considered within the scope of freedom of news, thought or criticism. Among the blocked content, there are also announcements from the Freedom of Expression Association, entitled “News About the President’s Lawyer Regarding Bribery Allegations” on **06.01.2021** and “Ahmet Şık’s Tweets About the Former Lawyer of the President” on **05.05.2021**.

Screenshot 17: News articles blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



Screenshot 18: News articles blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



Screenshot 19: İFÖD announcements blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



Moreover, news articles reporting that access to content related to **Mustafa Doğan İnal** has been blocked were themselves blocked from access by the decision of the Istanbul Anatolia 9th Criminal Judgeship of Peace on **15.08.2022** (no. 2022/7022) on the grounds of violation of personal rights. Among the 98 pieces of content that were blocked, there is also an announcement from the Freedom of Expression Association entitled "Former Lawyer of the President" on **05.05.2021**. As the title suggests, this announcement simply informs the public that certain social media content has been blocked at İnal's request.

Screenshot 20: News articles blocked by the Istanbul Anatolia 9th Criminal Judgship of Peace



Screenshot 21: İFÖD announcement blocked by the Istanbul Anatolia 9th Criminal Judgship of Peace



Yet again, upon the request of **Mustafa Doğan İnal**, the Istanbul Anatolia 4th Criminal Judgship of Peace, ordered on **05.10.2022** (no. 2022/6831) the blocking of access to and the removal of content related to similar topics on 161 different Internet addresses. Among the content included by this decision were the announcements from the Freedom of Expression Association entitled “News About the President’s Lawyer Regarding Bribery Allegations” on **06.01.2021** and “Ahmet Şık’s Tweets About the Former Lawyer of the President” on **05.05.2021**. As mentioned above, these announcements are related to the blocking of access to similar news and content by the Istanbul Anatolia 4th Criminal Judgship of Peace. The Judgship only provided a general justification for its decision and stated that the content in question “violates personal rights, exceeds the limits of freedom of criticism and freedom of the press, and does not meet the criteria of ‘truth/reality’”.

Screenshot 22: News articles blocked by the Istanbul Anatolia 4th Criminal Judgship of Peace



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



Furthermore, **Mustafa Doğan İnal** has also requested that access to a large number of news articles and other content be blocked and removed from publication, including those from Gazete Duvar, Bianet, BirGün, HalkTV and Gerçek Gündem, on the grounds that his personal rights were violated in relation to the news about the “FETÖ Stock Exchange”. This request was accepted by the Istanbul Anatolia 4th Criminal Judgship of Peace on **24.11.2022** (no. 2022/8085). In the justification of the decision, the time that had passed since the alleged incident was considered and it was assessed that the shared news and publications without current relevance should inherently be subject to the right to be forgotten, which is considered one of the fundamental rights. The decision also evaluated the content in question as violating personal rights and exceeding the limits of freedom of criticism and freedom of the press, and therefore not meeting the criteria of truth/reality. However, in this evalu-

ation, there was no consideration of which personal rights were violated and in what manner, and there was no explanation regarding whether the news remained of public interest and how much time had passed from the publication in relation to the right to be forgotten.

Screenshot 24: News articles sanctioned by the Istanbul Anatolia 4th Criminal Judgeship of Peace



Finally, several news articles about **Mustafa Doğan İnal** and the FETÖ Stock Exchange were blocked from access and ordered to be removed from publication by the Istanbul Anatolia 4th Criminal Judgeship of Peace (no. 2022/8089, **24.11.2022**) on the grounds of violation of personal rights.

Screenshot 25: News articles sanctioned by the Istanbul Anatolia 4th Criminal Judgeship of Peace

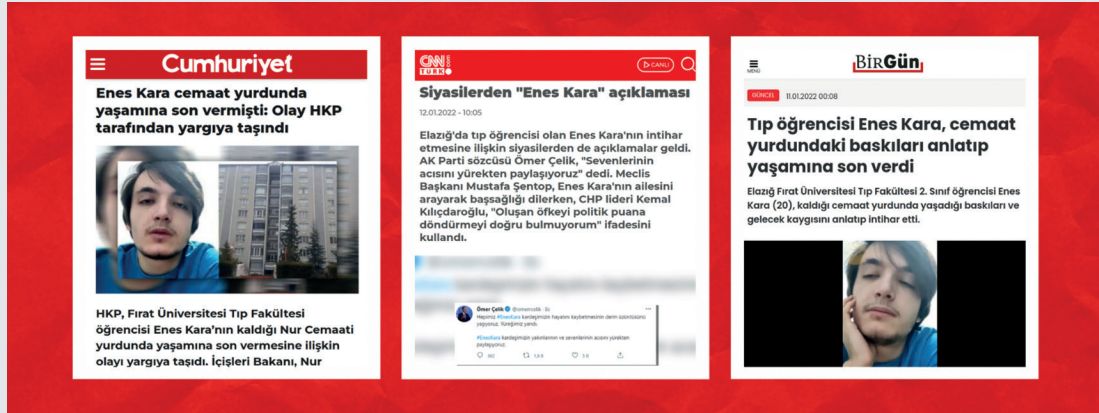


In addition to the politically motivated examples mentioned above, there are numerous examples of sanction decisions that are of great public interest in 2022. First of all, in January 2022, Enes Kara, a 20-year-old third-year medical student at Elazığ

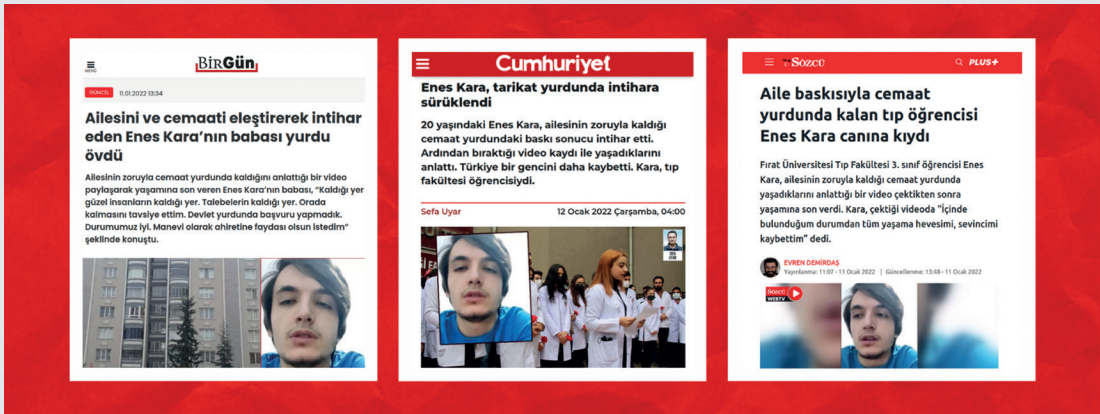
Fırat University, left a message explaining that he had been condemned to a religious sect dormitory and could not endure the conditions there before taking his own life. Following this tragic event, access to news articles covering Enes Kara's suicide, which were published on HalkTV, Tele1, BirGün, Cumhuriyet, Sözcü, and CNNTürk news websites among others, was blocked on the request of the Ministry of Family and Social Affairs by the decision of the Ankara 8th Criminal Judgeship of Peace on **12.01.2022** (no. 2022/628). The request cited that Kara's video, in which he talked about the reasons for his suicide before taking his own life, had been shared on various social media platforms and websites, and that the content could harm children's mental health, incite violence, and encourage suicide. The request was made under **article 8/A(1)** of Law No. 5651 for the removal of the content and blocking of access.

However, the judgeship made a decision without considering the news reports made by the press organizations and the decision was held without conducting any evaluation regarding freedom of expression and press freedom. The judgeship concluded that the content of the publications contained statements and messages that could harm children's mental health, incite violence, and encourage suicide, thereby violating personal rights. Consequently, the judge ruled that the conditions specified in **article 8 of Law No. 5651** were met. However, in the operative part of the decision, it was stated that access to the news articles and content was blocked under **article 9 of Law No. 5651**.

Screenshot 26: News articles blocked by the Istanbul Anatolia 8th Criminal Judgeship of Peace



Another decision related to this matter was issued upon the request of Enes Kara's father, citing violations of personal rights. In this context, with the decision of the İskenderun 2nd Criminal Judgeship of Peace on **13.01.2022** (no. 2022/189) 17 different news articles and content were also blocked.



The General Directorate of Legal Services of the Ministry of National Defence, on the grounds of alleged violations of personal rights, requested the blocking of access to news articles related to retired military judge Zeki Üçok's statements regarding the former Minister of National Defence Hulusi Akar's deputies, Muhsin Dere, and Yunus Emre Karaosmanoğlu, which were published on various news websites such as Halk-TV, Pencere TV, the PressReader version of Evrensel Newspaper, T24 and Gerçek Gündem. News articles reported on Üçok's claims that Muhsin Dere was a ByLock user (an encrypted messaging application allegedly used among Fetullahist Terror Organisation members) and Yunus Emre Karaosmanoğlu was linked to the USA. Initially, this request was rejected by the Ankara 8th Criminal Judgeship of Peace on **01.03.2022** (no. 2022/3605). In the rejection decision, the Ankara 8th Criminal Judgeship of Peace, referring to the principles of the Ali Kılık decision of the Constitutional Court, stated that the procedure provided for in article 9 of Law No. 5651 can only be carried out "in cases where it is clear at first sight (*prima facie*) that personal rights have been violated." The decision also noted that since the decision to block access "is not a decision that resolves the dispute on the merits, it is possible for individuals to seek their rights in adversarial judicial proceedings."

Subsequently, following an appeal by the Directorate General on 03.03.2022, the decision was overturned. The Ankara 1st Criminal Judgeship of Peace decided on **09.03.2022** (no. 2022/2675) to partially accept the appeal by blocking access to 32 different content and rejecting the appeal with regard to other URL addresses. Among the content that was blocked, there was also the announcement of the Freedom of Expression Association (23.02.2022) entitled "News about the Deputy Ministers of the Minister of National Defence". In its reasoning, the Ankara 1st Criminal Judgeship of Peace stated that the news and content subject to the decision "included the names of individuals and institutions, and as such, the expressions used in this way could be considered threats to national security and public order, and could create the perception that the Republic of Türkiye is being discredited and left defenceless in the eyes of society." It was also determined that the content directly attacked the institutional personal rights, leading to the partial acceptance of the appeal.

Screenshot 28: İFÖD announcement blocked by the Ankara 1st Criminal Judgeship of Peace



The news articles regarding allegations of the existence of a bribery network involving electronic company Yu-Ma-Tu's owner and businessman Tuncay Çapraz, extending up to serving police chiefs, made by his estranged wife Jale Çapraz during their divorce proceedings, were blocked by the decision of the Bakırköy 3rd Criminal Judgeship of Peace on **27.05.2022** (no. 2022/3112) on the grounds that they violated the personal rights of **Istanbul Provincial Police Chief Zafer Aktaş**. The decision included a one-sentence justification stating that 42 news articles and other content, including news articles from Gazete Duvar, T24 and Artı Gerçek and the Freedom of Expression Association's announcement of 07.10.2021, entitled "Allegations of Bribery Concerning the Istanbul Chief of Police and Numerous Directors," constituted a "direct attack on the personal rights of the applicant."

Screenshot 29: İFÖD announcement blocked by the Bakırköy 3rd Criminal Judgeship of Peace



Allegations regarding **MET-GÜN İnşaat Taahhüt ve Tic. A.Ş.** (Construction Contracting and Trade Inc), which had the Istanbul Metropolitan Municipality's accounts seized due to the debts of the municipality left from the period when the AKP ruled

the municipality, and its owner **Metin Güneş** were first reported by journalist Çiğdem Tokar and shared on her Twitter account. Following Tokar's posts, a total of 203 news articles and other content were published on the subject. These were requested to be removed from publication on the grounds of violation of personal rights. It was also requested that the names of the company and its owner should not be associated with these web addresses. With the decision of Istanbul Anatolia 4th Criminal Judgeship of Peace on **14.01.2022** (no. 2022/252) the request was partially accepted, while in terms of other content, it was partially rejected on the grounds that "the statements of some political parties and party officials were reported" and there were references to previous decisions on blocking access to the mentioned news, which were regarded within the scope of the right to receive and impart news. Among the blocked content were the announcement by the Freedom of Expression Association entitled "News Regarding Met-Gün Construction and its Owner Applying for Attachment on Istanbul Metropolitan Municipality" published on 14.01.2022 and five tweets by Çiğdem Tokar.

Screenshot 30: News articles blocked by the Istanbul Anatolia 4th Criminal Judgeship of Peace



Screenshot 31: İFÖD announcement and news articles blocked by the Istanbul Anatolia 4th Criminal Judgeship of Peace



The allegations that a tender organized by the Ministry of Transport and Infrastructure in 2021 was repeated with almost the same name in 2022 “secretly and at double the price” were first reported by journalist Çiğdem Toker, and were subsequently covered by numerous news outlets. Upon the request of Akşam Newspaper, which is owned by **T Medya Yatırım Sanayi ve Ticaret A.Ş. and Zeki Yeşildağ**, access to 34 different news articles and other content including news articles published on news websites such as HalkTV, Sendika.Org, İleri Haber and Gerçek Gündem, was blocked by a decision of the Küçükçekmece 1st Criminal Judgeship of Peace on **27.06.2022** (no. 2022/6401) which that did not contain any specific reasoning.

Screenshot 32: News articles blocked by the Küçükçekmece 1st Criminal Judgeship of Peace



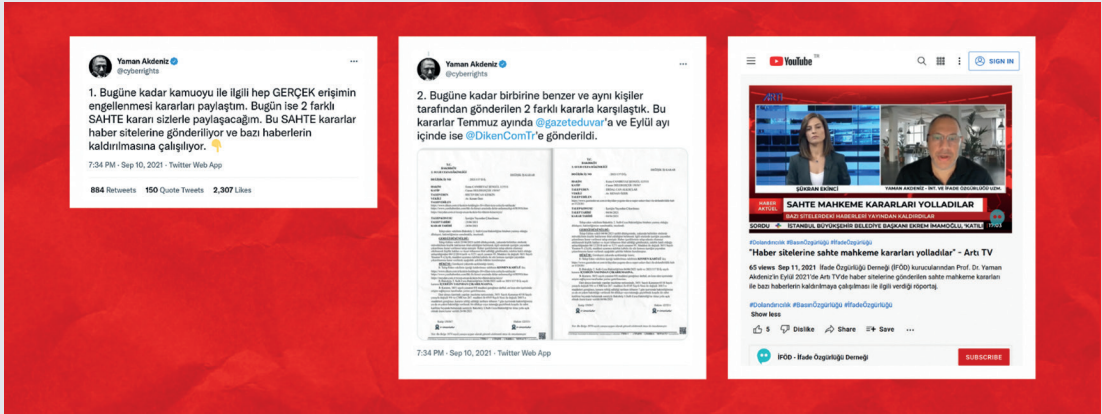
One of the most intriguing access restriction requests in 2022 involved Erdal Can Alkoçlar’s request in relation to a series of tweets posted by Professor Yaman Akdeniz, one of the founders of the Freedom of Expression Association. In his tweets, Professor Akdeniz revealed that certain news articles were attempted to be removed with fake criminal judgship of peace decisions sent to a number of news websites. A number of news websites also reported on Professor Akdeniz’s tweet thread. In addition to these tweets, access to his interview with Artı TV shared on the Association’s YouTube channel and numerous news articles on the subject was blocked with the decision of the Gaziantep 2nd Criminal Judgeship of Peace on **20.05.2022** (no. 2022/3087) on the grounds of violation of personal rights.

While 141 different news articles and other content published on news websites such as Diken, Gazete Duvar, BirGün, Cumhuriyet, Evrensel, Bianet, T24, Sendika.Org, EuroNews and Artı Gerçek were included in the decision, the justification of the decision was a general one-sentence assessment in which it was stated that the “profession of the requester” was considered and it was decided that “the personal rights of the requester” was damaged without explaining who the requester was or which personal rights were violated by the statements and news articles.

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



Screenshot 34: Tweets blocked by the Gaziantep 2nd Criminal Judgeship of Peace

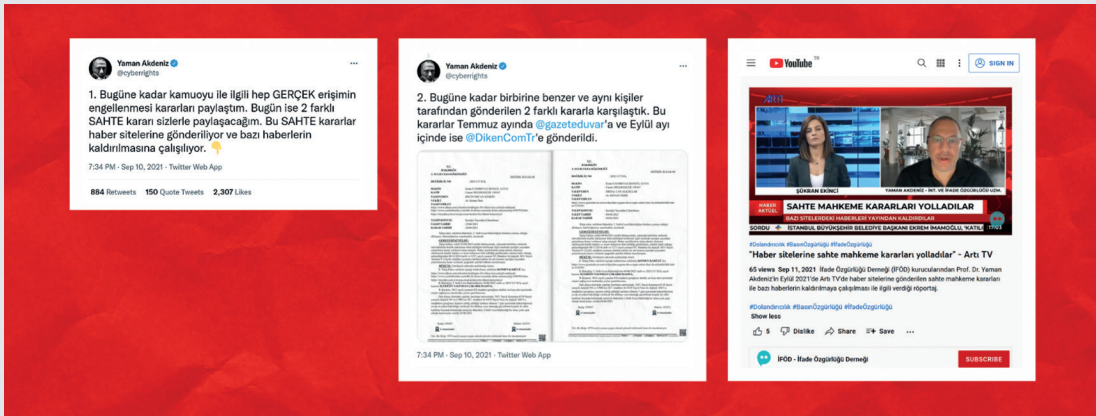


Furthermore, upon the request of **Erdal Can Alkoçlar**, on the grounds of violation of personal rights, 95 news articles and social media posts related to **fake access blocking decisions** were ordered this time to be removed from publication with the decision of Pazarcık Criminal Judgeship of Peace on **24.08.2022** (no. 2022/1825).

Screenshot 35: News articles and tweets blocked by the Pazarcık Criminal Judgeship of Peace

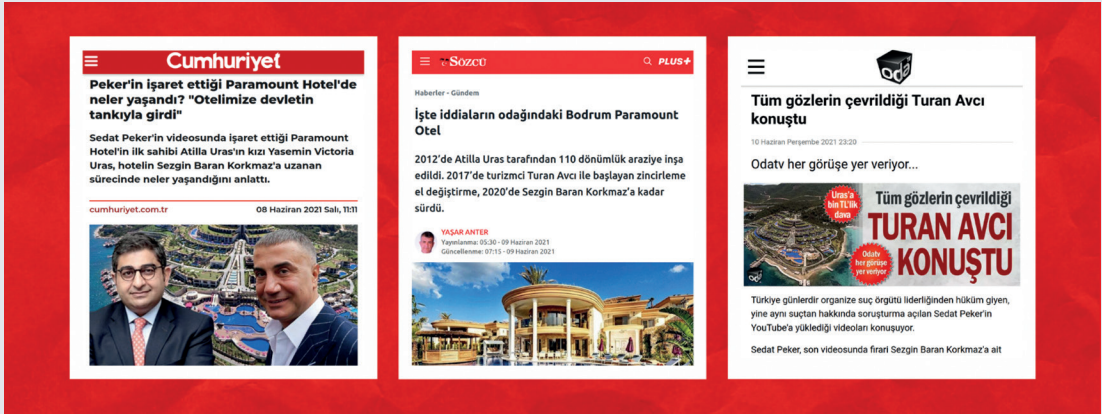


Screenshot 36: News articles and tweets blocked by the Pazarcık Criminal Judgeship of Peace

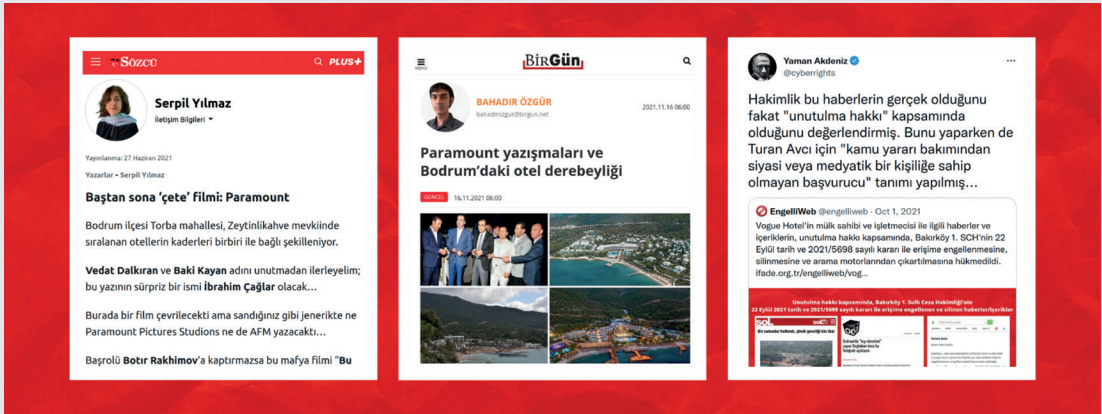


Access to 109 news articles and numerous tweets, including news articles on news websites such as Gerçek Gündem, T24, BirGün, Sözcü, Ahval News and OdaTV, which mentioned the name of **Turan Avcı, the owner of the Vogue Hotels Group** was blocked by the decision of Istanbul Anatolia 4th Criminal Judgeship of Peace on **26.09.2022** (no. 2022/6547) on the grounds of violation of personal rights. News articles and tweets included allegations by the leader of a criminal organization, Sedat Peker, that public figures and some public officials were staying at the Paramount Hotel, which is owned by Sezgin Baran Korkmaz, whose trial is ongoing in Türkiye and the United States and who is detained in Austria. The Judgeship also decided that the news articles and tweets to be removed from publication.

Screenshot 37: News articles blocked by the İstanbul Anatolia 4th Criminal Judgship of Peace

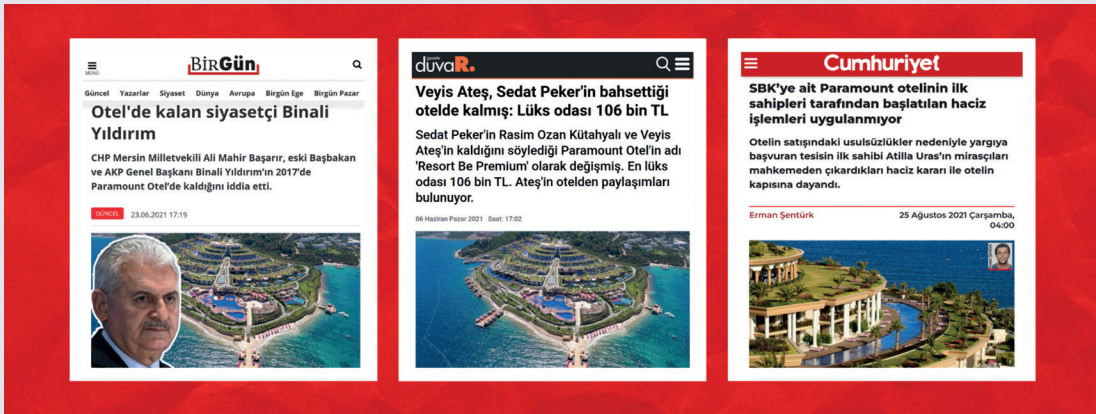


Screenshot 38: News articles and contents blocked by the İstanbul Anatolia 4th Criminal Judgship of Peace



Similarly, 103 similar news articles regarding the allegations concerning the Paramount Hotel by Turan Avcı, on the grounds of violating personal rights, were ordered to be removed from publication and for the requester's name not to be associated with search engines by the İstanbul Anatolia 4th Judgship of Peace decisions on **05.10.2022** (no. 2022/6908 and no. 2022/6910). These decisions are written in the same template format as the previous decision and pertain only to the sanctioned news and content.

Screenshot 39: News articles and contents blocked by the İstanbul Anatolia 4th Criminal Judgeship of Peace



Finally, access to 118 news articles and social media posts related to the same topic as the aforementioned news articles, in which **Turan Avcı's** name was mentioned, were ordered to be blocked and removed from publication by the decision of İstanbul Anatolia 4th Criminal Judgeship of Peace on **24.11.2022** (no. 2022/807). In the decision, it was evaluated in broad terms that the news articles and other content in question “violated personal rights, exceeded the boundaries of criticism and press freedom, and did not meet the criteria of ‘truth/reality’.” With this decision, İFÖD’s announcement of **26.09.2022** entitled “News Regarding the Owner of Vogue Hotels Group” was also ordered to be removed from publication.

Screenshot 40: News articles blocked by the İstanbul Anatolia 4th Criminal Judgeship of Peace



Screenshot 41: İFÖD announcement sanctioned by the İstanbul Anatolia 4th Criminal Judgeship of Peace



Sandra Wendy Monroy Moreno and her company, Frutadeli S.A., mentioned in the leaked documents known as the Panama Papers,⁹⁶ requested the blocking of access to 13 Internet addresses, including Murat Ağırel's columns in Yeniçağ Newspaper entitled “**Türkiye’s Narcos**” and related articles in newspapers such as Cumhuriyet and Sözcü, as well as related YouTube content. These allegations were related to claims that Moreno and her company were involved in sending cocaine produced in South America in banana containers to various countries, including Türkiye. The request was accepted by the İstanbul Anatolia 1st Criminal Judgeship of Peace on **03.01.2022** (2022/86) and it was stated in the justification of the decision that the articles in question “violated personal rights.” The decision also highlighted the publication of a retraction text (“tekzip” in Turkish) in the Yeniçağ newspaper on 23.11.2021.

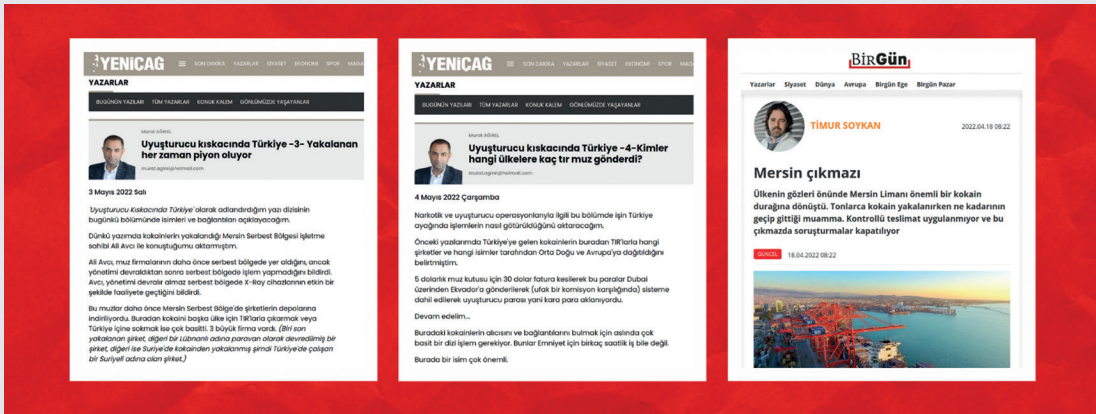
Screenshot 42: News articles blocked by the İstanbul Anatolia 1st Criminal Judgeship of Peace



96 See <https://offshoreleaks.icij.org/nodes/11013268>

In addition, Murat Ağirel's articles on the same subject and 28 news and other content related to his articles were blocked from access by the Mersin 3rd Criminal Judgeship of Peace on **10.05.2022** (no. 2022/2885) upon the request of Ahmed Ben Khadra, Ali Sultan and ETC Fruit Gıda San. and Ltd. Şti. In its decision, the Judgeship stated that “as a result of the investigation carried out by the Mersin Chief Public Prosecutor’s Office against ETC Fruit Gıda San. and Ltd. Şti, (file no 2021/48530), there was no evidence of any crime found during the search of a total of 134 banana containers related to the suspicious company, and thus, there was no need for prosecution.” Similarly, it was noted that “in the investigation file no. 2021/45730, it was decided on 01.10.2021 that no concrete evidence was obtained to constitute the elements of the alleged crime, and therefore, there was no need for prosecution for Ahmed Ben Khadra, Ali Sultan, and Jorj Salim.” Based on these decisions of the Mersin Chief Public Prosecutor’s Office, the Judgeship stated that “concerning the applicants were of a nature that violated their personal rights and were within the scope of the right not to be stained, and thus, these news articles violated the personal rights of the applicants.”

Screenshot 43: News articles and other content blocked by the Mersin 3rd Criminal Judgeship of Peace



Following a request by stock market investor **Kemal Akkaya**, the Istanbul 10th Criminal Judgeship of Peace, on **20.10.2022** ordered (no. 2022/5964) the blocking of access to and removal of news articles, including Murat Ağirel's column entitled “**Devir teslim oyunları...**” (“**Handover games...**”) along with his tweets and 150 other content on the same topic. The news articles that were the subject of the decision reported on allegations of stock market manipulation and bribery related to former AKP Erzurum MP Zehra Taşkesenlioğlu and her husband, former THK University Rector Ünsal Ban. The decision stated that in the articles and comments in question, there were narratives that directed public opinion by using the applicant’s “name and surname to make criminal allegations,” and thus, the applicant’s personal rights were violated. However, the decision did not provide specific details about which news or statements violated the applicant’s personal rights or how they did so.



During 2022, the columns of journalists Barış Pehlivan and Barış Terkoğlu, much like the articles of journalist Murat Ağirel, were frequently subject to access blocking and their writings were ordered to be removed from publication. For instance, access to journalist Barış Pehlivan's columns entitled **“Onlar şerefli, biz olduk şerefsiz”** (“**They are honourable and we have become dishonourable**”) of 01.01.2022 and **“Telefondaki örgüt lideri”** (“**The organisation leader on the phone**”) of 03.01.2022 and journalist Barış Terkoğlu's column **“Alışmak, görmekten daha kolay geliyor”** (“**Getting used to it feels easier than seeing it**”) published in Cumhuriyet on 10.01.2022 and containing allegations that Deputy Defence Ministers Şuay Alpay and Alpaslan Kavaklıoğlu and many other public officials have links with FETÖ, was blocked by the Ankara 3rd Criminal Judgeship of Peace on **15.02.2022** (no. 2022/1779).



Journalist Miyase İlknur's article entitled "**Man Adası davası ayan beyan**" ("**Isle of Man case is obvious**") and published on 16.04.2022 was blocked by the Istanbul Anatolia 1st Criminal Judgeship of Peace on **27.04.2022** (no. 2022/2767) upon the request of **İrfan Fidan**, former Istanbul Chief Public Prosecutor and member of the 12th Criminal Chamber of the Court of Cassation, who was appointed to the Constitutional Court by the President of the Republic on 23.01.2021. The column in question revolves around the legal process initiated after Kemal Kılıçdaroğlu, the leader of the main opposition party CHP, who made certain allegations during a party group meeting in the Turkish Grand National Assembly on 21.12.2017 claiming that President Recep Tayyip Erdoğan's close associates were involved in tax evasion through a company based on the Isle of Man. The column also included allegations that the judge in the Isle of Man case was handpicked by the then Istanbul Chief Public Prosecutor İrfan Fidan and Ayhan Ayan, the brother of Sıtkı Ayan, the owner of the Isle of Man-based Bellway company, and the former chairman of the Istanbul Justice Commission. The decision stated that Miyase İlknur's column in Cumhuriyet contained elements that went beyond the boundaries of criticism and freedom of thought, and that it infringed upon personal rights related to honour and reputation. It was noted that the content of the column did not fall within the constitutional guarantees of freedom of the press, expression, and criticism and commentary, and that it did not qualify as freedom of expression, so it was deemed to violate personal rights.

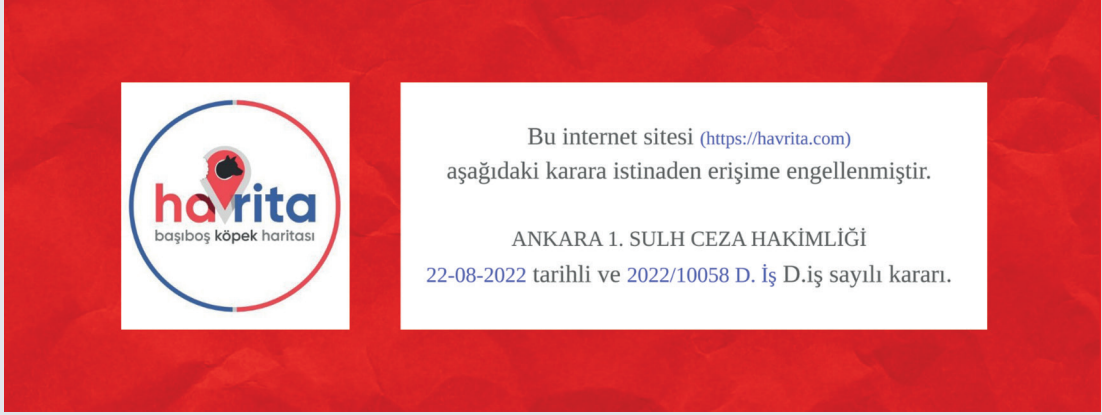
Screenshot 46: Column blocked by the Istanbul Anatolia 1st Criminal Judgeship of Peace



The Internet application Havrita, which maps the locations of street dogs on a map of Türkiye and documents where they live, had its website and Twitter account blocked by the decision of the Ankara 1st Criminal Judgeship of Peace on **22.08.2022** (no.2022/10058) following a request by the **Pati Koruyucuları Hayvanları Koruma Derneği (Paw Protectors Animal Protection Association)**. In the blocking decision, the judgeship only stated that the website and Twitter account "infringed upon the personal rights of the requester" but did not explain how the Paw Protectors Animal Protection Association's personal rights were violated by the Havrita website. While the Judgeship rejected the requests regarding Havrita's Facebook account and anoth-

er account entitled “Stray Dog Problem” on YouTube, citing the need for the requester to pursue adversarial legal remedies, referring to the principles established by the Constitutional Court in the Ali Kılık case.

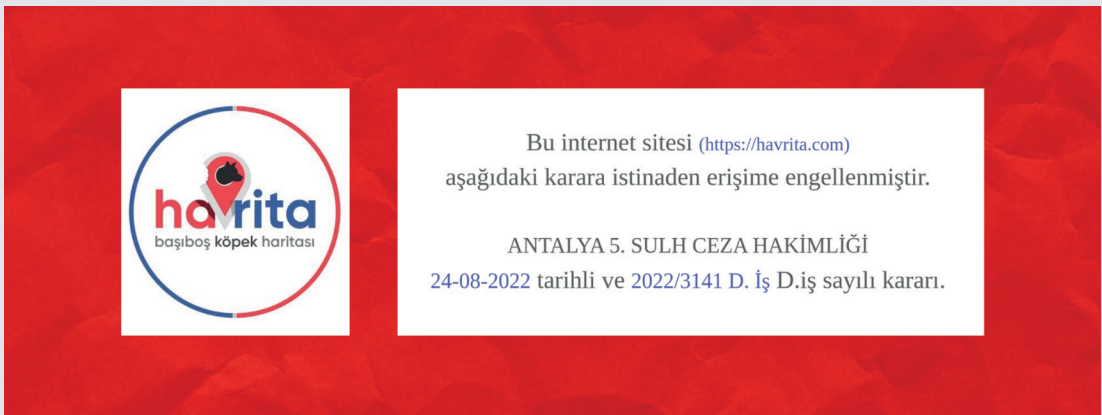
Screenshot 47: Website blocked by the Ankara 1st Criminal Judgeship of Peace



Similarly, the Havrita website and Twitter account were blocked for the second time by the decision of Antalya 5th Criminal Judgeship of Peace on **24.08.2022** (no. 2022/3141), upon the request of the **Antalya Bar Association**. The Judgeship stated that the decision was issued because “it was determined that stray dogs were targeted and endangered” and “the posts shared may lead to negative impact on social life”, therefore “with the conviction that the conditions in article 9 of Law No. 5651 were met.” However, the decision did not specify which personal rights of the Antalya Bar Association were violated and how.

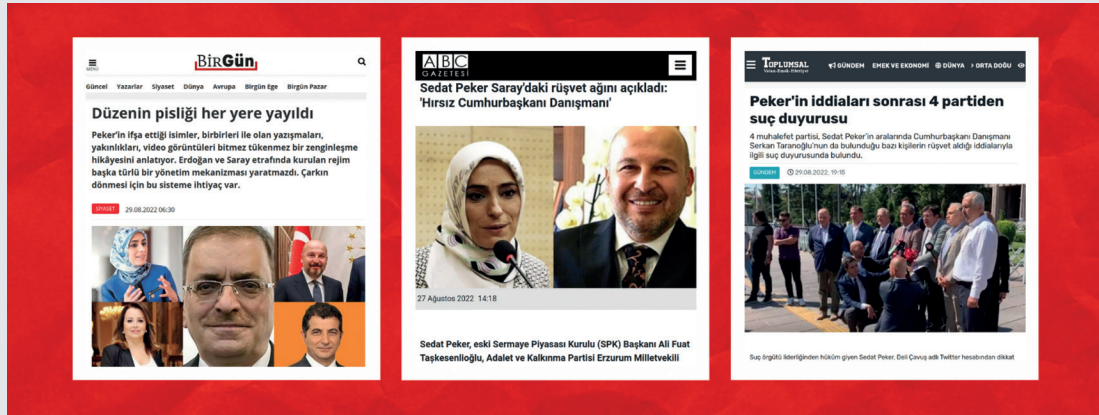
In both decisions, it is clear that the criminal judgeships of peace have exceeded their authority. While the law only defines violations of personal rights of natural or legal persons and public institutions, the criminal judgeships of peace issued their decisions without determining any violation of personal rights.

Screenshot 48: Website blocked by the Antalya 5th Criminal Judgeship of Peace



Upon the request of **Serhat Albayrak**, the Chairman of the Board of Directors of Turkuvaz Media Group and the older brother of Berat Albayrak, who is the son-in-law of President Erdoğan, access to tweets posted by organized crime group leader Sedat Peker about Borsa Istanbul and the Capital Markets Board (“SPK”), as well as news articles mentioning Serhat Albayrak’s name, was blocked on the grounds of a violation of personal rights by the decision Istanbul Anatolia 5th Criminal Judgeship of Peace on **02.09.2022** (no. 2022/7078) on the grounds of violation of personal rights.

Screenshot 49: News articles blocked by the Istanbul Anatolia 5th Criminal Judgeship of Peace



Similarly, upon the request of **Serhat Albayrak**, access to a total of 30 news articles, including Diken’s news articles of 02.09.2022 entitled “Mahkeme, Albayrak’ın ‘rüşvet ağı’na sansür talebini kısmen kabul etti” (“Court partially accepted Albayrak’s request for censorship of ‘bribery network’”) and of 03.09.2022 entitled “AKP’li yetkili anlattı: Erdoğan, Karaca ve Taranoğlu’ndan zaten rahatsızmış” (“AKP official told: Erdoğan was already uncomfortable with Karaca and Taranoğlu”) were blocked and removed from publication with the decision of Istanbul Anatolia 3rd Criminal Judgeship of Peace on **06.09.2022** (no. 2022/6746), on the grounds of violation of personal rights. The decision stated that the comments made about the applicant were considered to be unsubstantiated allegations without any documentary evidence.

Screenshot 50: News articles blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace

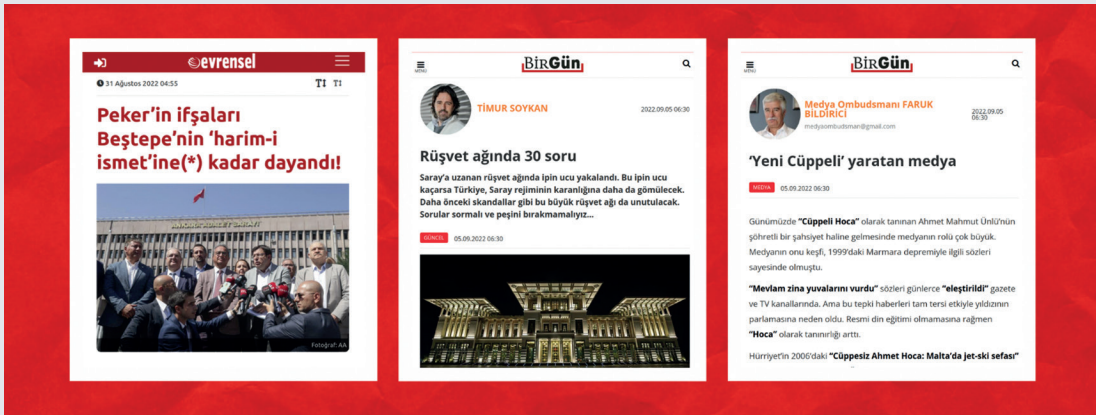


Lastly, upon the request of **Serhat Albayrak** 35 different news articles, published by outlets such as Cumhuriyet, BirGün and Evrensel regarding similar allegations, were partially accepted by the Istanbul Anatolia 10th Criminal Judgeship of Peace on **09.09.2022** (no. 2022/7553), on the grounds of violation of personal rights. The Judgeship ordered the removal of these news articles from publication. In the Judgeship's decision, it was noted that the previously blocked news articles were still accessible and decided for the removal of information related to the applicant's name and surname from these news articles. In rejecting the request for a total of 15 news articles, including those published in BirGün, Cumhuriyet, Gazete Duvar, Gerçek Gündem and Gazete Pencere, the Judgeship stated that these articles fell within the scope of constitutional protection for commentary, criticism and freedom of expression, and did not find any elements that violated the applicant's personal rights, by reference to the principles established by the Constitutional Court in the Ali Kılık case.

Screenshot 53: News articles blocked by the Istanbul Anatolia 10th Criminal Judgeship of Peace



Screenshot 54: News articles blocked by the Istanbul Anatolia 10th Criminal Judgeship of Peace



Furthermore, upon the request of **Albayrak Holding**, news articles regarding allegations that Albayrak Holding received irregular tenders from AKP-affiliated municipalities published in Cumhuriyet, Artı Gerçek and Sol Haber were blocked by the Bakırköy 4th Criminal Judgeship of Peace on **17.10.2022** with three separate decisions (nos. **2022/5542**, **2022/5543** and **2022/5549**). The identical decisions stated that the news articles in question were “defamatory, damaging to reputation, and did not serve any public interest” and that they contained “baseless allegations that were not of a news nature.”

Screenshot 55: News articles blocked by the Bakırköy 4th Criminal Judgeship of Peace



Upon the request of **Culture and Tourism Minister Mehmet Nuri Ersoy**, a total of 28 news articles, including those from Cumhuriyet, BirGün, and Diken, which contained allegations that companies owned by him applied to the Ministry of Culture and Tourism to construct facilities in areas declared as archaeological sites, were blocked from access through the decision of the Istanbul Anatolia 9th Criminal Judgeship of Peace on **15.08.2022** (no. 2022/7020). In its decision, the Judgeship stated that the news articles were “in the nature of accusations and that they directly targeted

Screenshot 56: News articles blocked by the Istanbul Anatolia 9th Criminal Judgeship of Peace



the applicant without sharing information and documents to support the allegation, thus constituting a violation of personal rights.”

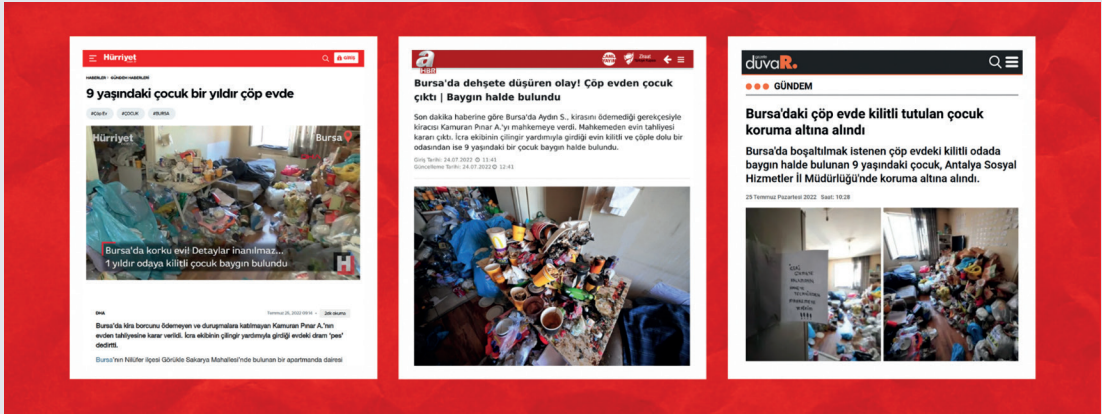
Furtnermore, news articles related to **Akın Gürlek**, who served as a judge in courts that resisted the Constitutional Court’s decision on Enis Berberoğlu, sentenced Canan Kaftancıoğlu, Emin Çölaşan, Necati Doğru, and Selahattin Demirtaş to imprisonment, and was later appointed as Deputy Minister of Justice by the decision of President Recep Tayyip Erdoğan, were blocked from access on the grounds of violation of personal rights by the decision of Manisa 2nd Criminal Judgeship of Peace on **03.06.2022** (no. 2022/1882). However, it is worth noting that the request subject to the decision was not made by Akın Gürlek, but by the Manisa Chief Public Prosecutor **Ali Ulvi Yılmaz** even though the news articles were not directly about him. Some of the news articles mistakenly used Yılmaz’s photo instead of Gürlek’s, leading to the decision that the personal rights of the requester were violated.

Screenshot 57: News articles blocked by the Manisa 2nd Criminal Judgeship of Peace



Additionally, based on the request of **Bursa Family, Labour and Social Services Provincial Directorate**, the Bursa 3rd Criminal Judgeship of Peace on **26.07.2022** (2022/4597) decided to remove from publication a total of 106 news articles including news published on websites such as Hürriyet, Sabah, Cumhuriyet, Anadolu Agency, EuroNews, Sözcü, and Takvim and social media content that reported an incident where a nine-year-old child was found unconscious in one of the rooms when eviction was carried out due to a rental dispute, and the house was described as a “garbage house.” In the decision, it was stated that the news and other content subject to the request “seriously violated the privacy of the victim” and that these news reports could “disclose the personal information and secrets of the victim child.” The decision was made with consideration of not negatively affecting the child, taking into account their age and best interests. However, the decision did not clarify how this evaluation applied to all the news articles in question. The decisions also did not consider that the subject matter of these news articles might be in the public interest, and therefore may be within the scope of the public’s right to know.

Screenshot 58: News articles blocked by the Bursa 3rd Criminal Judgeship of Peace



Similarly, upon the request of **the Bursa Bar Association**, a total of 79 news articles and social media content were ordered to be removed from publication with the decision of the Bursa 3rd Criminal Judgeship of Peace on **28.07.2022** (no. 2022/4708). Although the grounds for this decision were the same as the grounds for the decision no. 2022/4597 mentioned above, the decision did not specify how or which personal rights of the Bursa Bar Association were violated in these news articles.

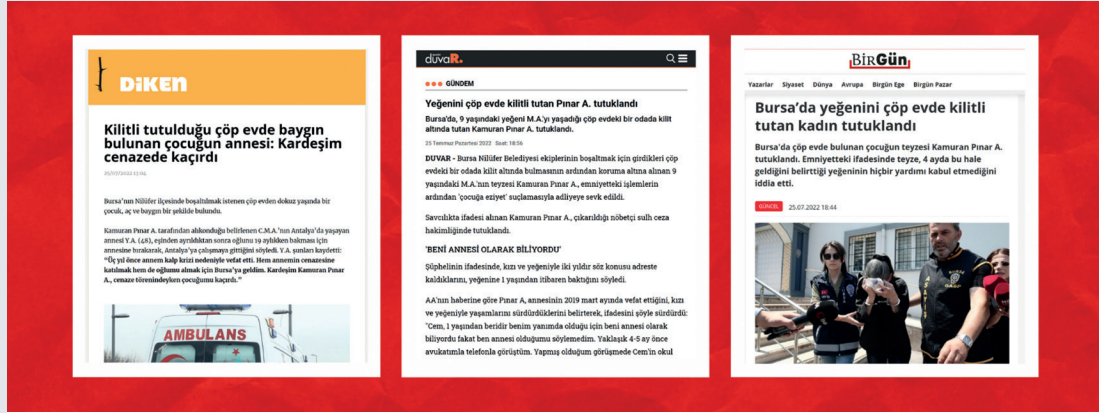
Screenshot 59: News articles blocked by the Bursa 3rd Criminal Judgeship of Peace



Additionally, upon the request of the **Bursa Family, Labour and Social Services Provincial Directorate**, 94 different news articles and other content, including the news articles of Diken, Gazete Duvar and BirGün, which included the continuation of the garbage house-themed news articles mentioned earlier, were removed from publication by the Bursa 3rd Criminal Judgeship of Peace on **28.07.2022** (no. 2022/4779). The Judgeship also imposed a publication ban on the subject under on article 3(2) of the Press Law No. 5187, stating that any form of news, interviews, criticism, or similar publications regarding the child victims in media operating in visual, social media, and Internet environments would have a negative impact on both the children under

the protection and care of the Ministry of Family and Social Services and society as a whole, affecting public health and morality.

Screenshot 60: News articles blocked by the Bursa 3rd Criminal Judgeship of Peace



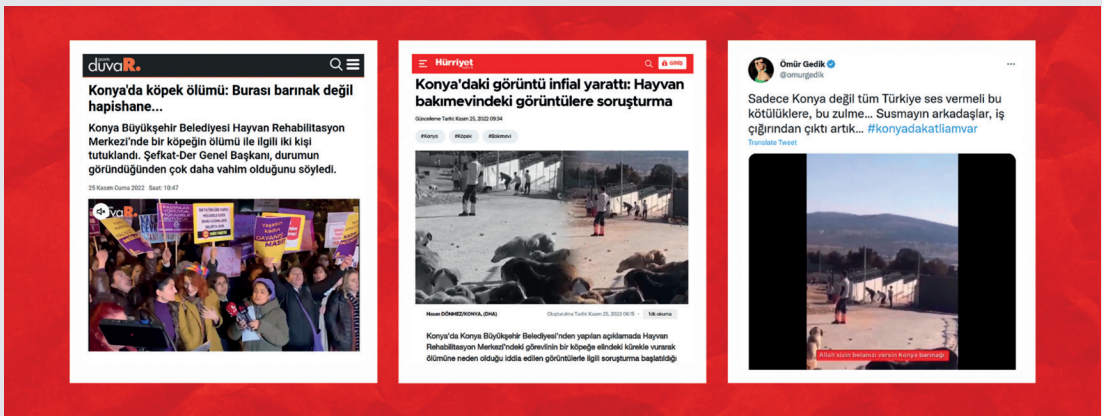
Moreover, upon the request of the **Ministry of Family and Social Services**, 57 news articles and other content, including the news articles of Milliyet, Takvim, Hürriyet, Posta, Gazete Duvar, HalkTV, Yeniçağ, Akşam, Sözcü and T24, related to the detention of Rayyan El İsa and Hanan Ramadan in Bursa for allegedly torturing their four children aged between 2 and 10 in Bursa, were blocked from access by the Bursa 2nd Criminal Judgeship of Peace on **29.12.2022** (no. 2022/10061), on grounds of personal rights. The judgeship cited in its justification that the news articles and content in question would have a negative impact on the child victims and on public health and morality. The judgeship ruled that the personal rights of the child victims had been violated. However, the decision did not consider the public's right to receive news and information, and the potential public interest in reporting on such matters without disclosing the personal data and information of the child victims.

Screenshot 61: News articles blocked by the Bursa 2nd Criminal Judgeship of Peace



In another incident of public concern, 33 news articles and social media content related to statements made by authorities during an investigation into the case of staff members at the Abandoned Animal Care and Rehabilitation Center owned by Konya Metropolitan Municipality were blocked upon the request of **the Ministry of Family and Social Services**. One of the staff members allegedly caused the death of a dog by striking it with a shovel, based on footage published on the Internet. These articles were blocked from access and ordered to be removed from publication by the Ankara 3rd Criminal Judgeship of Peace on **25.11.2022** (no. 2022/14345), on the grounds of violation of personal rights. In its justification, the Judgeship stated that the news articles and other content in question could have adverse effects on public health and psychology. However, the Judgeship did not clarify the involvement of the Ministry of Family, Labour, and Social Services in the incident, its relationship with the case, or which personal rights of the Ministry were violated. While issues related to public health and psychology do not fall under the scope of article 9 of Law No. 5651, the Judgeship seemingly disregarded the public's interest, which includes the right to access information and news on this matter, and did not provide any assessment regarding freedom of expression and freedom of the press.

Screenshot 62: News articles blocked by the Ankara 3rd Criminal Judgeship of Peace



Screenshot 63: Tweets blocked by the Ankara 3rd Criminal Judgeship of Peace



The social media platform **Tumblr**, where users can share images, videos, text, animated images, news and various types of posts, comment on posts and re-share them, was blocked from access with the decision of Kuşadası Criminal Judgeship of Peace on **09.11.2022** (no. 2022/3144) due to allegations of violating personal rights, as previous orders were not enforced. Tumblr appealed this decision, and it was reported that a previous decision (2022/4672) issued by Ankara Western 1st Criminal Judgeship of Peace to block access to some Tumblr addresses was not implemented due to a technical issue and that this problem had been resolved with sanctions applied to Tumblr addresses. Based on this notification, the Kuşadası Criminal Judgeship of Peace lifted the access ban on the Tumblr platform with its decision on **15.11.2022**.

Screenshot 64: The social media platform blocked by the Kuşadası Criminal Judgeship of Peace



Minister of Transport **Adil Karaismailoğlu** requested the blocking of access to 117 news articles and content regarding allegations of personal rights violations related to Siemens Mobility Transportation Systems Inc., where his name was mentioned, making excessive payments to subcontractor Kolin İnşaat Turizm Sanayi ve Ticaret A.Ş. to distribute bribes to Turkish State Railways (“TCDD”) officials. With the decision of Istanbul Anatolia 4th Criminal Judgeship of Peace on **01.09.2022** (no. 2022/5763) access to Barış Terkoğlu’s columns published in Cumhuriyet on this matter and news and social media posts related to these columns was blocked. In the decision of the judgeship, it was assessed in general terms that 117 news articles and content violated personal rights exceed the limits of criticism and freedom of the press, and do not meet the criteria of ‘truth/reality’. However, the decision does not specify which personal rights of the Minister of Transport were violated and in what manner.



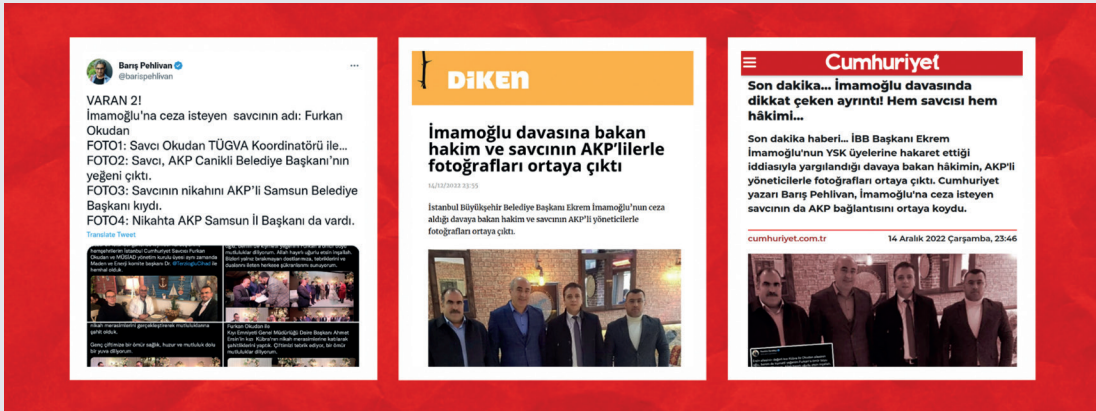
Hüseyin Zengin, the former judge of the court in which Istanbul Metropolitan Mayor Ekrem İmamoğlu was tried for allegedly insulting the members of the Supreme Election Council (“YSK”), has requested the removal of nine news articles published in BirGün, Gazete Duvar and Evrensel, including journalist Barış Terkoğlu’s column entitled “They are preparing to eliminate İmamoğlu” published in Cumhuriyet, citing violation of personal rights. The request was accepted by the Istanbul Anatolia 2nd Criminal Judgeship of Peace on **08.11.2022** (no. 2022/8110), with the decision specifying only the removal of the requester’s name from the news articles and content subject to the decision. but only the name of the applicant was removed from the content. The reason given for the decision was that “the right to personal privacy was violated as the name and surname were mentioned without abbreviation and without his consent.”

Screenshot 67: News articles sanctioned by the Istanbul Anatolia 2nd Criminal Judgeship of Peace



Similarly, the prosecutor **Furkan Okudan**, who requested the punishment of Ekrem İmamoğlu in the İmamoğlu case, has requested the removal of a tweet by Cumhuriyet columnist Barış Pehlivan, in which he disclosed Okudan's connections with AKP officials, as well as 49 different news articles and content related to the matter, citing violations of his personal rights. Istanbul Anatolia 5th Criminal Judgeship of Peace accepted the request on **15.12.2022** (no. 2022/10807). In the decision, it was stated that the news articles and posts “damaged the reputation of the requester and severely violated his personal rights”, but the decision did not explain how the violation occurred.

Screenshot 68: News articles blocked by the Istanbul Anatolia 5th Criminal Judgeship of Peace



Lastly, judge **Mehdi Komşul** who sentenced Ekrem İmamoğlu to imprisonment for insulting the members of the Supreme Electoral Council (“YSK”), requested that news articles containing allegations about a sexual harassment investigation conducted against him by the Supreme Board of Judges and Prosecutors (“HSYK”) in 2015 be blocked due to violations of personal rights. With the decision of the Istanbul Anatolia 10th Criminal Judgeship of Peace on **16.12.2022** (no. 2022/11313), access to 16 news articles, including those published in Gazete Duvar, Yeniçağ Newspaper, BirGün, Cumhuriyet and Gazete Karınca, were blocked. In the decision, it was stated in general terms that “the limits of criticism and commentary had been exceeded in the posts, and the freedom to criticise and comment does not grant the right to insult others.” However, the decision did not assess how these articles insulted the requester or whether HSYK conducted an investigation regarding the matter as mentioned in the tweets and related articles.

Screenshot 69: News articles blocked by the Istanbul Anatolia 10th Criminal Judgeship of Peace



Another bizarre case of access blocking in 2022 occurred when the **Ministry of Justice** requested the access blocking of e-commerce platforms “Nadir Kitap” (www.nadirkitap.com) and “Kitantik” (www.kitantik.com), where bookstores sell books online citing **copyright infringement**. Initially, the Ankara 10th Criminal Judgeship of Peace on **30.11.2022** (no. 2022/2965) granted the request on the grounds that the **websites violated personal rights**. The Ministry of Justice alleged that publications belonging to the Ministry of Justice were unlawfully being offered for sale, and they requested the blocking of the websites and the confiscation of such unlawfully sold works. However, in its decision, even though the Judgeship stated that it was understood that the publications “Judicial Statistics” and “Justice Statistics” prepared by the General Directorate of Judicial Records and Statistics of the Ministry of Justice and published free of charge were “illegally sold in a way that constitutes copyright infringement,” the Judgeship incorrectly ruled that “**personal rights were violated**” within the scope of article 9 of Law No. 5651. Upon appeal, the Judgeship revoked its decision with an additional decision on **01.12.2022**, stating that the access blocking decision for the entire website was had been issued erroneously and simultaneously ordered the blocking of nine different URL addresses related to the two platforms.

Screenshot 70: Platforms blocked by the Ankara 10th Criminal Judgeship of Peace



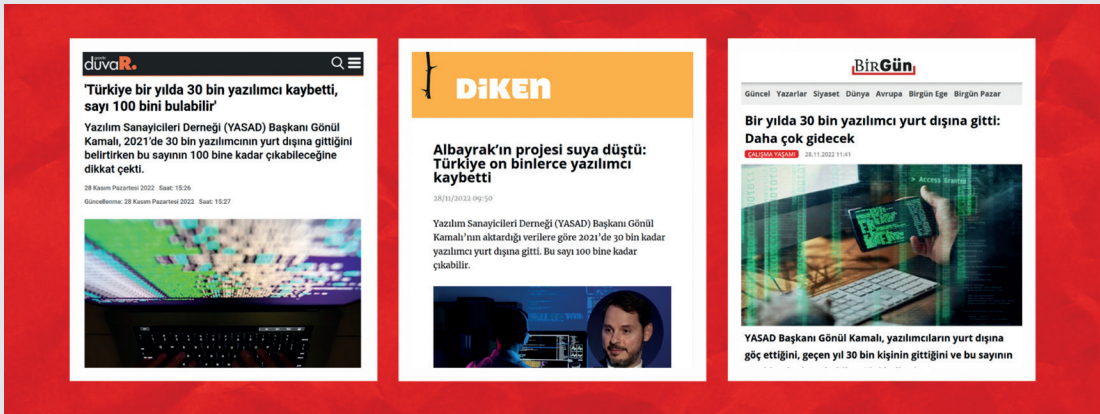
The news article entitled “‘Special job posting for himself’ and ‘plagiarism’ allegations about the ‘trustee’ dean at Boğaziçi” published by Diken on 08.11.2022 regarding the appointment of Prof. **Murat Önder** as the Dean of the Faculty of Economics and Administrative Sciences at Boğaziçi University and the claim that a job announcement was made specifically for him, along with allegations of plagiarism in his doctoral thesis, has been blocked from access and removed from publication by the decision of Istanbul 8th Criminal Judgeship of Peace on **11.11.2022** (no. 2022/7485) on the grounds of violation of personal rights. According to the decision, Diken’s article “violated the personal rights of the applicant by claiming that he plagiarised.” However, the decision did not provide details on how the applicant’s personal rights were violated.

Screenshot 71: News article blocked by the Istanbul 8th Criminal Judgeship of Peace



Upon the request of the **Turkish Presidency's Human Resources Office**, access to news articles that reported statements made by the President of the Software Industrialists Association regarding 30.000 software developers leaving Türkiye for abroad within one year has been blocked, and the content has been removed by the decisions of the Ankara 7th Criminal Judgeship of Peace on **16.12.2022** (decisions nos. 2022/13821, 2022/13850, 2022/13854). These decisions imposed sanctions on news articles belonging to Gazete Duvar, Diken, and BirGün separately. The reasoning for these decisions are identical and state that in the published articles, “no scientific basis was provided” and “considering the data from sector balance sheets prepared in cooperation with TURKSTAT (“TÜİK”) and CBRT (“TCMB”), this would also mislead the public.” It was also considered that “providing false information about a transaction related to the requesting institution’s field of duty is an attack on personal rights in any form that would undermine the institution’s honour and reputation, misrepresent it, and put it in a difficult position.” However, the decision did not specify which news and which statements, and how seriously they violated the personal rights of the applicant, without providing any justification.

Screenshot 72: News articles blocked by the Ankara 7th Criminal Judgeship of Peace



The news article published on Gazete Duvar on 08.02.2022 regarding HDP Deputy Group Chairman Saruhan Oluç’s press conference criticizing Yeni Şafak and Sabah newspapers was blocked from access upon the request of **Yeni Şafak** newspaper by a decision of the Bakırköy 4th Criminal Judgeship of Peace on **17.10.2022** (no. 2022/5538). The judgeship ruled that the personal rights of Yeni Şafak newspaper were violated, stating that the news article published on Gazete Duvar was “defamatory and reputation-damaging,” had “no public interest in its publication,” and contained “baseless allegations that did not qualify as news.” However, the decision did not consider that the individual making the statements in question was a politician, and therefore, the statements were within the scope of political expression, and the press had the freedom to report on the statements of politicians and the public had the freedom to receive such news.



A total of 54 news articles related to the divorce case filed by the brother of the former President of the Capital Markets Board (“SPK”), Ali Fuat Taşkesenlioğlu, and the former spouse of AKP Erzurum Deputy **Zehra Taşkesenlioğlu**, in which they demanded 50 million Turkish Liras in material compensation and 20 million Turkish Liras in moral compensation, were blocked from access upon the request of Taşkesenlioğlu with the decision of Gölbaşı Criminal Judgeship of Peace on **19.08.2022** (no. 2022/1736). The decision assessed that the news articles in question were “not within the limits of freedom of expression” and considering “the opinion of the ECtHR that the applicant’s right to respect for private life and freedom of expression are equally important, the contribution of the expressions in question to the public debate, and the content and form of the expressions” were evaluated resulting in violation of the personal rights. However, this evaluation was made collectively for all the news articles subject to the decision, without individually assessing whether each of the 54 different news articles, published in various outlets including Sözcü, OdaTV, BirGün, Cumhuriyet, Yeniçağ Gazetesi, T24, HalkTV, and Oksijen, exceeded the boundaries of the balance specified by the Judgeship.

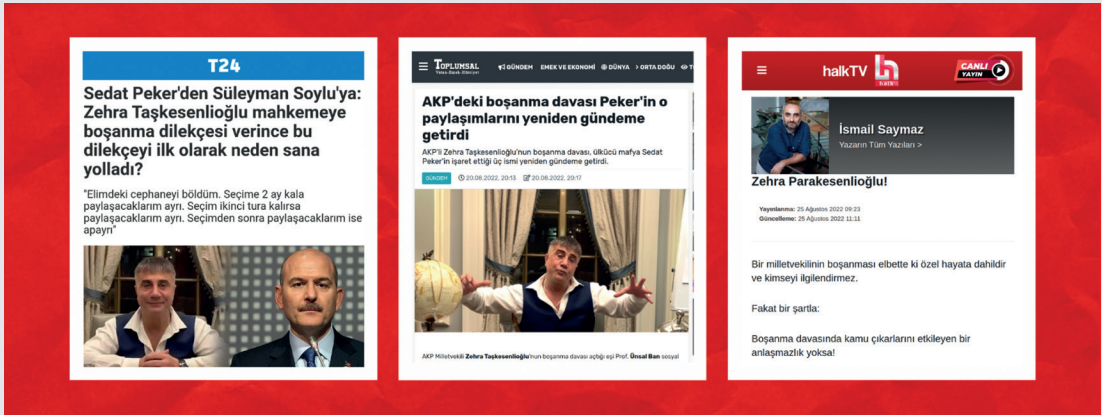


Similarly, upon the request of **Zehra Taşkesenlioğlu**, access to 72 different news articles was also blocked by a carbon copy decision of the Gölbaşı Criminal Judgeship of Peace on **25.08.2022** (no. 2022/1776). Along with this decision, access to a number of news articles, including a column entitled “Zehra Parakesenlioğlu” (with a word play in her surname to allude to how she was raking in) written by journalist İsmail Saymaz and allegations made by organized crime leader Sedat Peker, claiming that Taşkesenlioğlu’s former spouse, who had filed for divorce, received death threats and that the divorce petition was sent to the former Minister of Interior Süleyman Soylu, were also blocked from access. The decision also blocked access to news articles on the initial access blocking decision issued upon the request of Zehra Taşkesenlioğlu.

Screenshot 75: News articles blocked by the Gölbaşı Criminal Judgeship of Peace



Screenshot 76: News articles blocked by the Gölbaşı Criminal Judgeship of Peace



With another request by **Zehra Taşkesenlioğlu**, access to 12 other news articles, including a column written by journalist Necati Doğru in Sözcü, regarding the high amount of compensation she demanded in the divorce case and bribery allegations raised by her former husband Professor Ünsal Ban, was also blocked from access by the Gölbaşı Criminal Judgeship of Peace on **26.08.2022** (no. 2022/1789). This last template decision from the Gölbaşı Criminal Judgeship of Peace is identical to the two other decisions detailed above.

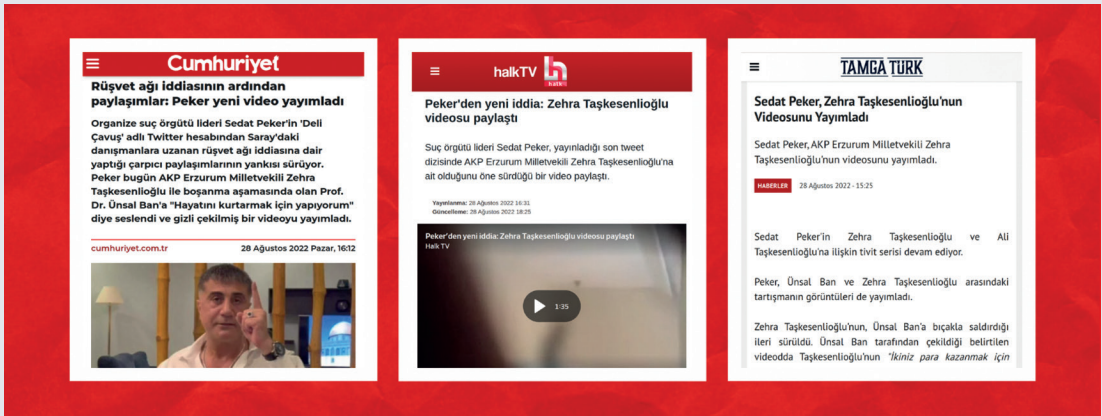
Screenshot 77: News articles blocked by the Gölbaşı Criminal Judgeship of Peace



Finally **Zehra Taşkesenlioğlu** requested access to be blocked to 58 news articles related to the alleged video recording of an argument between her and her ex-husband, which was shared on Twitter by organized crime leader Sedat Peker on 28.08.2022. Ankara 1st Criminal Judgeship of Peace partially accepted the request, blocking access to only nine different news articles on **29.08.2022** (no. 2022/10228). The decision stated that these nine news articles were considered to be related to the private life of the requestor and they involved the secret recording of a video which was the subject of a criminal investigation by the Ankara Chief Public Prosecutor's Office. The decision stated that such a secret recording can cause damage to the reputation and prestige of the person requesting access blocking.

Regarding the other 49 news articles, including articles published in Bianet, Cumhuriyet, Yeniçağ Gazetesi, and Gerçek Gündem, the Judgeship decided to reject the request, citing the principles established by the Constitutional Court in its Ali Kılık judgment and stated that the applicant claiming that her personal rights have been violated did not demonstrate “the need for an expeditious remedy without resorting to adversarial judicial proceedings” and that the request in question is not “of such weight and quality as to require its implementation through a non-adversarial lawsuit.”

Screenshot 78: News articles blocked by the Ankara 1st Criminal Judgeship of Peace



Ankara Chief Public Prosecutor's Office has initiated an investigation into certain company executives operating in the iron and steel sector on charges of forming a criminal organization for the purpose of committing crimes, aggravated fraud, bribery and violations of the Tax Procedure Law No. 213. During the “**Iron Fist**” operation conducted by the Ankara Chief Public Prosecutor's Office, Hüseyin Eryılmaz, the alleged leader of the criminal organization who was arrested, is accused of receiving large amounts of cash bribes. In connection with this case, **Sakarya Tax Court member judge M.O.**'s name was mentioned in the “Operation Iron Fist” related news resulting with a request to block of access to nine news articles where his name appeared. He also asked the removal of such content. The Istanbul Anatolia 9th Criminal Judgeship of Peace issued a decision on **19.08.2022** (no. 2022/7077), allowing only the removal of the requesting party's name from the subject news articles, hence anonymising the articles rather than blocking access or ordering the entire articles to be removed from publication.

Screenshot 79: News articles sanctioned by the Istanbul Anatolia 9th Criminal Judgeship of Peace



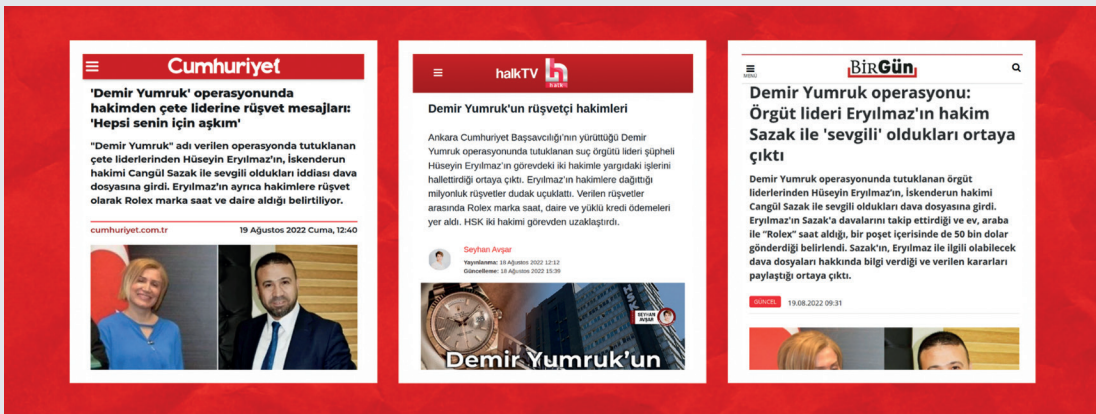
Similarly, the Istanbul Anatolia 3rd Criminal Judgeship of Peace issued a decision on **23.08.2022** (no. 2022/6394) to block access to 26 news articles on **M.O.**'s alleged bribery. Although the decision stipulated the removal and anonymisation of the requester's name from the articles, in the operative part of the decision, the Judgeship ordered the blocking of access to addresses including Sabah, Gazete Duvar and T24's news articles.

Screenshot 80: News articles blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



In addition to the bribery allegations, it was alleged that during the “**Iron Fist**” operation, an examination of suspect Hüseyin Eryılmaz's phone revealed a relationship between him and **Judge C.S. from İskenderun**. It was claimed that C.S. was involved in her lover's cases and made decisions in line with Eryılmaz's wishes, and that she sent messages to Eryılmaz, stating that “everything is for you, my love” after forwarding her decisions regarding the İskenderun Civil Enforcement Court dossier. As a result, a request was made to block access to 39 different news articles related to the investigation file containing these allegations. Judge C.S.'s request was accepted by the Istanbul Anatolia 9th Criminal Judgeship of Peace on **24.08.2022** (no. 2022/7225), and it was decided to remove her name and anonymise the news articles rather than blocking access or ordering the complete removal of the articles from publication.

Screenshot 81: News articles blocked by the Istanbul Anatolia 9th Criminal Judgeship of Peace

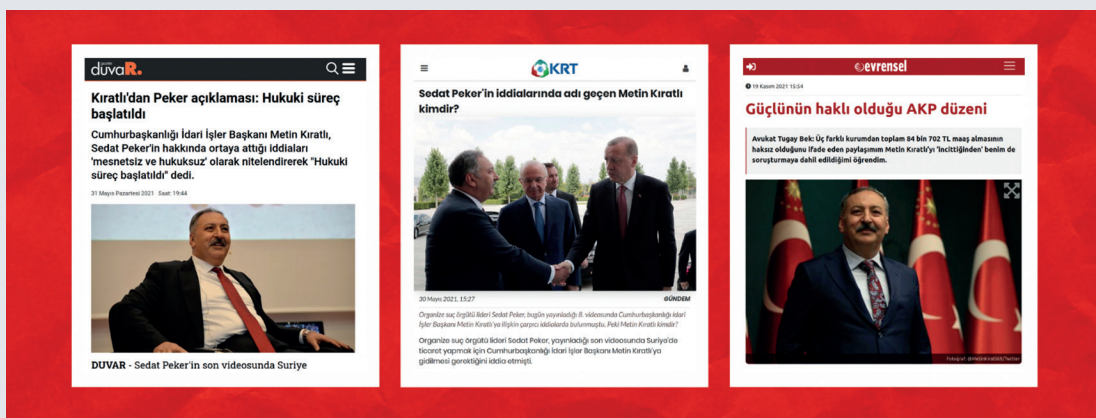


As per the laws, **Metin Kıratlı**, who holds the status of the “highest state official” as the **Turkish Presidency’s Administrative Affairs Director**, came into the spotlight in 2021 due to allegations raised by organized crime leader Sedat Peker. In a video published by Peker, it was claimed that those who wanted to do business in areas where Türkiye held influence in the Syrian Arab Republic should go to Kıratlı. Following the release of the video by Peker, an announcement was made by Kıratlı that a criminal complaint had been filed against Sedat Peker due to the allegations made about him. Metin Kıratlı’s application regarding the related news articles related to allegations of infringement of his personal rights was accepted by the decision of Ankara 3rd Criminal Judgeship of Peace on **19.04.2022** (no. 2022/4798). With this decision, access to a total of 210 news articles and social media content, including publications from Artı Gerçek, Gazete Pencere, Gazete Duvar, Cumhuriyet, Evrensel, BBC Türkçe, Agos, DW, HalkTV, Milli Gazete, Bianet, BirGün, ABC Gazetesi, Açık Gazete, and Sözcü was blocked. The reasoning provided for this decision was merely that “articles and other content violating personal rights by using the requester’s name were identified.” With the decision, access was also blocked to numerous news articles related to Kıratlı’s own statements regarding the legal process, and the judgeship’s decision lacked any reasoning or evaluation.

Screenshot 82: News articles blocked by the Ankara 3rd Criminal Judgeship of Peace



Screenshot 83: News articles blocked by the Ankara 3rd Criminal Judgeship of Peace



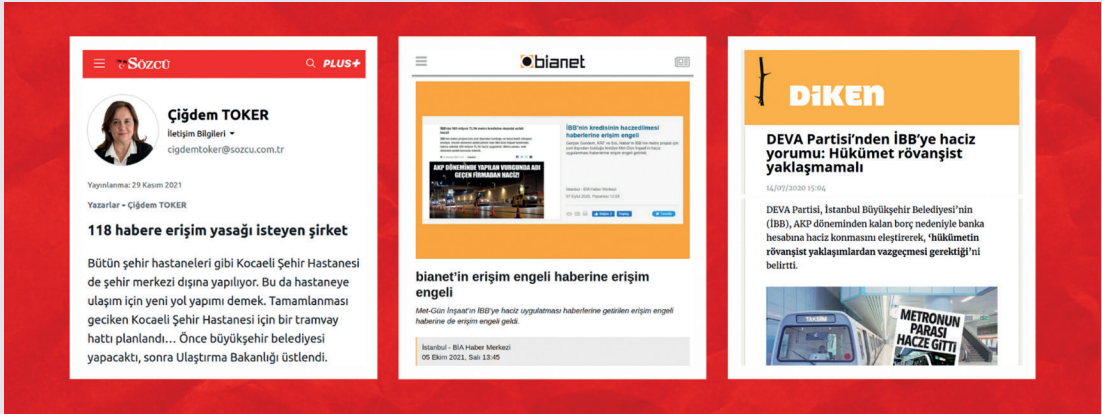
Upon the request of businessman **Metin Güneş** and his company **Met-Gün İnşaat Taahhüt ve Ticaret A.Ş.**, known for its close ties to the government and receiving significant public contracts, it was requested that 23 news articles regarding allegations about the 980 million Turkish lira in cash funds from the Ministry of Finance allocated to the Istanbul Metropolitan Municipality (“İBB”) budget, which were supposed to be used in July of that year, being used up and depleted within a week right before the renewed 2019 June Istanbul Metropolitan Municipality elections, be removed from publication. Istanbul Anatolia 4th Criminal Judgeship of Peace on **02.12.2022** decided (no. 2022/8478) to remove the news articles from publication, including the news articles of BirGün, Cumhuriyet and İleri Haber, and for these articles not to be associated with the requesters’ names in search engine results on Google, Yandex, Yahoo and Bing.

Screenshot 84: News articles removed by the Istanbul Anatolia 4th Criminal Judgeship of Peace



The Istanbul Anatolia 4th Criminal Judgeship of Peace on **13.09. 2022** (no. 2022/6112) decided to block access to and remove the content of three separate announcements by the Freedom of Expression Association regarding access blocking decisions brought against news articles related to the seizure of Istanbul Metropolitan Municipality’s bank accounts due to the debts from the period when the municipality was under the control of the ruling AKP. It was also ordered that these news articles not be associated with the search engine results on Google, Yandex, Yahoo, and Bing. A total of 83 addresses were sanctioned together with the Association’s announcements, including content from news websites such as BirGün, Bianet, Takvim, Sabah, Gazete Duvar, A Haber, Artı Gerçek, Cumhuriyet, Sendika.Org, Sözcü, Evrensel and HalkTV, as well as tweets by journalists Çiğdem Toker and Bülent Mumay. The judgeship based its decision on the “right to be forgotten” and assessed all news and content as “news and publications without current value.” As the appeal of the Freedom of Expression Association against this decision was rejected, an application was made to the Constitutional Court and the case is currently pending before the Constitutional Court.

Screenshot 85: News articles blocked by the Istanbul Anatolia 4th Criminal Judgship of Peace



Screenshot 86: News articles blocked by the Istanbul Anatolia 4th Criminal Judgship of Peace



Access to social media posts and news articles published on BirGün and other news websites regarding the allegation that a female employee of the JW Marriot Hotel was subjected to a strip search by the hotel management was blocked by the Istanbul Anatolia 4th Criminal Judgship of Peace on **02.12.2022** (no. 2022/8369) on the grounds of violation of the personal rights of **Kuzu Otel İşletmeciliği ve Gayrimenkul Yatırımları Anonim Şirketi**. As a result of this decision, the decision of the Istanbul Anatolia 3rd Criminal Judgship of Peace, (no. 2022/9333, 01.12.2022), rejecting the request for access blocking, was lifted. The decision mentioned that the news articles and social media content regarding the solidarity protest held in response to the strip search incident, tweets by the Twitter user “Yaşar Usta” who called for this protest, and the statements made by Sera Kadıgil, a member of the Turkish Parliament from the Türkiye Workers’ Party, were considered to be “arbitrary, attack-like, offensive to the honour and dignity of individuals and in violation of personal rights.” However,

the decision did not specify how the personal rights of Kuzu Hotel Management and Real Estate Investments Joint Stock Company were harmed.

Screenshot 87: News articles and other content blocked by the Istanbul Anatolia 4th Criminal Judgeship of Peace



Haluk Alıcık, the former mayor of Nazilli district from the Milliyetçi Hareket Partisi (Nationalist Action Party, or "MHP"), requested the removal of a total of 106 news articles and social media content related to the emergence of footage of him verbally insulting and physically assaulting a female municipal employee on International Women's Day on March the 8th in 2019 claiming violation of his personal rights. The Nazilli Criminal Judgeship of Peace accepted the request on **27.10.2022** (no. 2022/4811), and decided for the removal all news articles and other content from publication. In its decision, the judgeship considered the news articles and posts made in 2019 as falling under the right to be forgotten and also evaluated that the content was "harmful to personal rights" and "beyond the scope of press freedom."

Screenshot 88: News articles and contents blocked by the Nazilli Criminal Judgeship of Peace



Access to the news article published in the daily Evrensel and two YouTube videos related to the alleged mistreatment of Yılmaz Ekinci, who was claimed to have committed suicide in Aydın E Type Prison and whose family demanded a clarification of the suspicious circumstances of his death was blocked by the decision of the Aydın 1st Criminal Judgeship of Peace on **18.07.2022** (no. 2022/3121), at the request of one of the correctional officers involved in the incident. The decision considered that Evrensel's article had the nature of an attack on personal rights and was not within the scope of press and news freedom. However, the decision did not provide specific details on how the news article and the allegations of public interest it contained exceeded the boundaries of press freedom.

Screenshot 89: News articles blocked by the Aydın 1st Criminal Judgeship of Peace



The news articles and content related to construction activities carried out by **Cengiz Holding, owned by businessman Mehmet Cengiz**, who is known for his close relations to the government and for winning large public tenders in various parts of Türkiye, including natural areas ("SIT" - Site of Historical and Cultural Significance) that should be protected, have been previously blocked. These articles and content were blocked based on decisions from Istanbul Anadolu 4th Judgeship of Peace on **26.09.2022** (decisions nos. 2022/6430, 26.09.2022 and 2022/6431). Subsequently, on **18.10.2022**, the Association of Access Providers issued a decision (no. 2022/202) to block access to 31 different articles and content that were considered similar to those covered in the previous decisions.

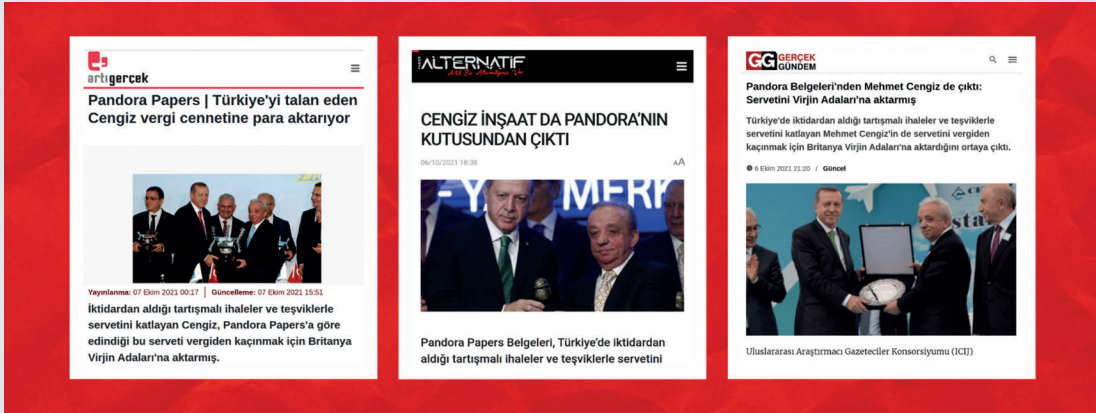
Among the blocked articles, is the one published in Cumhuriyet on 22.08.2022, entitled "Mardin'deki katliam gibi kazada 'Cengiz Holding'e ayrıcalık' iddiası: 'Rapor var'" ("Allegations of 'privilege for Cengiz Holding' in an accident like the one in Mardin: 'There is a report'"). This article discusses the accident in Derik, Mardin, in which 20 people died, and it includes claims that Turkish Union of Chambers of Engineers and Architects ("TMMOB") prepared a report indicating that Cengiz Holding's trucks were not inspected by law enforcement authorities.

Screenshot 90: News articles blocked by the Association of Access Providers



Based on another request by **Cengiz Holding A.Ş.**, access to 26 different news articles was blocked by the decision of the Association of Access Providers on **20.10.2022** (2022/206). The decision of the Association was based on the decision of the Istanbul Anatolia 4th Criminal Court of Peace (no. 2022/6427, 26.09.2022). The Association's decision resulted in the blocking of news articles that conveyed information from the Pandora Papers documents, suggesting that Mehmet Cengiz had offshore bank accounts in the British Virgin Islands.

Screenshot 91: News articles blocked by the Association of Access Providers

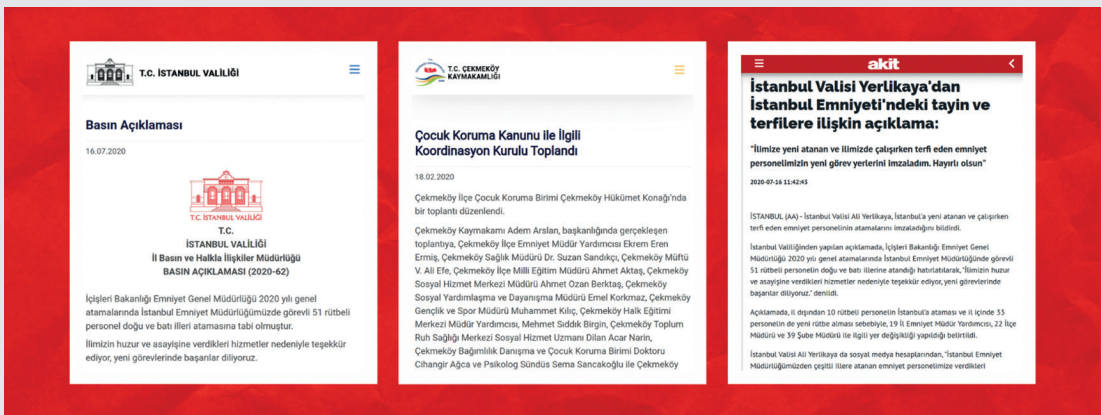


In accordance with the decision of Istanbul Anatolia 2nd Criminal Judgship of Peace on **19.10.202** the names, surnames, and photographs of **3rd Class Police Chief E.E.E.** were ordered to be removed from 139 Internet addresses including a press release on the official website of the Istanbul Governor's Office and a similar press release of the Çekmeköy District Governor's Office. The applicant's name had come to public attention due to statements made by organized crime leader Sedat Peker, in which Peker alleged that the applicant had accepted bribes and that an investigation had been unlawfully closed. According to the decision, there was an investigation against the applicant for bribery, and as a result of the investigation, a decision of non-prosecution was made on 20.04.2022. It was mentioned that the names, surnames, and photographs were being used without his consent.

Screenshot 92: News articles blocked by the Istanbul Anatolia 2nd Criminal Judgship of Peace



Screenshot 93: News articles and announcements blocked by the Istanbul Anatolia 2nd Criminal Judgship of Peace



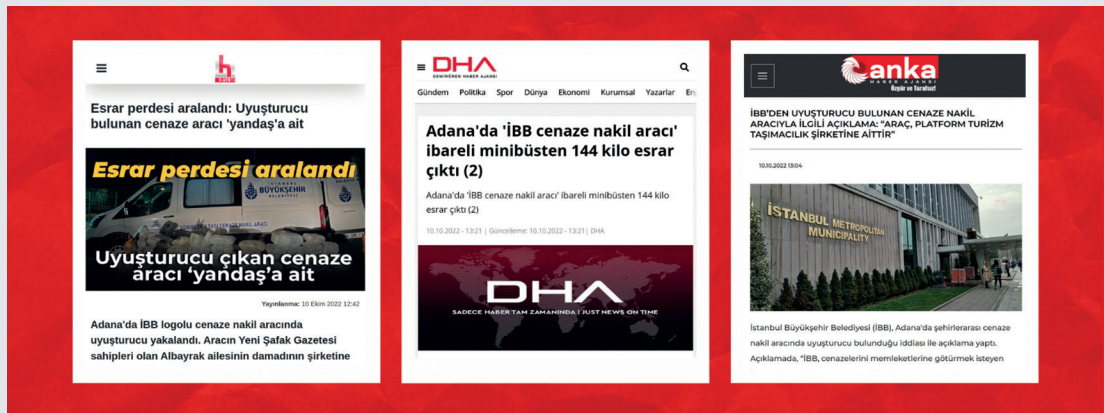
In November 2021, 144 kilograms of cannabis were found in an intercity funeral transport vehicle bearing the logo of Istanbul Metropolitan Municipality. Istanbul Metropolitan Municipality Mayor Ekrem İmamoğlu revealed that the owner of the vehicle in question was **Platform Turizm Taşımacılık Gıda İnşaat Temizlik Hizmetleri Sanayi ve Ticaret A.Ş.** A total of 65 news articles and content discussing İmamoğlu's statements about the incident and the allegations against Platform Turizm Taşımacılık Şirketi were blocked from access and ordered to be removed from publication by the decision of the Bakırköy 7th Criminal Judgeship of Peace on **01.11.2022** (no. 2022/4667).

According to the decision, the news articles in question directly associated the vehicle in question with Platform Turizm Taşımacılık Gıda İnşaat Temizlik Hizmetleri Sanayi ve Ticaret A.Ş., by making the company the focus of the news. It was stated that, although the legal entity of the company does not have the authority to supervise and control, the articles were directly targeting the requesting company and were damaging to its commercial reputation.

Screenshot 94: News articles blocked by the Bakırköy 7th Criminal Judgeship of Peace

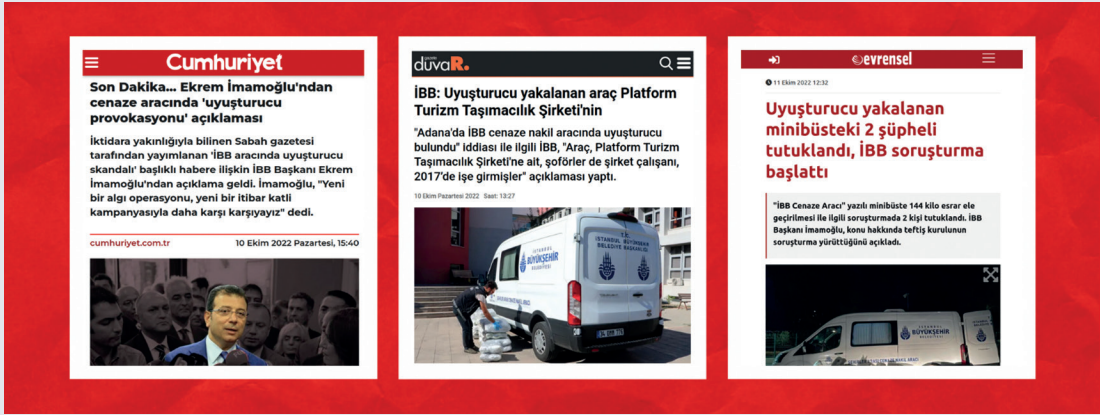


Screenshot 95: News articles blocked by the Bakırköy 7th Criminal Judgeship of Peace



On the same day, a total of 80 different news articles and other content reporting Ekrem İmamoğlu's statement regarding the funeral vehicle were blocked from access and ordered to be removed from publication upon the request of **Platform Turizm Taşımacılık Gıda İnşaat Temizlik Hizmetleri Sanayi ve Ticaret A.Ş.**, with the decision of Bakırköy 7th Criminal Judgeship of Peace on **01.11.2022** (no. 2022/4802). The grounds for the decision were the same as the grounds for the decision made by the same judgeship (no. 2022/4667). This decision also did not explain how the official statements made by the Mayor of Istanbul about the incident constituted a violation of the personal rights of the requesting company.

Screenshot 96: News articles blocked by the Bakırköy 7th Criminal Judgeship of Peace



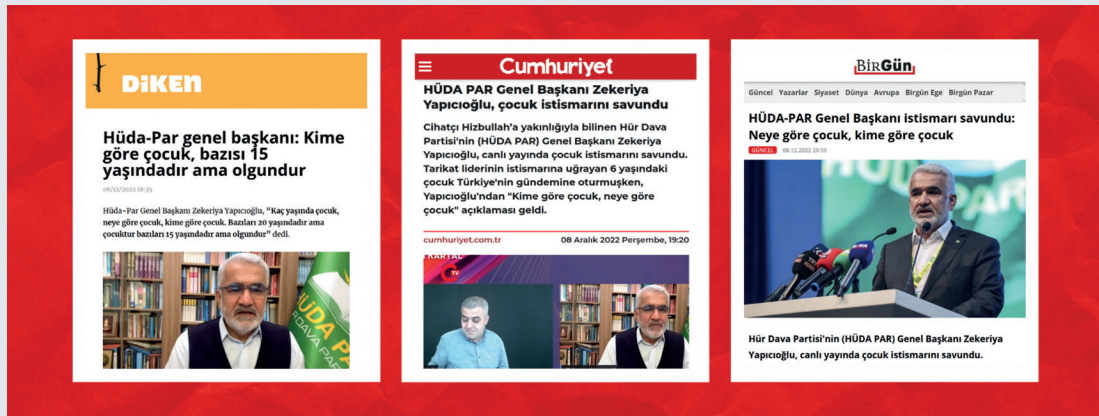
An additional 96 news articles and content related to the subject were also blocked from access by the decision of Bakırköy 3rd Criminal Judgeship of Peace on **19.12.2022** (no. 2022/7607), upon the request of **Adem Altunsoy**, the Chairman of the Board of Directors of the Platform Turizm Taşımacılık Gıda İnşaat Temizlik Hizmetleri Sanayi ve Ticaret A.Ş. The grounds of the decision of Bakırköy 3rd Criminal Judgeship of Peace were the same as the grounds of the previous decisions made by Bakırköy 7th Criminal Judgeship of Peace.

Screenshot 97: News articles blocked by the Bakırköy 3rd Criminal Judgeship of Peace



Zekeriya Yapıcıoğlu was elected as the chairman during Hüda-Par's 4th Ordinary Congress of the party on 02.07.2021. Subsequently, he was also elected as a member of the Turkish Parliament from the AK Party's candidate lists in the 2023 general elections. Yapıcıoğlu's statements regarding a child who was a victim of sexual abuse, such as "How old is a child, according to what criteria, for whom? Some may be 15 years old but appear mature... In my opinion, if a person feels ready and has the approval of their family, they can get married at an earlier age," created controversy in the media and public opinion in December 2022. **Zekeriya Yapıcıoğlu** requested the blocking of access to news articles published in various online news outlets, including BirGün, Evrensel and Diken claiming that these articles violated his personal rights by making interpretations that he was advocating child abuse. Following the rejection of his application by the Istanbul 7th Criminal Judgeship of Peace on **27.12.2022** (no. 2022/8093), Yapıcıoğlu appealed against this decision. Upon review, the Istanbul 8th Criminal Judgeship of Peace, revoked the decision on **29.12.2022** (no. 2022/8827) and ordered the blocking of access to and removal of 26 different news articles and other content. The judgeship's decision observed that the applicant's personal rights were violated solely due to interpretations that he was advocating child abuse.

Screenshot 98: News articles blocked by the Istanbul 8th Criminal Judgeship of Peace



Screenshot 99: News articles blocked by the Istanbul 8th Criminal Judgeship of Peace



Former Istanbul Regional Court of Justice Chief Prosecutor **Hadi Salihoğlu** requested the blocking of access to the column article titled “Arkadaş arkadaşın pelesengidir” (“One’s friend is one’s procurer”) written by Cumhuriyet newspaper columnist Barış Terkoğlu on 28.03.2022. In the article, the decision of the Court of Appeal to overturn the sentences of 9.803 years and 6 months for Adnan Oktar and his group is discussed, and Hadi Salihoğlu’s name is mentioned within that context. The request was accepted by the Istanbul 7th Criminal Judgeship of Peace on **27.05.2022** (no. 2022/3276). The decision stated that the article intended to create an unfair impression in a normal reader’s eye that the requester took benefits and that the article goes beyond the limits of criticism, implying that the investigation was conducted inadequately and improperly, and that the applicant did not fulfil the obligations arising from his duties as the Chief Prosecutor of the Republic during the course of his duties, resulting in the violation of the applicant’s personal rights.

Screenshot 100: Column blocked by the Istanbul 7th Criminal Judgeship of Peace



In the column article entitled “Kim bu baba” (“Who is this father”) by Cumhuriyet writer Barış Pehlivan, published on 19.10.2022, it was alleged that Maksut Serim, the father of Yasin Ekrem Serim, who was appointed as the Deputy Minister of Foreign Affairs, has been the secret keeper of President Recep Tayyip Erdoğan’s in the use of discretionary funds since his time as the mayor of Istanbul. Upon the request of **Yasin Ekrem Serim, Deputy Minister of Foreign Affairs**, Barış Pehlivan’s article as well as 64 news articles and posts related to this article were blocked from access and they were also ordered to be removed with the decision of the Istanbul Anatolia 4th Criminal Judgeship of Peace on **24.10.2022** (no. 2022/7419). The decision states that the article:

“contains allegations that Maksut Selim, the applicant’s father, committed disgraceful crimes, but there is no definitive judicial decision proving otherwise in this regard, and baseless accusations and allegations are made against the applicant and his family. It is attempted to create the impression that the applicant was appointed to this posi-

tion solely because of his father's status, and while there is no doubt that the fact that the applicant was appointed as a deputy foreign minister has news value, the way the news is presented, the language used, and the content of the news should not attack personal rights. However, when both the articles and social media posts are examined, it is found that accusatory and offensive statements are made against the applicant, and statements implying that the applicant is part of an 'organized evil' structure and that he is being accused through his father are legally unacceptable."

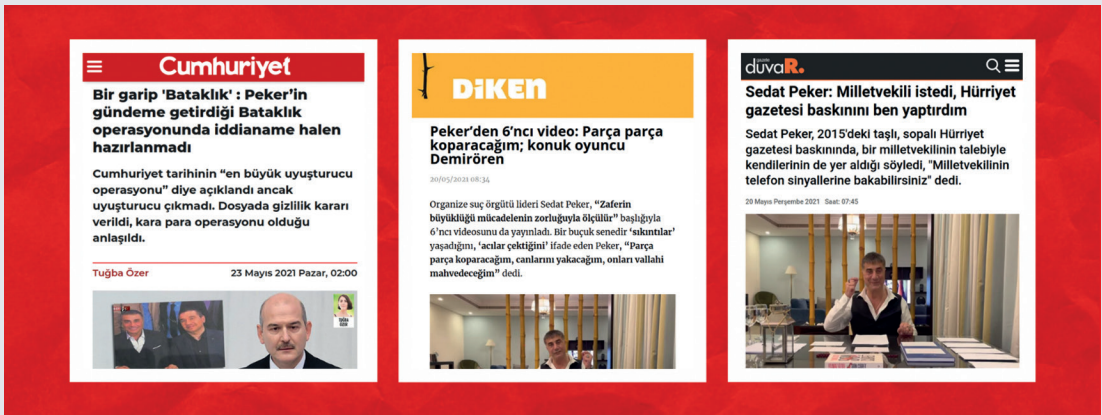
Screenshot 101: News articles sanctioned by the Istanbul Anatolia 4th Criminal Judgeship of Peace



Upon the request of **Ömer Faruk Aydın**, a member of the Court of Cassation and president of the Unity in Judiciary Association, Cumhuriyet columnist Barış Pehlivan's article titled "Mide bulandıran öykü" ("Disgusting story") published on 30.11.2022, where he reported that a businessman had filed a complaint against various suspects, including drug smugglers, a Court of Cassation member, and a former intelligence officer, was blocked from access on the same day by the decision of the Bakırköy 6th Criminal Judgeship of Peace on **30.11.2022** (no. 2022/6664) on the grounds of violation of personal rights. In the decision, it was stated that although the applicant's full name and surname were not explicitly mentioned, multiple details about the applicant were implicitly disclosed in the content of the article in a way that left no room for doubt. Furthermore, it was added that there was no evidence of a definitive court decision or an ongoing investigation related to the applicant, and there was no situation within the scope of press freedom where the applicant had to bear the obligation to inform the public's right to information. Additionally, Barış Pehlivan's article was removed from publication by the decision of Bakırköy 6th Criminal Judgeship of Peace on **02.12.2022** (no. 2022/6677), with the instruction not to associate the content with search engine results.



71 news articles and social media posts containing the name of businessman **Nezhat Kaya**, who was arrested within the scope of the “**Bataklık**” (“**Swamp**”) operation and investigation brought to the agenda by organised crime leader Sedat Peker, were blocked from access and the contents were removed from publication with the decision of Ankara 7th Criminal Judgeship of Peace (no. 2022/773, **19.01.2022**), on the grounds of violation of personal rights. In the one-sentence decision of the judgeship, it was stated that “a decision of non-prosecution regarding the investigation was presented” and that it was concluded that personal rights were violated “taking into account the applicant’s right to property and non-stigmatisation.”



Furthermore, 62 news articles and social media posts mentioning **Nevzat Kaya's** name were also blocked from access by the Ankara 7th Criminal Judgeship of Peace on **25.05.2022** (no. 2022/7124) and had their contents removed on the grounds of violating personal rights. The justification provided by the judgeship was that “the statements made in the content of the publication violated the personal rights of the requester and were misleading to the public.”

Screenshot 104: News articles blocked by the Ankara 7th Criminal Judgeship of Peace



Nine news articles and tweets, including a report by DW and tweets by journalist Alican Uludağ, alleging that **Hacım Çiftçi**, a member of a Criminal Assize Court in Izmir, had subjected his spouse to violence and did not comply with the restraining order and surrender of his weapon, were blocked from access on the grounds of violating personal rights by the decision of Izmir 5th Criminal Judgeship of Peace on **11.02.2022** (no. 2022/485). Furthermore, the same news articles and tweets were ordered to be removed from publication by the decision Izmir 4th Criminal Judgeship of Peace on **16.02.2022** (no. 2022/989). The decision stated that “although the content is generally in the nature of news, when the content and the news title are examined

Screenshot 105: News articles blocked by the Izmir 5th and Izmir 4th Criminal Judgeships of Peace



together, it is clearly revealed that the name, surname, duty place, and title related to the duty of the claimant are explicitly disclosed” and “the articles contain information targeting the individual; they also provide information about the ongoing legal process, thus violating the claimant’s personal rights.”

Content involving the name of **Deputy Minister of Health Şuayip Birinci**, amounting to 55 news articles, op-eds, and social media content, was blocked from access by the decision of Ankara 1st Criminal Judgeships of Peace on **22.02.2022** (no. 2022/1917). The single-sentence decision only stated that “there were posts that would undermine the reputation and credibility of the claimant.” Among the blocked news content is an article titled “Bakan Koca’nın yardımcısı da çift maaş alıyormuş! Aylık geliri 44 bin 775 TL” (“Minister Koca’s deputy is also receiving double salary! Monthly income is 44.775 TL), published on 19.08.2021, in the daily Sözcü newspaper. As a result of an objection filed in relation to this news article, Ankara 1st Criminal Judgeship of Peace issued an additional decision on **03.03.2022** (no. 2022/1917), lifting the blocking decision in relation to Sözcü’s article. In the one-sentence justification, it was stated that “the content of the news article falls within the scope of freedom of expression.”

Screenshot 106: News articles blocked by the Ankara 1st Criminal Judgeships of Peace



Screenshot 107: News article related to which Sözcü newspaper’s objection accepted by the Ankara 1st Criminal Judgeships of Peace



Journalist **Metin Özkan** has requested the blocking of access to news articles on the grounds of violation of his personal rights regarding reports in December 2021 which alleged that he had stolen money from the purse of a person named Ufuk Enginler, whom he had shared a table with at a restaurant. The Ankara 2nd Criminal Judgeships of Peace in its decision of **23.02.2022** (no. 2022/2306) ordered the blocking of access to and removal from publication of all 48 addresses without making any distinction, despite Metin Özkan's request for only the blocking of access to such content. The judgeship also ordered the dissociation of the claimant's name with search engine results. In its decision, the judgeship stated that "claims within the scope of the alleged montage of images and whether the images are real or not could not be determined from the content of the file" and therefore "it is not understood who obtained the relevant images and in what manner, therefore, there is doubt about the reality of the news articles, and the reality of the matter will only be understood through the investigation and prosecution process". It was noted that the claimant's right to privacy and the right not to be defamed were violated.

Screenshot 108: News reports blocked by the Ankara 2nd Criminal Judgeships of Peace



The General Directorate of Legal Services of the Ministry of Defence has requested the blocking of access to 16 news articles based on claims made by retired military judge Zeki Üçok regarding statements he made about National Defence Minister Hulusi Akar's deputies Muhsin Dere being a ByLock user and Yunus Emre Karaosmanoğlu having connections with the United States. The request was made on the grounds of a violation of personal rights. However, this request was rejected by the Ankara 6th Criminal Judgeship of Peace on **18.02.2022** (no. 2022/3469). Upon appeal by the Ministry of Defence, the Ankara 7th Criminal Judgeship of Peace, in its decision of **23.02.2022** (no. 2022/3666) stated that "the expressions used in the publications have the potential to threaten national security and public order, and may create the perception that the Republic of Türkiye is being belittled and left defenceless in the eyes of the public." As a result, the judgeship ordered the blocking of access to and removal of the news articles.

Screenshot 109: News articles blocked by the Ankara 7th Criminal Judgeship of Peace



There have been several news reports on the allegations that a tender was awarded to the son-in-law of ministry bureaucrat **Eyüp Aksoy** during the term of former Minister of Trade Ruhsar Pekcan. Upon the request of Eyüp Aksoy, 10 news articles were blocked from access with the decision of Bakırköy 4th Criminal Judgeship of Peace on **29.03.2022** (no. 2022/2141), on the grounds of violation of personal rights. The judgeship's brief decision stated that the news articles in question had "lost their relevance and news value, lacked social interest, and should be considered within the context of the right to be forgotten."

Screenshot 110: News articles blocked by the Bakırköy 4th Criminal Judgeship of Peace



A draft law was submitted by AKP MPs regarding the establishment of a new university in Bursa under the name of Mudanya University by businessman **Gıyasettin Bingöl**, one of the founders of the Zehra Foundation, which was closed down on the grounds that the foundation sought a Sharia state and reopened after nine years. Upon the request of Gıyasettin Bingöl and with the decision of Bursa 6th Criminal Judgeship of Peace on **11.05.2022** (no. 2022/3105) access to 17 news articles has been blocked due to the violation of his personal rights. The judgeship's decision mentioned in general terms that the news articles had the potential to harm Bingöl's spiritual personality.

Screenshot 111: News articles blocked by the Bursa 6th Criminal Judgeship of Peace



The news articles regarding the determination that Özgür Taşdemir, former head of the Istanbul Police Security Directorate, had allegedly cleared the FETÖ ("Fethullahist Terrorist Organization") file of **Ahmet Taçyıldız**, the Chairman of the Board of Directors of Çalık Real Estate, a subsidiary of Çalık Holding, in exchange for a "mansion with a Bosphorus view" were blocked and removed from public access due to violation of personal rights with the decision of Bakırköy 1st Criminal Judgeship of Peace on **27.10.2020** (no. 2020/5103). Approximately **two years after** this decision, an appli-

Screenshot 112: News articles sanctioned by the Association of Access Providers



cation was made to the Association of Access Providers on the grounds that the requested content were the same as that in the Bakırköy decision. Therefore, the Association, on **26.05.2022** (no. 2022/88), decided to block access to 53 different news articles and social media posts as well as their removal from publication.

A request for blocking access to and removing from publication 11 news articles and social media posts that allegedly contained voice recordings from 2014, depicting conversations between Nurettin Canikli, the Deputy Chairman of the AKP Parliamentary Group at the time, and Hasan Doğan, who served as the Chief of Staff for the former Prime Minister Recep Tayyip Erdoğan, was made 8 years after the publication of these news articles. The request, claiming a violation of personal rights, also includes journalist Hasan Cemal's columns published on T24 in 2014. **Hasan Doğan's** request was accepted by the Istanbul Anatolia 6th Criminal Judgeship of Peace on **03.06.2022** (no. 2022/5003) and a decision was made to remove the content from publication. The decision explicitly shows that despite the requester being a real person, the rationale used was that "the news and comments made may damage the reputation of the **legal entity** in the eyes of the society," clearly showing that a template decision was used.

Screenshot 113: News articles sanctioned by the Istanbul Anatolia 6th Criminal Judgeship of Peace



At the request of **Boğaziçi University Rectorate**, news articles which contained allegations related to the university's Information Technology Centre director providing access to four databases, including the personal information of academic staff, administrative staff, students, and alumni, to a company, were blocked from access and removed from publication separately for Diken and Cumhuriyet news websites by the Istanbul 10th Criminal Judgeship of Peace on **24.06.2022** (nos. 2022/3955 and 2022/3956). The decisions stated that "the institutional personality of the applicant university was targeted, negative perceptions about the university administration were intended to be created with demeaning and derogatory statements and expressions and narratives that violate the personal rights of the applicant were included."



Former footballer and AKP Member of Parliament **Alpay Özalan** requested the blocking of videos and content in which former footballer Feyyaz Uçar shared an anecdote about him. Initially, on the grounds of violating his personal rights, access to these videos and content was blocked by Istanbul Anatolia 8th Criminal Judgeship of Peace on **17.06.2022** (no. 2022/5438). Shortly thereafter, based on the justification that the blocked content and news articles were similar in content to those previously blocked, the Access Providers Association issued a decision on **23.06.2022** (no. 2022/103) to block access to similar news articles.

In response to these access blocking decisions, on **27.06.2022**, Istanbul Anatolia 8th Criminal Judgeship of Peace issued another decision (no. 2022/5863) to block access to news articles related to the initial reporting of the anecdote and ordered the removal of the content from publication, and to disassociate them from search engine results. The decision stated that the individual's right to not be tarnished was violated in the context of these articles. The decision mentioned that the comments



made about the videos were “in violation of the law in terms of form, quality, and scope” and the decision emphasized that “no one can be treated as guilty, convicted, or at fault until their guilt is legally established.” Although the initial video recording and anecdotes were from Feyyaz Uçar’s football career, the judgship found that the news articles were “not based on concrete and definite data, not substantiated and objective, and solely aimed at harming the personal rights of the applicant”. Therefore, they could not be considered within the framework of press freedom.

Keskin Holding Chairman of the Board, **Recep Ercan Keskin**, was detained and arrested by the Kocaeli Police over allegations of fictitious exports, fuel smuggling, threats, and extortion. In connection with this, 220 news articles were blocked on the grounds of violating Keskin’s personal rights by the decision of Adana 6th Criminal Judgeship of Peace on **28.06.2022** (no. 2022/4434). However, Recep Keskin appealed the decision, arguing that the blocked addresses were using the “secure https” protocol and requested the removal of the news and content. The Adana 6th Criminal Judgeship of Peace accepted the appeal and issued an additional decision on **29.06.2022** (no. 2022/4434) and ordered the removal of the content for 136 news articles and other content from publication, including news articles published in Sabah, A Haber, Güneş, Takvim, OdaTV, BirGün, Diken, Cumhuriyet and Bianet. The justification for the decision stated that the news articles were “outdated and no longer held news value, and the applicant was uncomfortable with these.” The decision also considered that the applicant did not want to be associated with the incident covered in the outdated publication and wished not to be remembered in connection with it, taking into account the “serious accusations” made against him.

Screenshot 116: News articles sanctioned by the Adana 6th Criminal Judgeship of Peace



Following the 2020 Elazığ earthquake, 126 news articles and social media posts about **Bedri Gencer**, an academic at Yıldız Technical University, Faculty of Arts and Sciences, Department of Humanities and Social Sciences, who attributed the disasters to “the legalisation of adultery” and “the prohibition of child marriages”, were blocked from access by Çumra Criminal Judgeship of Peace on **28.06.2022** (no.

2022/375), on the grounds of violation of personal rights. In its access blocking decision, the judgeship relied solely on the reason of “the presence of sufficient and legal elements for the request” as the justification for the blocking. However, it did not take into consideration the need to report and discuss the controversial statements made by an academician, which provoked reactions from the public in terms of freedom of expression and press freedom.

Screenshot 117: News articles blocked by the Çumra Criminal Judgeship of Peace



In this context, as it will be remembered, Orhan Gökdemir had strongly criticized theologian Nurettin Yıldız in his article titled “Tuhařfazakar Süslümanlıđın Ekonomi Politıđi” (“The Political Economy of Bizarre-Conservative [Bizarre-Conservative] Fancismism [Fancy-Muslimism]”) published in SoL News on 21.05.2016 in SoL News. Following Yıldız’s complaint, Gökdemir was prosecuted and sentenced to a judicial fine for publicly insulting through the press and media. However, the Constitutional Court ruled that Orhan Gökdemir’s freedom of expression and press freedom had been violated, emphasizing that freedom of expression protects the statement regardless of whether it is true or emotional, and regardless of how others assess it as beneficial or harmful, valuable or worthless.⁹⁷ Moreover, the Constitutional Court also pointed out that the level of certainty, rigidity, and directness in any claim closely related to the public should determine the extent to which the claimant should tolerate criticism directed at them.⁹⁸ This duty of tolerance and patience is inherent in the nature of democratic deliberation processes. Accepting otherwise could lead to the danger of imposing that a particular interpretation is the only valid one, thereby disregarding all possible interpretations on a particular issue.⁹⁹ In this context, it cannot be said that the Çumra Criminal Judgeship of Peace decision, which lacks any form of evaluation, is compatible with the decisions of the Constitutional Court, as is the case with the decisions of several other criminal judgeships of peace.

97 Orhan Gökdemir Application, No: 2017/38377, 30.9.2020, § 42.

98 Orhan Gökdemir Application, No: 2017/38377, 30.9.2020, § 42.

99 Orhan Gökdemir Application, No: 2017/38377, 30.9.2020, § 44.

A total of 58 news articles and social media posts, including a video interview containing some statements made by artist Selçuk Ural about his son, **Hakan Ural**, along with news published in newspapers like BirGün, Cumhuriyet, Yeni Akit, Sabah, and Yeniçağ, have been blocked from access on the grounds of violating personal rights with a decision of Istanbul 6th Criminal Judgeship of Peace on **21.07.2022** (no. 2022/4852). The reasoning behind the decision highlights that the news articles in question consisted of “statements that target personal rights, lack of informative content for the public, humiliating and derogatory expressions towards the subject, and that these articles, both in terms of their titles and content, were not in the realm of commentary, criticism, or value judgments but rather constituted a clear attack on the honour and dignity of the applicant and his deceased mother.” The decision also emphasized that these articles did not fall within the scope of press freedom, which is obliged to protect the personal values of individuals such as their reputation, honour, dignity, professional and secret sphere, and other moral qualities within the framework of human dignity.

Screenshot 118: News articles blocked by the Istanbul 8th Criminal Judgeship of Peace



News articles containing allegations related to a complaint about the Governor of Sivas, **Yılmaz Şimşek**, to the Ministry of Interior Affairs for allegedly having unlawful ties with Sintan A.Ş., an İzmir-based company, were removed from publication with the decision of Sivas 2nd Criminal Judgeship of Peace on **22.07.2022** (no. 2022/1851) on the grounds of violation of personal rights. In its decision to remove the news article in Diken and the related content, the Judgeship stated that “the images presented by the applicant and found in the case file contain allegations regarding the misuse of duty by the applicant, who holds the position of Governor, and that the news articles in question contain allegations that are not supported by documents and which, at first sight, can be considered as an attack on the personal rights of the applicant, including his personal, professional, and social status, in a way that is impossible to rectify.” Therefore, the decision was made in relation to the applicant’s “right not to be defamed.”

Screenshot 119: News articles sanctioned by the Sivas 2nd Criminal Judgeship of Peace

DİKEN

İş mahkemesi valiyi uzandı, çarpıcı iddialar İçişleri'ne bildirildi

BİLAL ÇELİK

Sivas Valisi Yılmaz Şimşek, İzmir merkezli Sintan A.Ş. ile hukuka uygun olmayan bağlanma hususunda girişimlere İçişleri Bakanlığı'na şikâyet edildi.

Vali Şimşek hakkında iddialar arasında, telefonları kululanarak Sintan A.Ş. ye mesajlara baskın hibe ve destek sağlanarak, kendisini Aydın Kışağdelen'in boy yaktığı otelde eğitilip Sintan A.Ş. yöneticisi Kemal Mazra'ya'nın yolsuzluk illalı nedeniyle el konan elbirtirisi hibe ve diğer eşya harcama, görev dışı yarımların 'kamufle etmek' için başta 150 bin TL 'lik bütçe yaptırarak yer alıyor.

Nişanlı'nın Bir İyici kaymakama Mehmet Yavuz'unca vize konması iddiaları soramak için Vali Şimşek'i arayışlara kendisini 'halkın damakları' olarak tanıtıp şikâyet depremleri yer aldı.

Bilal Çelik @bilcelik

İçişleri'ne şikâyet edilen Sivas Valisi Şimşek'in Sintan A.Ş. ye nüfuzunu kullanarak 20 milyon TL hibe/destek sağladığı, şirketin yöneticisinin 'alkolü araç kullanmaktan' alınan ehliyetini iade ettirdiği, görev dışı yardımları 'gizlemek' için bağışlar yaptırdığı iddia edildi.

Diken @DikenComTr · Jul 20

İş mahkemesi valiyi uzandı, çarpıcı iddialar İçişleri'ne bildirildi

@bilcelik'in haberi

diken.com.tr/is-mahkemesi-v...

Diken @DikenComTr

İş mahkemesi valiyi uzandı, çarpıcı iddialar İçişleri'ne bildirildi

@bilcelik'in haberi

diken.com.tr/is-mahkemesi-v...

05:153 · 20 Tem 2022

2 Retweet 2 Alıntılar 9 Beğeni

Subsequently, news articles related to the complaint against Sivas Governor **Yılmaz Şimşek** being referred to the Ministry of Interior Affairs have also been ordered to be removed from publication with the decision of Sivas 2nd Criminal Judgeship of Peace on **23.07.2022** (no. 2022/1854) on the grounds of violation of personal rights.

Screenshot 120: News articles sanctioned by the Sivas 2nd Criminal Judgeship of Peace

DİKEN

'Sivas valisi, İçişleri Bakanlıđı'na şikâyet edildi' haberimize jet hızıyla sansür!

BİLAL ÇELİK

Diken'in İzmir merkezli Sintan A.Ş. ile hukuka uygun olmayan bağlanma hususunda girişimlere İçişleri Bakanlığı'na şikâyet edilen Sivas Valisi Yılmaz Şimşek hakkındaki haberi, yaza girmesinden iki gün sonra Şimşek'in beyanlarıyla erişime engellendi.

Fotoğraf: Sivas Valiliđi

Bilal Çelik @bilcelik

Dün Diken'de gündeme getirdiğimiz Vali Yılmaz Şimşek'in İçişleri'ne şikâyet edilmesi hakkındaki haberimize erişim engeli getirildi.

Söz konusu şikâyet; valinin hukuka uygun olmayan ilişkiler kurduğu ve kamu görevi kanalıyla kişisel menfaat sağladığı iddiaları yer alıyordu.

Yaman Akdeniz @cybernights · Jul 22

Diken'in 2 gün önce yayımladığı "Sivas Valisi Yılmaz Şimşek İçişleri Bakanlıđı'na şikâyet edildi" haberinin Sivas 2. Sulh Ceza Hakimliđi tarafından engellenmesine karar verildi. Haber 4 saat içinde kaldırılacak. @DikenComTr @bilcelik, diken.com.tr/sivas-valisi-l...

4:33 PM · Jul 22, 2022 · Twitter for iPhone

5 Retweets 5 Likeler

Diken @DikenComTr

'Sivas valisi, İçişleri Bakanlıđı'na şikâyet edildi' haberimize jet hızıyla sansür!

diken.com.tr/sivas-valisi-l...

Fotoğraf: Sivas Valiliđi

05:5:20 · 22 Tem 2022

6 Retweet 2 Alıntılar 14 Beğeni 1 Yer İşareti

The news articles on Siyahmartı Advertisement Company, owned by Kerem and Ömer Faruk Tülün, the children of Yusuf Tülün, the President of the İlim Yayma Cemiyeti (Society for the Dissemination of Science, a government affiliated non-governmental organisation), winning 43 separate public tenders worth 57 million TL in the last 12 years, were blocked from access with the decision of Istanbul 5th Criminal Judgeship of Peace on **25.07.2022** (no. 2022/4448) on the grounds of violation of personal rights and the content has been ordered to be removed from publication. The decision stated that the articles contained content that undermined the reputation and credibility of the Society for the Dissemination of Science, with headlines such as “Society for the Dissemination of Science became a tender society” (“İlim Yayma Cemiyeti ihale cemiyeti oldu”), “Another favour from an AKP-affiliated municipality” (“AKP’li belediyeden bir kıyak daha”), “President of the Society for the Dissemination of Science’s children become rich from tenders” (“İlim Yayma Cemiyeti Başkanı’nın çocukları ihale zengini oldu”) thus violating the personal rights of the applicant.

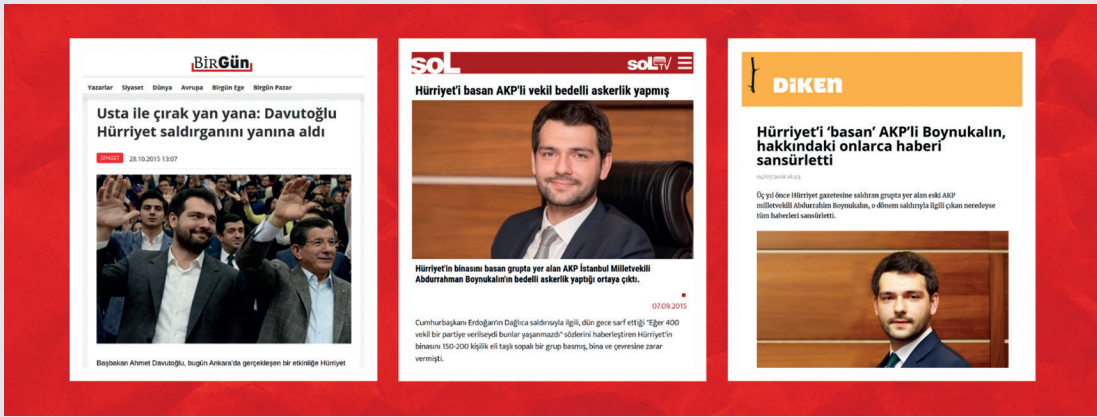
Screenshot 121: News articles sanctioned by the Istanbul 5th Criminal Judgeship of Peace



255 news articles and social media posts related to former AKP MP **Abdurrahim Boynukalın**, who was part of the group that attacked Hürriyet newspaper in September 2015, have been blocked from access on the grounds of violation of personal rights by the decision of Istanbul Anatolia 3rd Criminal Judgeship of Peace on **29.07.2022** (no. 2022/6003). The decision stated that the content included mostly explicit insults and abuses that had no relevance to freedom of thought and criticism, and that some video content was unauthorized and did not serve the purpose of reporting news. The decision also noted that certain expressions in some posts were taken from an official document or were presented without any evidence, and such publications could not be considered within the scope of freedom of thought or criticism but rather were made with the intention of violating the personal rights of the applicant.

On the other hand, the judgeship stated that the request was partially rejected without disclosing the Internet addresses. However, the judgeship explained that some of the rejected articles was not directly relevant to the applicant, others contained the applicant's political statements, some others were related to the applicant's political career, and finally some of them were in a foreign language without translation. However, despite this assessment, access to a large number of news articles published in Diken and BirGün was also blocked, which did not fall within the scope of this assessment. For example, the news article titled "Usta ile çırak yan yana: Davutoğlu Hürriyet saldırganını yanına aldı" ("Master and apprentice side by side: Davutoğlu brought the Hürriyet attacker with him") published in BirGün is one such example.

Screenshot 122: News articles blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace

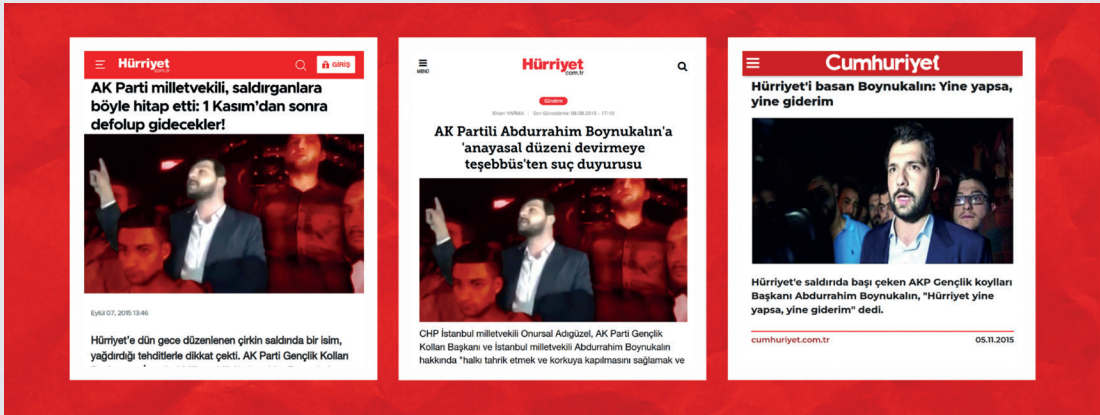


Screenshot 123: News articles blocked by the Istanbul Anatolia 3rd Criminal Judgeship of Peace



Furthermore, on the grounds that they contained the same content as the news articles that were blocked from access by the decision of Istanbul Anatolia 3rd Criminal Judgeship of Peace regarding **Abdurrahim Boynukalın**, an additional 108 similar news articles have been blocked from access by a decision of Association of Access Providers on **06.09.2022** (no. 2022/162).

Screenshot 124: News articles blocked by the Association of Access Providers



Screenshot 125: News articles blocked by the Association of Access Providers



The news articles on the granting of tax exemption by President Recep Tayyip Erdoğan to the Akyuva Foundation, whose management includes many AKP members and names close to the government, were blocked from access and removed from publication with the decision of Istanbul 7th Criminal Judgeship of Peace (no. 2022/4663, **02.08.2022**) on the grounds that “elements that would violate personal rights can be detected at first glance.”

Screenshot 126: News articles sanctioned by the Istanbul 7th Criminal Judgeship of Peace



Access to news articles about the construction of a waterfront residence project by **Muhittin Palazoğlu**, the brother of the son-in-law of Ahmet Mahmut Ünlü, publicly known as Cübbeli Ahmet Hoca (a religious leader with a large following) was previously blocked with the decision of Istanbul 6th Criminal Judgeship of Peace on **04.07.2022** (no. 2022/4540) on the grounds of violation of personal rights. The project was planned to be constructed on the land of İller Bankası (“Bank of Provinces”) belonging to the Ministry of Environment and Urbanisation in Tuzla, which is located on the seafront and covered with trees and zoning plans for the region but the plans were cancelled by the court. Subsequently, a similar set of news was also blocked from access by the decision of the Association of Access Providers on **05.08.2022** (2022/130) citing that they contained the same content as the previous decision.

Screenshot 127: News articles blocked by the Association of Access Providers



News articles regarding the alleged connections between **Invamed and RD Global** companies involved in tenders which were claimed to have caused tension between Health Minister Fahrettin Koca and Interior Minister Süleyman Soylu, and their links to Mehmet Soylu, who is said to be a cousin of Süleyman Soylu, were pre-

viously blocked from access on the grounds of violating personal rights by decisions of multiple criminal judgements of peace.¹⁰⁰ Numerous similar news articles were also blocked upon the request made to the Association of Access Providers on (no. 2022/201, **18.10.2022**), on the grounds that these news articles had the same content with the ones blocked by the previous decisions issued by different judgements.

Screenshot 128: News articles blocked by the Association of Access Providers



A total of 40 news articles alleging that former TÜRGEV President Ahmet Ergün bribed former Republic of Türkiye State Railways (“TCDD”) General Director Süleyman Karaman were blocked from access with the decision of Istanbul Anatolia 5th Criminal Judgement of Peace (no. 2022/8983, **01.11.2022**) on the grounds of violation of personal rights as a result of the request made by **Ahmet Ergün’s** guardian. In the jus-

Screenshot 129: News articles blocked by the Istanbul Anatolia 5th Criminal Judgement of Peace



¹⁰⁰ Ankara West 2nd Criminal Judgement of Peace, no. 2021/4506, 05.07.2021; Ankara West 2nd Criminal Judgement of Peace, no. 2021/4569, 07.07.2021; Ankara West 2nd Criminal Judgement of Peace, no. 2021/4570, 07.07.2021; Ankara West 1st Criminal Judgement of Peace, no. 2021/4893, 16.07.2021; Ankara West 1st Criminal Judgement of Peace, no. 2021/7700, 15.11.2021; Ankara West 1st Criminal Judgement of Peace, no. 2021/7701, 15.11.2021.

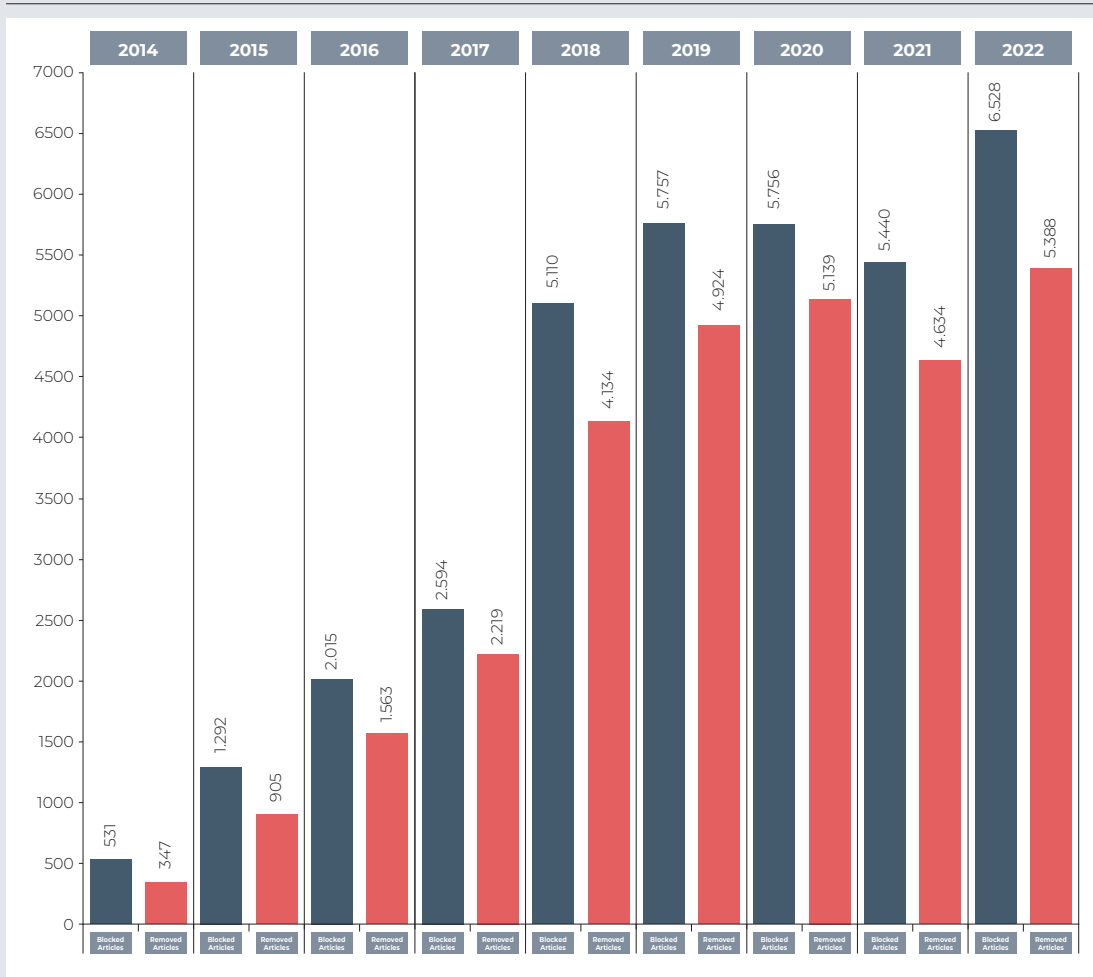
tification of the decision, it was stated that “the Internet contents subject to the request were shared in a way to damage the reputation of the requester, to violate his personal rights, and to exceed the right of expression and criticism.”

Examples can be expanded as in previous years, but as seen in many examples, while sanctions were imposed by the criminal judgeships of peace on many news that closely concern the public, the jurisprudence of the Constitutional Court and the ECtHR on freedom of expression and freedom of the press continued to be ignored in 2022, as will be evaluated in more detail below. Although the Constitutional Court determined its Ali Kıdık principles in 2017 and identified structural problems in article 9 of Law No. 5651 on violation of personal rights towards the end of 2021, as seen in the examples in our 2022 report, the decisions of the Constitutional Court are **disregarded to a remarkable extent**. In fact, it is observed that the binding decisions of the Constitutional Court are applied by the criminal judgeships of peace only in “exceptional” cases. Even if the Constitutional Court judgments are referred to in many template decisions, it is observed that the principles set out are included in the decisions with one-sentence assessments. Of course, as can be seen in our 2022 and previous reports, politically motivated requests play an important role in this. In 2022, as in previous years, many high level public figures such as President Erdoğan, other high-level politicians and some public institutions and companies close to the government, constantly apply to criminal judgeships of peace to protect their tarnished reputations, honour, and dignity. In this report, we have demonstrated with over 100 examples how criminal judgeships of peace evaluate these requests and make decisions with template decisions, disregarding freedom of expression and press freedom. We will continue to identify and demonstrate this in future reports.

TOTAL STATISTICS OF BLOCKED AND DELETED NEWS ARTICLES (URL-BASED) 2014-2022

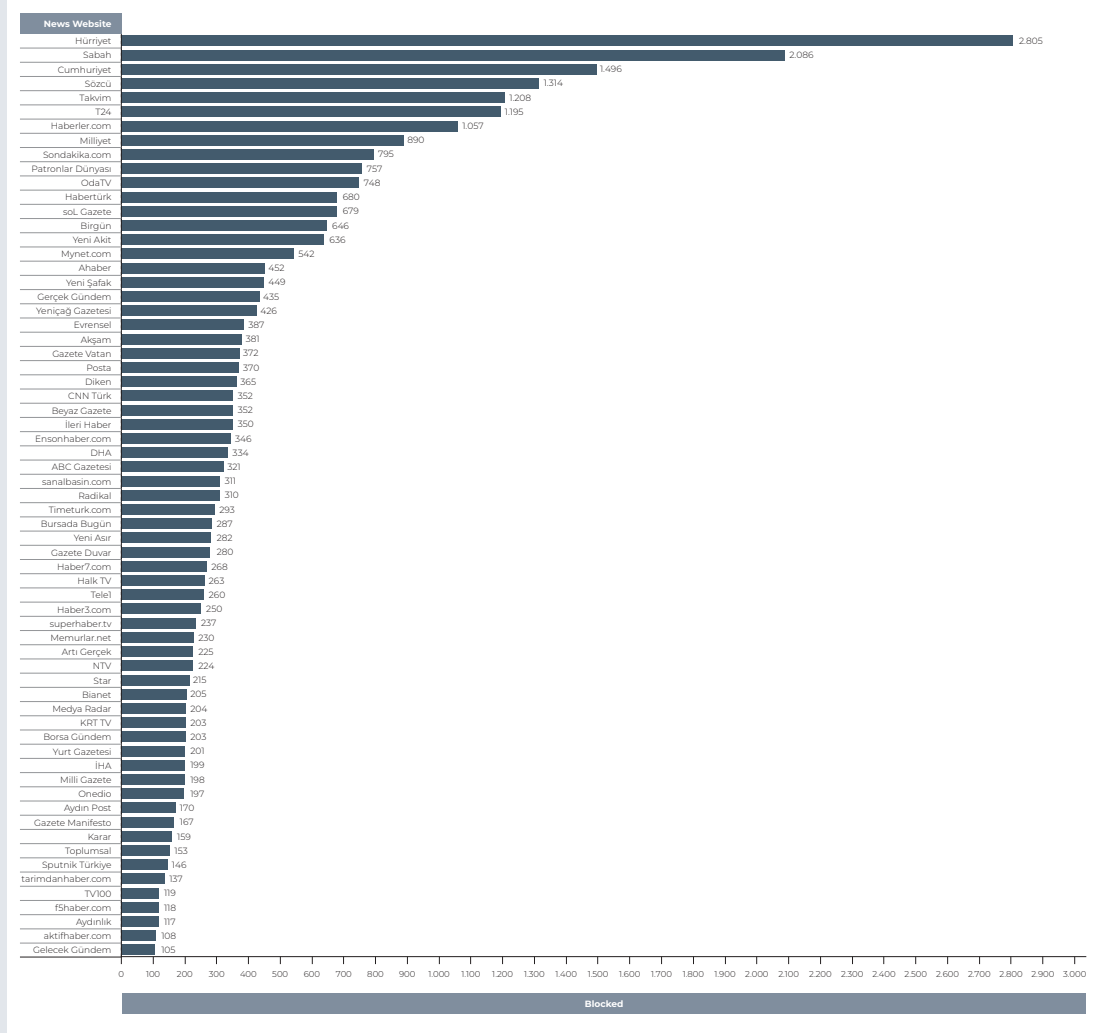
It was determined that since the URL-based access-blocking measure of “violation of personal rights” came into force in February 2014 with the amended version of article 9 of Law No. 5651, a total of **35.023** news articles (**URL-based**) have been blocked and **29.253** news articles (URL) were deleted or removed **as of 31.12.2022**. These sanctions were subject to **6.509** separate **decisions** issued by **543** separate criminal judgeships of peace. While 2022 ranked first as the year with the most blocked news articles with a total of **6.528** blocked news articles in that year, 2022 was also the year in which the highest number of news articles (**5.388** 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



By the end of 2022, **Hürriyet** ranked first in the category of “**news websites with the highest number of blocked news articles (URLs)**” with **2.805** blocked news articles and was followed by **Sabah** with **2.086** blocked news articles. While **Cumhuriyet** ranked third with **1.496** blocked news articles, **Sözcü** ranked fourth with **1.314** blocked news articles, and **Takvim** ranked fifth with **1.208** 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): 2014-2022



As can be seen in **figure 19**, by the end of 2022, **Hürriyet** came out on top also in the category of “**the news website with the highest number of removed news articles**” by removing **2.502** news articles and was followed by **Sabah**, which removed **2.022** news articles, and **T24**, which removed **1.162** news articles. **Takvim**, which removed **1.078** news articles, ranked fourth, while **Sözcü**, which removed **1.062** news articles, ranked fifth.

Figure 19: Total Number of Blocked News Articles (URL): 2014-2022

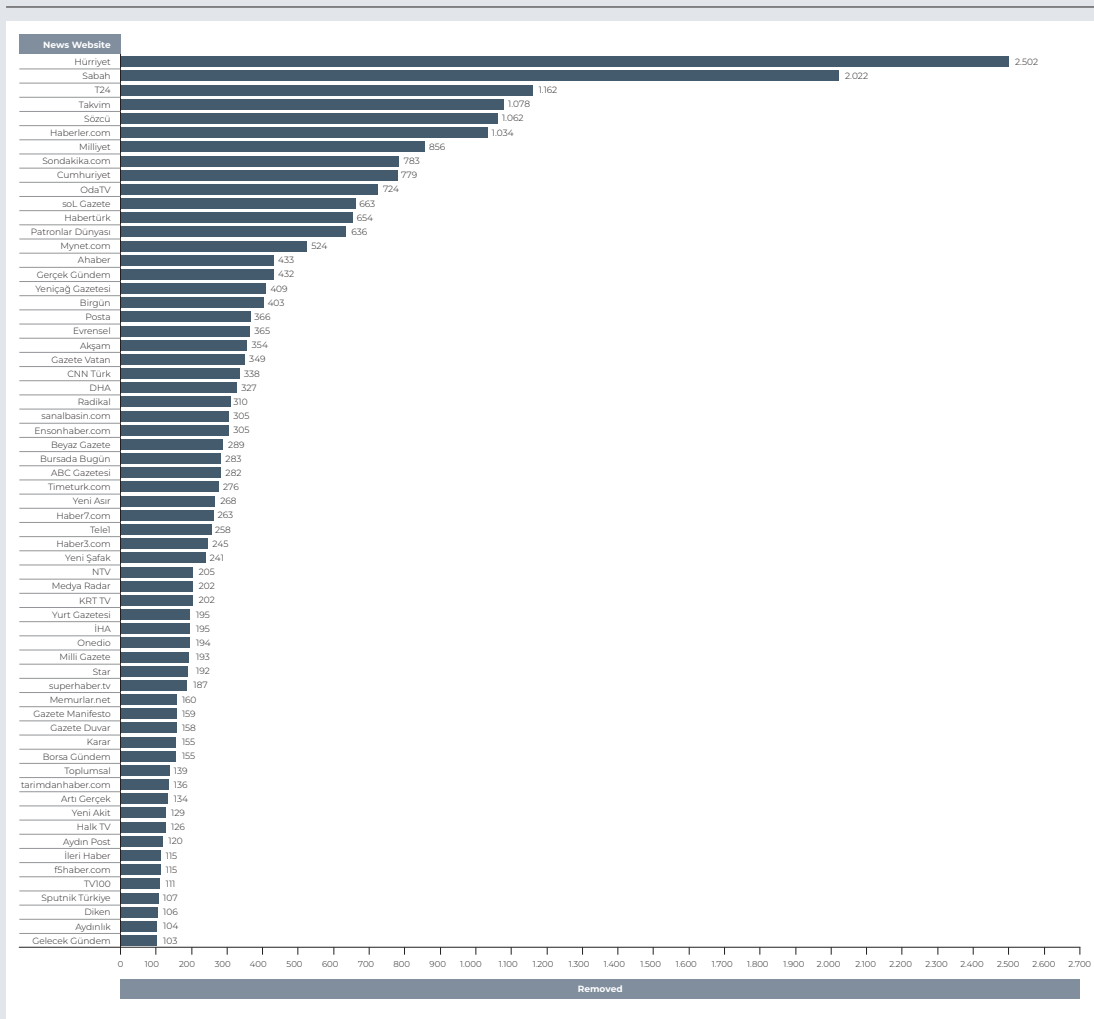


Table 2 below shows the top 25 news websites from Türkiye with the highest number of sanctions by the end of 2022, including the number of news articles blocked, the number of news articles that have been deleted or removed from the websites, and the ratio of deleted/removed URLs to blocked URLs.

Table 2: Access-Blocking League Table by the Number of News Articles Blocked (2014-2022)

Rank	News Website	Number of Blocked URLs	Number of Deleted URLs	The Rate of Deleting
1	Hürriyet	2805	2502	89%
2	Sabah	2086	2022	97%
3	Cumhuriyet	1496	779	52%
4	Sözcü	1314	1062	81%
5	Takvim	1208	1078	89%
6	T24	1195	1162	97%
7	Haberler.com	1057	1034	98%
8	Milliyet	890	856	96%
9	Sondakika.com	795	783	98%
10	Patronlar Dünyası	757	636	84%
11	OdaTV	748	724	97%
12	Habertürk	680	654	96%
13	soL Gazete	679	663	98%
14	BirGün	646	403	62%
15	Yeni Akit	636	129	20%
16	Mynet.com	542	524	97%
17	AHaber	452	433	96%
18	Yeni Şafak	449	241	54%
19	Gerçek Gündem	435	432	99%
20	Yeniçağ Gazetesi	426	409	96%
21	Evrensel	387	365	94%
22	Akşam	381	354	93%
23	Gazete Vatan	372	349	94%
24	Posta	370	366	99%
25	Diken	365	106	29%

While judgements 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 judgements both before and after the amendments made on 29.07.2020. Therefore, judgements

- 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 judgements of peace that **only** include the access-blocking sanction under article 9 of the Law No. 5651. On the contrary, unless judgements order the removal of content or news article, there is no legal basis requiring the removal of such content or news article. This practice is partly due to the following standard printed notifications sent

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

As a result of this practice, **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 made to Law No. 5651 by Law No. 7253 on 29.07.2020, a new sanction involving search engines has been added to article 9 of this Law regarding 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.

This new sanction regarding search engines, started to be applied as of 29.07.2020 and **153** separate decisions were issued by the criminal judgeships of peace in the scope of this sanction until the end of 2022. In **2022**, **83** of these decisions were issued by **34** separate judgeships. Judgeships ruled that search engines **Google** (76 decisions), **Yandex** (61 decisions), **Bing** (54 decisions), **Yahoo** (52 decisions), **Yaani** and **DuckDuckGo** (15 decisions each), and **Baidu** (11 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** (8 decisions), **YouTube** (7 decisions), **Facebook** (6 decisions), **Wikipedia** (3 decisions); the website **Ask** (7 decisions); the web browsers **Safari** (2 decisions), **Mozilla** and **Opera** (1 decision each) 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, seven decisions did not state any search engine.

Screenshot 130: 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** were considered “**social network providers**” within the scope of Law No. 5651, **Safari**, **Opera** and **Mozilla** are popular and well-known web browsers. **Wikipedia** is an online encyclopaedia and the **Ask** website has not functioned as a search engine for nearly 11 years. Therefore, to put it in the jargon of criminal judgeships of peace, decisions against Twitter, YouTube, Face-

book, Safari, Opera, Mozilla, Wikipedia and Ask were issued “**in violation of the procedure and the law**” as these platforms and browsers are not search engines. This procedural and unlawful practice has been drawing attention since 2020.

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

The Constitutional Court, in October 2017, in its Ali Kırık judgment¹⁰¹ stated that access-blocking decisions subject to article 9 of Law No. 5651 are **not penal or administrative sanctions, but protection measures**¹⁰² 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**¹⁰³ 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.¹⁰⁴ The Constitutional Court has so far referred to the Ali Kırık judgment and the principle of prima facie violation in 17 different applications.¹⁰⁵

The Ali Kırık 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. Within the scope of the EngelliWeb report, it has been evaluated whether criminal judgeships of peace have applied the principles of the Constitutional Court’s binding Ali Kırık judgment separately for each year for the 2019-2022 period.

¹⁰¹ Ali Kırık Application, No: 2014/5552, 26.10.2017.

¹⁰² A.A. Application, No: 2014/7244, 11.03.2020, § 20.

¹⁰³ 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>.

¹⁰⁴ Ali Kırık Application, No: 2014/5552, 26.10.2017, § 63.

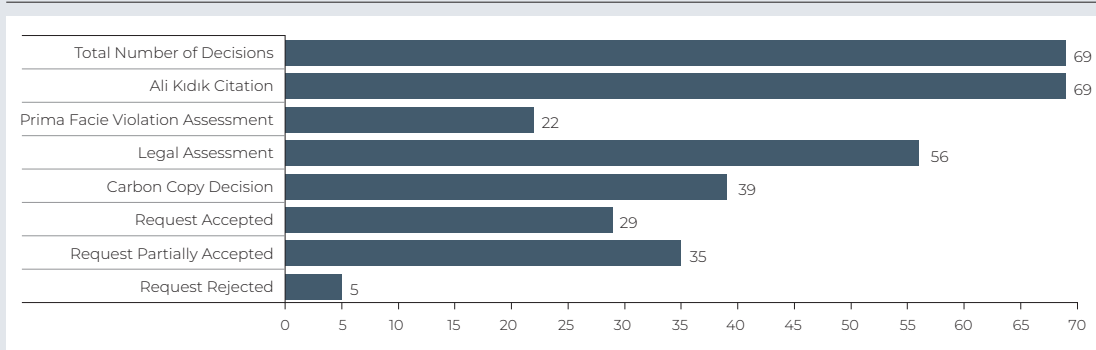
¹⁰⁵ Kemal Gözler Application (No: 2014/5232, 19.04.2018); Miyase İlknur and Others Application (No: 2015/15242, 18.07.2018); A.A. Application, (No: 2014/7244, 12.09.2018); Yeni Gün Haber Ajansı Basın ve Yayıncılık A.Ş. Application, (No: 2015/6313, 13.09.2018); IPS Communication Foundation Application (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); Banş Yarkadaş Application (No: 2015/4821, 17.04.2019); Medya Gündem Dijital Yayıncılık Ticaret A.Ş. (3) Application (No: 2015/16499, 3.07.2019); Education and Science Workers’ Union (Eğitim-SEN) Application (No: 2015/11131, 4.07.2019); Kemalettin Bulamacı Application (No: 2016/14830, 4.07.2019); Kerem Altıparmak and Yaman Akdeniz Application (3) (No: 2015/17387, 20.11.2019); Kerem Altıparmak Application (No: 2015/8193, 27.11.2019); Kemal Gözler Application (2) (No: 2015/5612, 10.12.2019); Aykut Küçükaya Application (No: 2014/15916, 09.01.2020); 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 CRIMINAL JUDGESHIPS 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

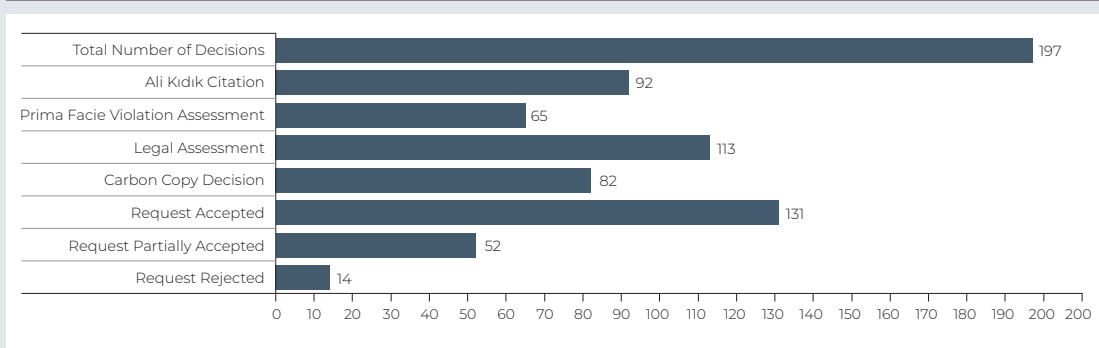


THE PRIMA FACIE VIOLATION ASSESSMENT OF CRIMINAL JUDGESHIPS OF PEACE IN 2020

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 Kılık 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 CJs in 2020



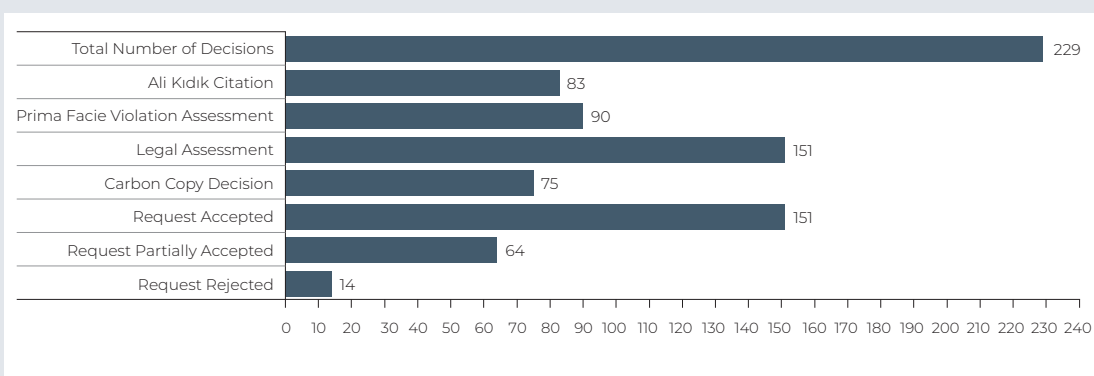
When the **197** decisions directly or indirectly referring to the *Ali Kıdık* judgment in 2020 were assessed in detail, it was determined that a legal assessment was made only in **113 decisions** but 82 of those decisions were identical copy-and-paste decisions. It was also observed that a “**prima 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

It was identified and assessed that **3.504** access-blocking and/or content removal decisions were issued in 2021 by nearly **386** criminal judgeships of peace across Turkiye subject to article 9 of Law No. 5651. It was determined that among the decisions assessed, **83 decisions** issued by **81** different judgeships and **84** different judges directly referred to the *Ali Kıdık* judgment; **146** decisions referred to the principle of “**prima facie violation**” without reference to the *Ali Kıdık* 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 Kıdık* 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 Kidik Judgment by CJPs in 2021



THE PRIMA FACIE VIOLATION ASSESSMENT OF CRIMINAL JUDGESHIPS OF PEACE IN 2022

As part of the EngelliWeb project, decisions issued by criminal judgeships of peace were examined in terms of prima facie violation assessments in 2022, as in 2019, 2020 and 2021. Judgeships that issued the highest number of decisions subject to article 9 in 2022 are as follows:

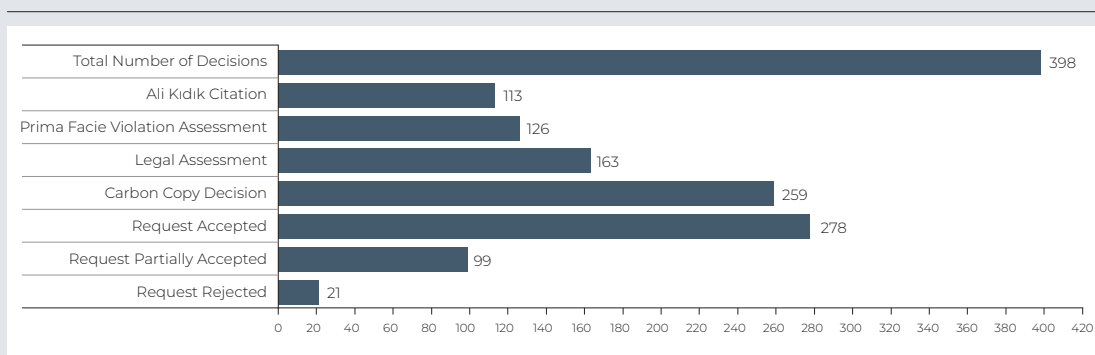
1. Çubuk (Ankara) Criminal Judgeship of Peace with **343** decisions,¹⁰⁶
2. Ankara 7th Criminal Judgeship of Peace with **105** decisions,
3. Aydın 1st Criminal Judgeship of Peace with **100** decisions,
4. Istanbul 8th Criminal Judgeship of Peace with **85** decisions,
5. Istanbul Anatolia 4th Criminal Judgeship of Peace with **77** decisions,
6. Istanbul Anatolia 5th Criminal Judgeship of Peace with **71** decisions,
7. Istanbul Anatolia 8th Criminal Judgeship of Peace with **68** decisions,
8. Istanbul 6th Criminal Judgeship of Peace with **65** decisions,
9. Ankara 1st Criminal Judgeship of Peace with **61** decisions,
10. Istanbul 10th Criminal Judgeship of Peace with **59** decisions.

As can be seen above, six of these judgeships are in Istanbul, three judgeships are in Ankara and one in Aydın in the top ten list of criminal judgeships of peace that issued the most access blocking and/or content removal decisions in 2022.

¹⁰⁶ Of the 343 detected decisions, 338 (99%) were issued upon the request of Otokoç Otomotiv Tic. ve San. A.Ş., a Koç Group company, to block access to some pirate websites used for car rental fraud and to protect the commercial reputation of the company.

During 2022, it was analysed and identified that **4.118** access blocking and/or content removal decisions were issued by **404** criminal judgeships of peace across Türkiye subject to article 9 of Law No. 5651. Among the decisions assessed, it was determined that **113** decisions issued by **116** different judgeships and **144** different judges directly referred to the Ali Kılık decision and **284** decisions referred to the “prima facie violation” principle without referring to the Ali Kılık decision, and **in total 397 decisions (6.8%)** included the Ali Kılık decision and the prima facie violation principle. Therefore, it was established that **3.721 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. When analysed in detail, it was found that in **only 126 of the 397 decisions** in which the Ali Kılık judgment and the principle of prima facie violation were referred to, criminal judgeships of peace made an assessment and made a decision in accordance with the principle of prima facie violation. It has been assessed that **259** of these judgements were template judgements.

Figure 23: Application of the CC’s Ali Kılık Judgment by CJsPs in 2022

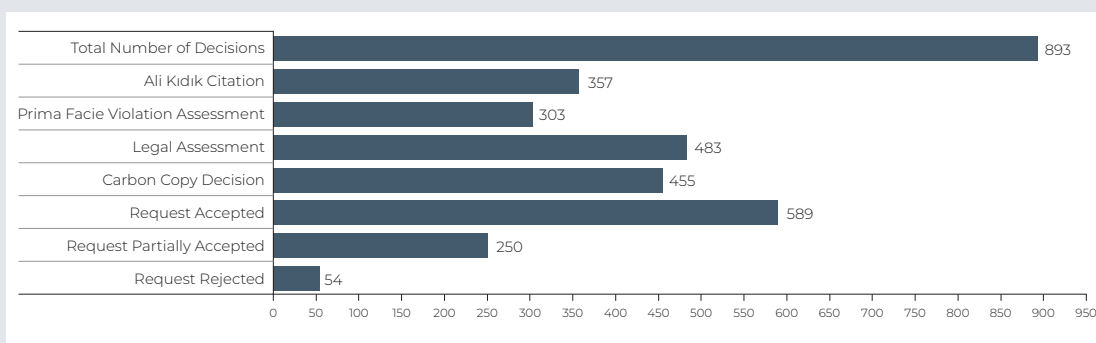


COMPARISON OF THE PRIMA FACIE VIOLATION ASSESSMENT OF CRIMINAL JUDGESHIPS OF PEACE FROM 2019 TO 2022

As stated above, in **2019**, “prima facie violation” assessment, required since the Ali Kılık judgment of the Constitutional Court, was only found in **11%^o** of the decisions and only a small number of access-blocking decisions referred to this judgment. In 2020, this rate increased to **62%^o** while in 2021 it reached **65%^o** and in 2022 it reached **96%^o** as a result of a slight increase.

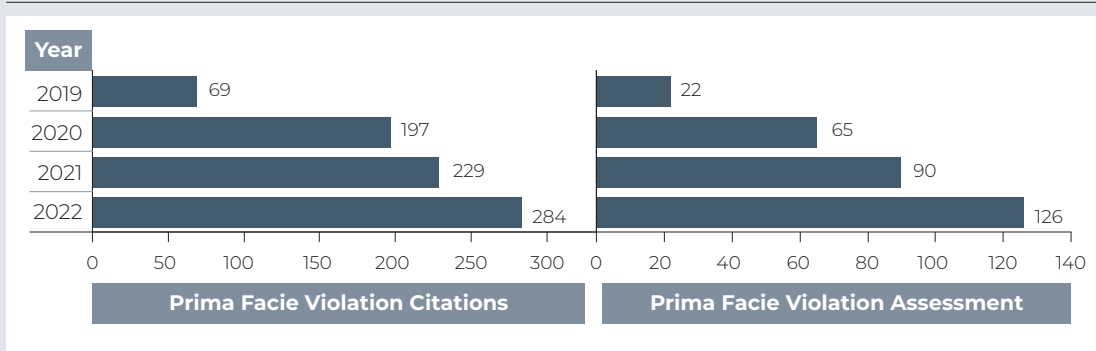
It was found that a prima facie violation assessment was only made in 22 (**3%^o**) of the 69 decisions referring to the Ali Kılık judgment in **2019** and in 65 (**20%^o**) of the 197 decisions referring to the Ali Kılık judgment in **2020**. In **2021**, only 90 out of 229 decisions referred to the Ali Kılık judgment, in other words, only **in 25%^o** of the decisions a prima facie violation assessment was made. Finally, in **2022**, only 126 out of 284 judgements referred to the Ali Kılık judgment, in other words, only **in 30%^o** of the decisions a prima facie violation assessment was made.

Figure 24: Application of the CC's Ali Kıdık Judgment by CJPs from 2019 to 2022



Even though the number of decisions that were issued by criminal judgeships of peace and referred to the Ali Kıdık judgment and the principle of prima facie violation increased in 2020, 2021 and 2022, compared to 2019, this increase remains nominal.

Figure 25: CJPs' Citation and Review of the CC's Ali Kıdık Judgment: 2019-2022



This is clearly **not a coincidence**, and criminal judgeships of peace continue to **completely ignore** the Ali Kıdık judgment, and the subsequent 17 similar judgments issued by the Constitutional Court since October 2017. Therefore, the Ali Kıdık judgment of the Constitutional Court **does not resolve the problems** with the enforcement of article 9 and the Constitutional Court continued to ignore the structural problems related to article 9 until the end of 2021. In nearly 4 years since the publication of the Ali Kıdık Judgment in the Official Gazette, the prima facie violation approach has become part of the structural problems instead of resolving them.¹⁰⁷ As stated in our previous reports, it is clear that article 9 of Law No. 5651, which does not impose any ob-

¹⁰⁷ See further International Commission of Jurists, The Turkish Criminal Judgeships of Peace 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 Judgeships of Peace, 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).

ligation 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.¹⁰⁸ Even though the Constitutional Court did not explicitly refer to EngelliWeb 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.¹⁰⁹

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,”¹¹⁰ that the existing rule and structure were not “**capable of preventing arbitrary and disproportionate interference**,”¹¹¹ 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.¹¹²

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. This period expired on **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.¹¹³ While various articles of the Law No. 5651 were amended by the Law No. 7418 on the Amendment of the Press Law and Certain Laws enacted by the Parliament in October 2022, the pilot judgment of the Constitutional Court and its recommendations to the Parliament regarding article 9 were not taken into consideration, ignored and even forgotten. Since 18.10.2022, when the Law No. 7418 on the Amendment of the Press Law and Certain Laws was published in the Official Gazette, the Constitutional Court has continued to maintain its silence regarding article 9, the Parliament has not ful-

¹⁰⁸ Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), Official Gazette: 07.01.2022, No. 31712.

¹⁰⁹ Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 135.

¹¹⁰ Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 131.

¹¹¹ Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 132.

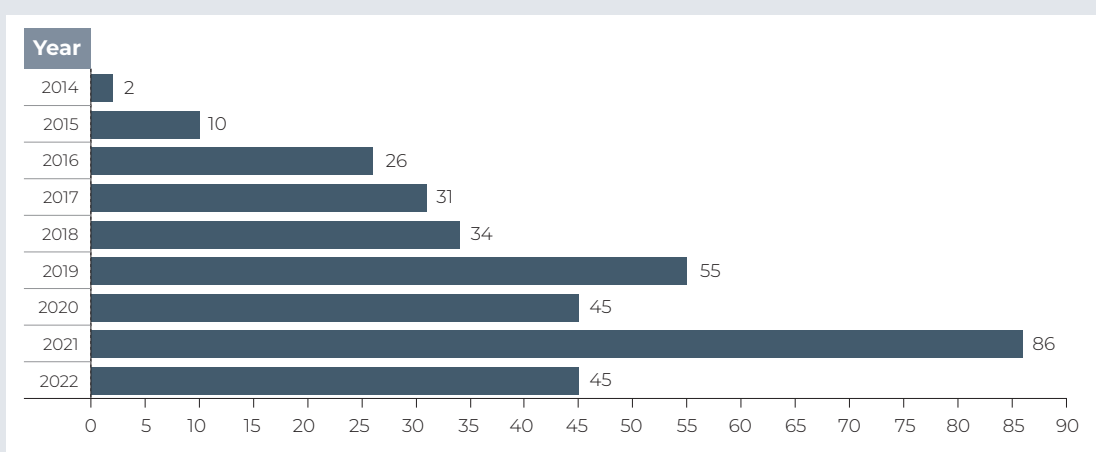
¹¹² Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others Application (No: 2018/14884, 27.10.2021), § 133.

¹¹³ See <https://www.anayasa.gov.tr/media/8051/pilotkararlar01.pdf>

filled the requirements of the pilot judgment as of the publication date of our 2022 report, despite the expiration of the one-year period provided to the Parliament, and the Constitutional Court has not yet decided on 334 different applications that it identified in June 2022 and included within the scope of the pilot judgment.

When the **334** applications for which the Constitutional Court postponed review under the pilot judgment are examined in detail, it can be seen that **two** of these applications were made in **2014**, **10** in **2015**, **26** in **2016**, **31** in **2017**, **34** in **2018**, **55** in **2019**, **45** in **2020**, **86** in **2021** and **45** in **2022**. Therefore, it can be said that applications related to article 9 of Law No. 5651 began to accumulate at the Constitutional Court after 2016.

Figure 26: Yearly distribution of the 334 applications postponed for review in accordance with the pilot judgment of the Constitutional Court



However, the applications made in 2014 have been pending for a decision for approximately nine years, those made in 2015 for about eight years, those made in 2016 for approximately seven years and applications made in 2017 for about six years. These durations not only violate the guarantee of a fair trial but also constitute a violation of the right to an effective remedy. In fact, considering that the Constitutional Court issued the Ali Kıdık judgment in October 2017, it is worth noting that **265 applications** made after this landmark decision are still pending and awaiting a long delayed judgment.

Moreover, the vast majority of these applications have been made by press organisations and online news websites. **Diken** news site leads with **73** applications, followed by **BirGun** newspaper with **35** applications, Gazete Duvar with **32** applications, **Sozcu** with **27** applications, and **Artı Gerek** news website with **22** applications. The list also includes the **İfade zgurluĐu DerneĐi**, which submitted 12 applications related to the blocking of access to EngelliWeb announcements.

It should be noted that all these applications are related to the political nature of freedom of expression of and, therefore, they should be decided promptly. For example, when the Article 9 decisions related to the applications made to the Constitutional Court by **Diken** are assessed, it is seen that out of the **73** decisions, **12** were requested by President Erdoğan, **six** by his son Bilal Erdoğan, and four by his son-in-law Berat Albayrak. Similarly, there are decisions issued based on requests from public fig-

ures such as Burak Erdoğan, Sümeyye Erdoğan, Serhat Albayrak, Ömer Faruk Aydın, Nurettin Yıldız, Fatma Betül Sayan, as well as requests from public institutions and foundations such as Üsküdar Municipality and TÜRGEV.

To conclude, as a result of the determination by the Freedom of Expression Association that the Ali Kızık judgement of the Constitutional Court is arbitrarily not implemented by the criminal judgeships of peace, and equally despite this pilot judgement has been only issued as a result of numerous applications to the Constitutional Court, it has also been determined in our 2022 report that the principles set out in the Ali Kızık and Keskin Kalem and Others judgements of the Constitutional Court are not implemented by the criminal judgeships of peace.

Moreover, the Constitutional Court not only refrains from fulfilling the requirements of its pilot judgment but also refrains from conducting a normative review on article 9 of Law No. 5651. The appeal made by the CHP has been pending since September 2020 (Case No. E. 2020/76). The objection application of Tavşanlı Peace Criminal Judgeship (E. 2022/41) was also included in the General Assembly agenda on 21.04.2022, and after being merged with the CHP's appeal, the **substantive examination of these two files has not been conducted yet**. With the one-year period issued by the Constitutional Court to the Turkish Grand National Assembly having expired and the text of article 9 has not been amended by the legislature, the Constitutional Court is acting on political grounds when it should have conducted a normative review and immediately annulled article 9 based on the structural problems identified in the Keskin Kalem and Others decision.

At this point, the Constitutional Court **has become be part of the problem** it seems to be trying to solve. This means that there is no effective domestic remedy against thousands of censorship-oriented decisions issued on the grounds of violations of personal rights in Türkiye.

However, the first substantial step will be the annulment of article 9 of Law No. 5651 as a result of the normative review. It is however, expected that, after the General Elections of 14-28 May 2023, this solution process will not be easy at all. Possible solutions will be sought before the European Court of Human Rights in the coming period. While the legal battles will last for years, criminal judgeships of peace will continue to issue censorship decisions and the Constitutional Court will also continue to remain silent in their shadow.

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.

In practice, it is observed that the legal procedure prescribed by article 9/A is not widely used and individuals claiming a violation of their rights tend to prefer article 9 of Law No. 5651. In fact, even in the Constitutional Court's judgements related to the right to be forgotten, it is notable that the highest court overlooks and does not evaluate article 9/A in the context of the right to privacy.¹¹⁴

Another 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.¹¹⁵ 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.¹¹⁶

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 authorized 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.

¹¹⁴ Yaman Akdeniz, 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, Freedom of Expression Association, September 2022, https://ifade.org.tr/reports/UnutulmamaHakki_2021_Eng.pdf

¹¹⁵ See <https://www.ihbarweb.org.tr/ohg/>

¹¹⁶ Statistics of decisions issued under article 9/A from 2018 to 2022 could not be accessed as part of the EngelliWeb project.

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.

In practice, according to the first paragraph of article 10 of the Regulation, if the Radio and Television Supreme Council (“RTÜK”) determines that broadcasting services are provided on the Internet without an Internet broadcasting license, either *ex officio* or based on a complaint, this situation will be announced on the Council’s website. In this announcement, the real person or legal entity providing these broadcasting services will be warned that if they do not submit a license application along with the commitment letter and pay the broadcasting license fee equivalent to three months in advance or if they do not terminate their broadcasting services within 72 hours after this announcement, RTÜK will request from the relevant criminal judgeship of peace, in accordance with article 29/A(2) of Law No. 6112, the removal of the content and/or the blocking of access to the said broadcasting website. Subject to the third paragraph of article 10 of the Regulation, in the event that no application for an online broadcasting licence is made after the warning, RTÜK will request a criminal judgeship of peace to remove the content and/or block access to the broadcast in question pursuant to the second paragraph of article 29/A of Law No. 6112.

Once the legal provision and the relevant Regulation came into force on 01.09.2019, RTÜK started to issue warning notifications to websites that the Council detected unlicensed broadcasting radio and television over the Internet in March 2020. Within this context, **5** different websites and platforms, including the video sharing platform **Amazon Prime**, were warned on 31.03.2020,¹¹⁷ **8** different websites and platforms were warned on 20.04.2020,¹¹⁸ **5** different websites and platforms were warned on 22.06.2020,¹¹⁹ **2** different radio websites were warned on 28.09.2020,¹²⁰ **6** different

¹¹⁷ <https://biattv.com/canli-tv-izle>, <https://canlitv.com/biattv>, <https://slowkaradeniztv.com>, www.primevideo.com, www.dsmartgo.com.tr

¹¹⁸ <https://canlitv.com>, <https://canlitv.com/berk-tv>, <http://www.berkvtv.com>, <http://www.fuartzv.net/>, <https://canlitv.com/fuar-tv>, <http://www.guneydogutv.com>, <https://canlitv.com/guneydogu-tv>, <https://broadcasttr.com/gtv>

¹¹⁹ <https://cine5tv.com>, <http://sinopyildiz.tv/>, <http://www.arastv.net/v1/>, <http://www.kanal58.com.tr>, <https://mubi.com/tr>

¹²⁰ www.radyosfer.com and www.radyogram.com

websites and platforms, including the world-renowned music platforms **Tidal** and **Deezer**, were warned on 09.11.2020¹²¹ and **4** different radio websites were also warned on 23.12.2020¹²² 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.¹²³ 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.¹²⁴ 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.¹²⁵

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. Known platforms were not blocked as in 2020.

In **2022**, access to 29 different websites was blocked by the Ankara 1st, 2nd, 4th, 5th, 6th, 7th, 8th, 9th and 10th Criminal Judgeships of Peace decisions subject to article 29/A of Law No. 6112 upon the requests of RTÜK. The blocked websites generally consisted of websites broadcasting live radio and/or TV broadcasts without obtaining a licence from RTÜK. On 30.06.2022, upon RTÜK’s request, access to the news websites Voice of America and Deutsche Welle (“DW”) was also blocked subject to article 29/A. On 21.02.2022, RTÜK blocked the news websites of Voice of America, DW and EuroNews Türkiye (“tr.euronews.com”) subject to article 10 of the Regulation. On 21.02.2022, RTÜK announced that the news websites Voice of America, DW and EuroNews Türkiye (“tr.euronews.com”) may apply for a broadcasting licence for on-demand broadcasting service on the Internet (“INTERNET-On-demand broadcasting service”) within the scope of article 10 of the Regulation, and that if this call is not complied with, RTÜK will request the removal of the content and/or blocking of access from the criminal judgeship of peace within 72 hours within the scope of article 29/A.

In 2022, based on the requests from the Radio and Television Supreme Council (RTÜK), access to 29 different websites has been blocked by the decisions of Ankara 1st, 2nd, 4th, 5th, 6th, 7th, 8th, 9th, and 10th Peace Criminal Judgeships within the scope of Article 29/A of Law No. 6112. These websites, which have been blocked from access, are generally those that broadcast live radio and/or TV without obtaining licenses from RTÜK. On June 30, 2022, access to the Voice of America and Deutsche Welle (“DW”) news websites was also blocked under Article 29/A. RTÜK had not previously

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

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

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

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

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

exercised its authority over news websites, but on February 21, 2022, it announced that the Voice of America, DW, and EuroNews Turkey (“tr.euronews.com”) news websites could apply for an Internet Broadcasting Service (“İNTERNET-İBYH”) broadcasting license for online broadcasting activities conducted on the Internet. It was also stated that if this call was not adhered to, RTÜK would request the removal of content and/or blocking of access from the peace criminal judge within 72 hours under Article 29/A.

Screenshot 131: Voice of America and DW were blocked



While EuroNews Türkiye brought its website into compliance with RTÜK’s demands, the Voice of America and DW news websites were not interfered with between 24.02.2022 and 30.06.2022, when the 72-hour period expired. However, both the Voice of America Türkçe news website and the DW news website¹²⁶ were completely blocked by the decisions of the Ankara 1st Criminal Judgeship of Peace.¹²⁷ In its public statement dated 01.07.2022, RTÜK stated that¹²⁸ the Voice of America and DW news websites “have “audio files” and “video” tabs under the “all media content” tab, and since these contents are categorised on a programme basis under the “programmes” tab and presented in the form of a catalogue, an on-demand broadcasting service activity is being carried out and an Internet on-demand broadcasting service license is required.”

EuroNews Turkey brought its website in line with RTÜK’s requests, and during the period from February 24, 2022, when the 72-hour deadline expired, until June 30, 2022, there was no intervention in the Voice of America and DW news websites. However, both the Voice of America Turkish news website and the DW news website were entirely blocked from access by the decisions of Ankara 1st Peace Criminal Judgeship. RTÜK, in its public statement dated July 1, 2022, stated that the Voice of America and

¹²⁶ Access was blocked not only to the Turkish pages of the DW website, but also to all of its news pages in 30 different languages.

¹²⁷ With the decision of Ankara 1st Criminal Judgeship of Peace, no. 2022/7982, 30.06.2022, Voice of America news website (<https://www.amerikaninsesi.com>) and with the decision of Ankara 1st Criminal Judgeship of Peace, no. 2022/7978, 30.06.2022, DW news website (<https://dw.com>) were blocked from access.

¹²⁸ See, <https://www.rtuk.gov.tr/kamuoyunun-dikkatine-/4346>

DW news websites were conducting optional broadcasting services due to the presence of “audio files” and “video” tabs under the “all media content” section, categorizing these contents by program under the “programs” tab and presenting them in a catalog format. Therefore, RTÜK claimed that an Internet Broadcasting Service (İnternet İBYH) license was required.

While the objections dated 07.07.2022 made to both decisions separately as a user were rejected by the decisions of Ankara 2nd Criminal Judgeship of Peace (no. 2022/9721, 30.06.2022 and 2022/9557, 29.07.2022), in both unjustified template decisions, it was stated that “there was no inaccuracy” in the decisions of Ankara 1st Criminal Judgeship of Peace. Although individual applications have been made to the Constitutional Court against the finalised decisions, these applications have not been prioritised by the Constitutional Court and are still not being examined.

Both appeals made on July 7, 2022, as users separately against these two decisions were rejected by Ankara 2nd Peace Criminal Judgeship with its decisions on 30.06.2022 (no. 2022/9721) and 29.07.2022 (no. 2022/9557). In both template decisions without reasoning, it was stated that there was “no inaccuracy” in the decisions of the Ankara 1st Criminal Judgeship of Peace. Although individual applications have been made to the Constitutional Court against these finalized decisions, the Constitutional Court has not prioritized these applications and they are still pending examination.

TURKISH FOOTBALL FEDERATION AND ACCESS BLOCKING PRACTICES

As noted above, **22.585** domain names were blocked in 2022 by **the Turkish Football Federation**, which was granted the authority to block access in 2021. According to the additional article 1 of Law No. 5894 on the Establishment and Duties of the Turkish Football Federation, entitled “Protection of broadcasting rights”, if it is determined that **broadcasts related to football matches within the borders of the Republic of Türkiye are unlawfully made available** on the Internet, the **Board of Directors of the Turkish Football Federation** may decide to block access to the content in question, including sections or parts (in the form of a URL, etc.) where the infringement has occurred. Similar to the powers in Law No. 5651, if it is **technically impossible to block access to the infringing content** or if preventing the violation cannot be achieved by blocking access to the relevant content, a decision may be made to block access to the **entire website**. Additionally, if it is determined that broadcasts related to football matches **outside the borders** of the Republic of Türkiye are unlawfully made available on the Internet, access may be blocked upon the request of the broadcasting rights holder.

The law states that the Board of Directors may delegate its authority under this article to individuals working in administrative units. Accordingly, the Board of Directors of the Turkish Football Federation has established an administrative unit within the Federation to carry out the procedures and principles related to blocking access. The law further specifies that the procedures and principles for the implementation of this authority shall be determined by the instruction to be issued by the Board of Directors. The Instruction on the Prevention of Illegal Football Broadcasts

prepared by the Turkish Football Federation was approved at the meeting of the Board of Directors on 04.08.2022 (no. 15) and came into effect after being published on the official website of the Federation on 08.09.2022.¹²⁹ However, the details of the administrative unit to which the Board of Directors has delegated its authority are not explicitly provided in the published instruction. Article 4(1) of the instruction only mentions that “the administrative unit shall consist of a sufficient number of authorised persons and technical and administrative staff to be determined by the TFF Board of Directors.” However, the Instruction does not specify the exact number of authorized persons appointed or disclose their identities. Similarly, this information has not been publicly disclosed by the Turkish Football Federation.

Moreover, access-blocking decisions issued and sent to the Association of Access Providers for implementation are not published by the Turkish Football Federation. Although the law states that objections can be filed with the relevant criminal judgeship of peace within one week against these undisclosed or unknown decisions, the procedures for how this objection mechanism will operate in this context are not regulated in the law. Therefore, while the law provides for an appeal mechanism to the criminal judgeship of peace, the lack of a guaranteed method for the parties to be informed about these decisions renders this appeal mechanism ineffective as a legal remedy. Additionally, the underlying legal provision does not stipulate any time limit for access blocking decisions. The regulation introduced in respect of illegal match broadcasts could potentially be applied indefinitely and arbitrarily even after the broadcasts have ended.

As a result of this non-transparent process, the **Turkish Football Federation** blocked access to **22.585** domain names as well as **14.984 different IP addresses** in 2022. Particularly, IP address blocking has started to harm some interconnected content delivery network (“CDN”) services that speed up web page loading for data-intensive applications.

Screenshot 132: Bunny CDN and Mastodon were indirectly blocked



¹²⁹ See <https://www.tff.org/Resources/TFF/Documents/TALIMATLAR/Yasa-D%C4%B1s%C4%B1-Futbol-Yayınların-Onlenmesi-Talimati.pdf>

For example, with the Federation’s decision on **03.04.2022** (no. 168-4), access to 140 Internet addresses, including 19 with CDN extensions, were blocked for illegal broadcasts of Spor Toto Super League İttifak Holding Konyaspor v. Göztepe A.Ş. and Aytemiz Alanyaspor v. Çaykur Rizespor games. Among the blocked addresses were the IP addresses provided by Bunny CDN, a CDN service used by the **Mastodon** social media platform, and the IP address 185.59.220.194 used to access the Mastodon platform. Due to the sanctions imposed on these IP addresses, Mastodon users in Türkiye experienced difficulties accessing their accounts.

On 21.11.2022, an appeal filed by Yaman Akdeniz stating that this practice had “indirect censorship characteristics” was accepted by the Federation, and the unlawful access blocking practice on the IP addresses of Bunny CDN service and IP address 185.59.220.194 was terminated. The non-transparent nature of this process and the provisions in the law that allow IP addresses to be blocked indefinitely lead to both arbitrariness and uncertainty. Administrative decisions which do not require judicial approval, as in the case of Mastodon, can result in more serious technical issues in the medium and long term and harm Internet usage in Türkiye.

INTERNET THROTTLING PRACTICES

On 13.11.2022, a bomb attack occurred in Taksim, Istanbul, resulting in the loss of six lives and the injury of 81 individuals. Immediately following the attack, a broadcast-ban was imposed citing article 7 of Law No. 6112 which regulates “Broadcasts in Extraordinary Periods.” During the enforcement of the broadcasting ban, there were significant difficulties in accessing the Internet, especially social media sites, and a bandwidth throttling practice was implemented, which slowed down and hindered access to social media platforms for approximately eight hours.

The legal basis for the bandwidth throttling practice on 13.11.2022 stems from article 60(10) of the Electronic Communications Law No. 5809 granting authority to the Information and Communication Technologies Authority (BTK) which was introduced with article 22 of the Law No. 6757 on 09.11.2016 by the Parliament adopting the same administrative sanctions provided in the Decree Law No. 671 of 15.08.2016 during the state of emergency period.

ARTICLE 60 – Powers of the Authority and administrative sanctions

(10) (Added: 15/8/2016-KHK-671/25 art.; Adopted as amended: 9/11/2016-6757/22 art.) Depending on one or several of the reasons mentioned in Article 22 of the Constitution, in cases where delay would be detrimental, the Presidency of the Republic determines the necessary measures and informs the Authority for implementation. The President of the Authority shall **immediately notify the operators, access providers, data centres and relevant content and hosting providers** of the decision of the Presidency regarding the measures deemed necessary. The requirements of this decision shall be **fulfilled immediately and within two hours at the latest from the moment the decision is notified**. This decision shall be submitted to the **approval** of the criminal judge of peace within twenty-four hours. The judge shall announce the decision within forty-eight hours; otherwise, the decision shall be automatically revoked.

Within the scope of this article, the Presidency, in the context of Article 22 of the Constitution and in relation to national security, public order, prevention of the commission of crimes, protection of public health and public morals, or protection the rights and freedoms of others, may **take measures deemed necessary** and notify them to the BTK. The President of the BTK is responsible for immediately notifying operators and access providers of the Presidency's measures, and the requirements of the Presidency's decision are to be fulfilled by operators and access providers **within two hours** from the moment the decision is notified. However, in the case of the bandwidth throttling practice on 13.11.2022, the President of the BTK did not apply to a criminal judge of peace for the approval of the decision, while the throttling practice lasted for approximately eight hours. The decision, taken and executed in a **non-transparent** and **arbitrary** manner, **has not been disclosed to the public**, and attempts to obtain the details and content of the decision through applications made to the Presidency and BTK under Law No. 4982 on the **Right to Access Information** have been **unsuccessful**. As a result, the matter has been taken to an administrative court for review. In other words, the administrative institutions including the **Presidency of the Republic** that issued and implemented the decision on an intervention that closely concerns the public **chose to keep the details of the decision secret**.

Additionally, in Turkish law, band throttling is included as a penalty specified in Law No. 5651 for social media platforms. If social media platforms do not fulfil their obligations under this law, Internet traffic bandwidths can be reduced by 50-90%.¹³⁰ Similarly, within the scope of the Electronic Communications Law, bandwidth throttling penalties are also envisaged for over-the-top service providers.¹³¹

SOCIAL MEDIA ACCOUNTS INVESTIGATED IN 2022

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

¹³⁰ The Law No. 5651, additional article 4.

¹³¹ The Law No. 5809 on Electronic Communications, article 60(17).

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**.¹³²

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**. 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.¹³³

According to monthly data released in 2020, it is observed that **75.292 social media accounts** were investigated, and legal action was taken against **32.390 accounts**. Subsequently, 2.397 persons were detained, and 77 persons were arrested within the scope of these investigations. In addition, 340.212 digital materials were examined in 2020. From 15.07.2016 until the end of 2020, a total of 2.348.230 digital materials were examined.¹³⁴ The 2020 Annual Report published by the Ministry of Interior, Directorate General for Security¹³⁵ 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.¹³⁶

In **2021**, a significant increase was observed according to monthly and annual data. A total of **146.167 social media accounts were investigated**, and **legal action was tak-**

¹³² See, Ministry of Interior, Operations Conducted Between 1 January - 31 December 2018, <https://www.icisleri.gov.tr/1-ocak-31-aralik-2018-yili-icerisinde-yurutulen-operasyonlar>

¹³³ Press Release: “Coordination Meeting Held under the Chairmanship of Mr Mehmet Aktaş, Director General of Security,” 30.10.2019, <https://www.egm.gov.tr/emniyet-genel-mudurumuz-sayin-mehmet-aktas-baskanliginda-koordinasyon-toplantisi>

¹³⁴ Anadolu Agency, “Interior Ministry Spokesperson Çataklı: 15 of 17 people detained in protests in Boğaziçi are not Boğaziçi students,” 05.01.2021, <https://www.aa.com.tr/tr/turkiye/icisleri-bakanligi-sozcusu-catakli-bogazicinde-ki-eylemlerde-gozaltina-alinan-17-kisiden-15i-bogazici-ogrencisi-degil/2098548>

¹³⁵ See 2020 Annual Report published by the Ministry of Interior, General Directorate of Security, https://www.egm.gov.tr/kurumlar/egm.gov.tr/ICSite/strateji/Planlama/2020_IDARE_FAALİYET_RAPORU.pdf

¹³⁶ HRFT, 2020 Human Rights Violations in Türkiye Report, 10.12.2020, <https://tihv.org.tr/basin-aciklamalari/verilerle-2020-yilinda-turkiyede-insan-haklari-ihlalleri/>

en against 60.051 accounts in 2021.¹³⁷ 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 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.¹³⁸

Finally, according to the monthly and annual data released in **2022**, a significant increase continued. In 2022, a total of **188.689** social media accounts were investigated, and legal action was taken against **78.837** accounts. As a result of these investigations, a total of **1.787** individuals were detained. Moreover, an assessment of the press releases of the Cybercrime Division of the General Directorate of Security, investigations and analysis initiated in 2022 included

- accounts that engaged in provocative and disinformation-sharing, especially related to “**oil prices**” (**March 2022**),
- accounts suspected of having links to FETÖ and other terrorist organizations abroad and inciting hatred and hostility among the public by using the name “**Syrian refugees**” on social media platforms (**April 2022**),
- individuals who shared provocative images on social media platforms and presented themselves as “Afghan” or “Pakistani” accounts, engaging in disinformation-sharing (**May 2022**),
- those who made posts related to the forest fire that occurred in Marmaris, Muğla on 21.06.2022, aiming to incite enmity and hostility among different segments of the public and create fear and panic among people (**June 2022**),
- individuals who attempted to carry out disinformation activities by claiming that healthcare workers and hospitals were inadequately protected in relation to the murder of Dr. Ekrem Karakaya at Konya City Hospital on 06.07.2022, and that laws related to violence in healthcare were insufficient (**July 2022**),
- those who engaged in disinformation activities and provoked public sentiment through posts related to the terrorist attack on the Police House in Mezitli, Mersin on 26.09.2022, inciting hatred and hostility among different segments of the public based on class, race, religion, sect, or region (**September 2022**),
- individuals who engaged in disinformation-sharing and incited hatred and hostility among the public through posts related to the explosion that occurred in a coal mine under the Turkish Hard Coal Authority, Amasra Facility Directorate on 14.10.2022 (**October 2022**),

¹³⁷ Anatolian Agency, “Ministry of Interior Spokesperson Çataklı: 1140 terrorists were neutralised in 2021,” 04.01.2022, <https://www.aa.com.tr/tr/gundem/icisleri-bakanligi-sozcusu-catakli-2021de-1140-terorist-etkisiz-hale-getirildi/2464934>

¹³⁸ See, 2021 Annual Report published by the Ministry of Interior, General Directorate of Security, https://www.egm.gov.tr/kurumlar/egm.gov.tr/IcSite/strateji/Planlama/2021_IDARE_FAALİYET_RAPORU.pdf

- those who engaged in provocative content sharing on social media platforms related to the terrorist attack that took place in Beyoğlu, Istanbul on 13.11.2022, aiming to create fear and panic among the public and incite hatred and hostility among people (**November 2022**) and
- individuals who engaged in disinformation-sharing and incited hatred and hostility among the public through posts related to the bomb attack on a police riot vehicle on the Diyarbakır-Mardin highway on 16.12.2022, aiming to create fear and panic among the public (**December 2022**).

Criminal investigations were conducted regarding all these matters.

Figure 27: Data on Social Media Investigations and Judicial Processes by the Ministry of the Interior: 2022

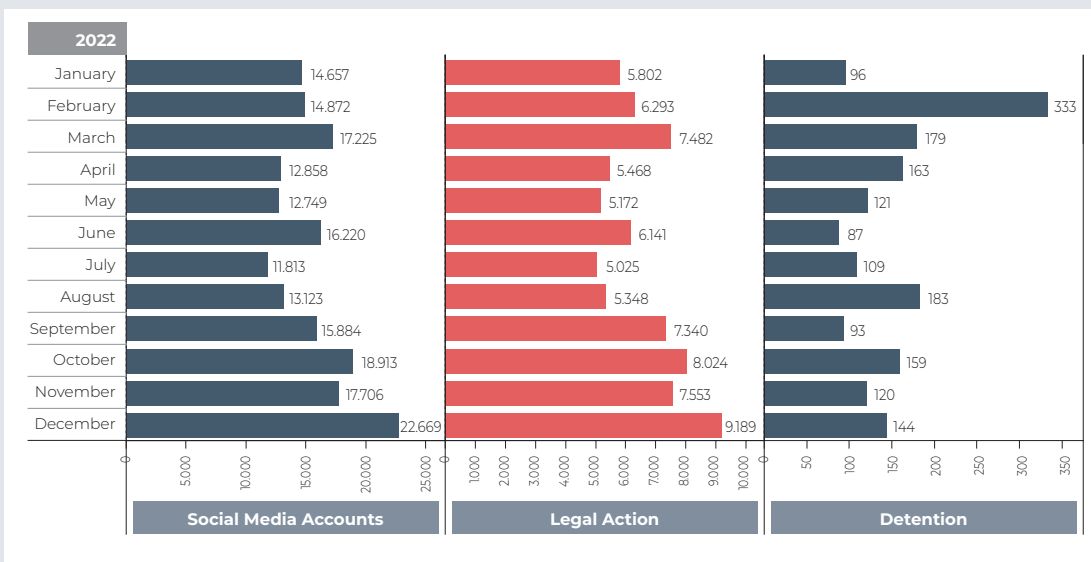
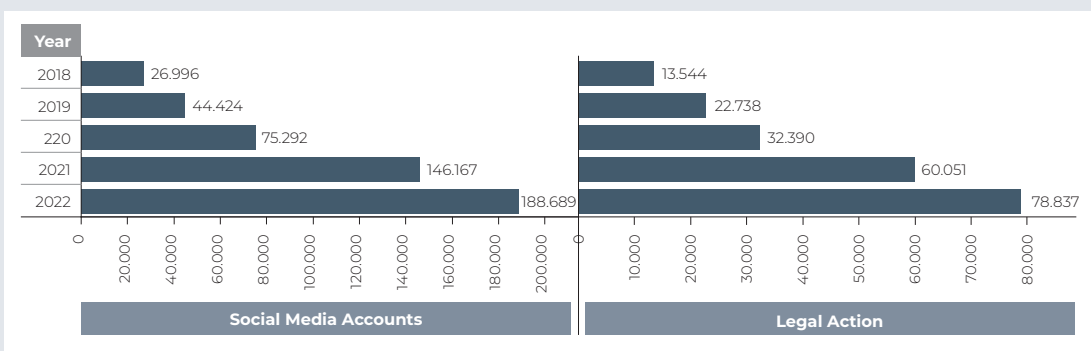


Figure 28: Ministry of Interior Data: Number of Social Media Related Criminal Investigations (2018-2022)



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. **By the end of 2022**, the total number of accounts investigated reached **481.568** and the number of accounts subject to legal action reached **207.560**. In 2021-2022, a total of **3.698** individuals were detained as part of these investigations. However, no data has been disclosed regarding the detention or arrest decisions or the judicial process carried out from these legal actions taken from 2018 to 2020. In conclusion, the numbers of social media account examination and investigations in 2022 continued to increase significantly compared to previous years.

CONCLUSION AND GENERAL EVALUATION

Within the scope of the 2022 EngelliWeb report prepared by the Freedom of Expression Association, it is determined that by the end of 2021, **712.558 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 **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**, **38.441** in **2014**, **34.941** in **2015**, and **34.941** in **2015**, **44.960** in **2016**, **90.056** in **2017**, **94.601** in **2018**, **61.383** in **2019**, **58.872** in **2020**, **107.714** in **2021**, and **137.717** in **2022**.

The **712.558** websites and domain names that were blocked from Türkiye by the end of 2022 were blocked subject to **616.239** separate blocking decisions issued by **814** separate authorities.. By the end of 2022, **625.640** websites were **blocked from Türkiye by administrative blocking decisions** subject to **article 8 of Law No. 5651**, including **129.164** blocked by **TIB** until its closure and **496.476** blocked by the **President of BTK** following the closure of TIB. Access to **43.938 domain names and websites** was blocked **by judicial organs** (criminal judgeships of peace, public prosecutors' offices and courts). In addition, a total of **22.585** domain names were blocked by the Turkish Football Federation, **10.202** domain names were blocked by the Ministry of Health, **6.159** by the Capital Markets Board, **1.481** by the Spor Toto Presidency, **971** by the National Lottery, **826** by the Tobacco and Alcohol Department (Ministry of Agriculture and Forestry), **306** by the Ministry of Agriculture and Forestry, **220** by the Ministry of Customs and Trade, **101** by the Turkish Jockey Club, **69** by enforcement offices, **34** by the Association of Access Providers, **14** by the Banking Regulation and Supervision Agency ("BDDK"), **5** each by the Supreme Election Board ("YSK") and the Ministry of Finance, and **2** by the Advertisement Board.

Figure 29: Total Number of Blocked Websites from Türkiye: 2006-2022

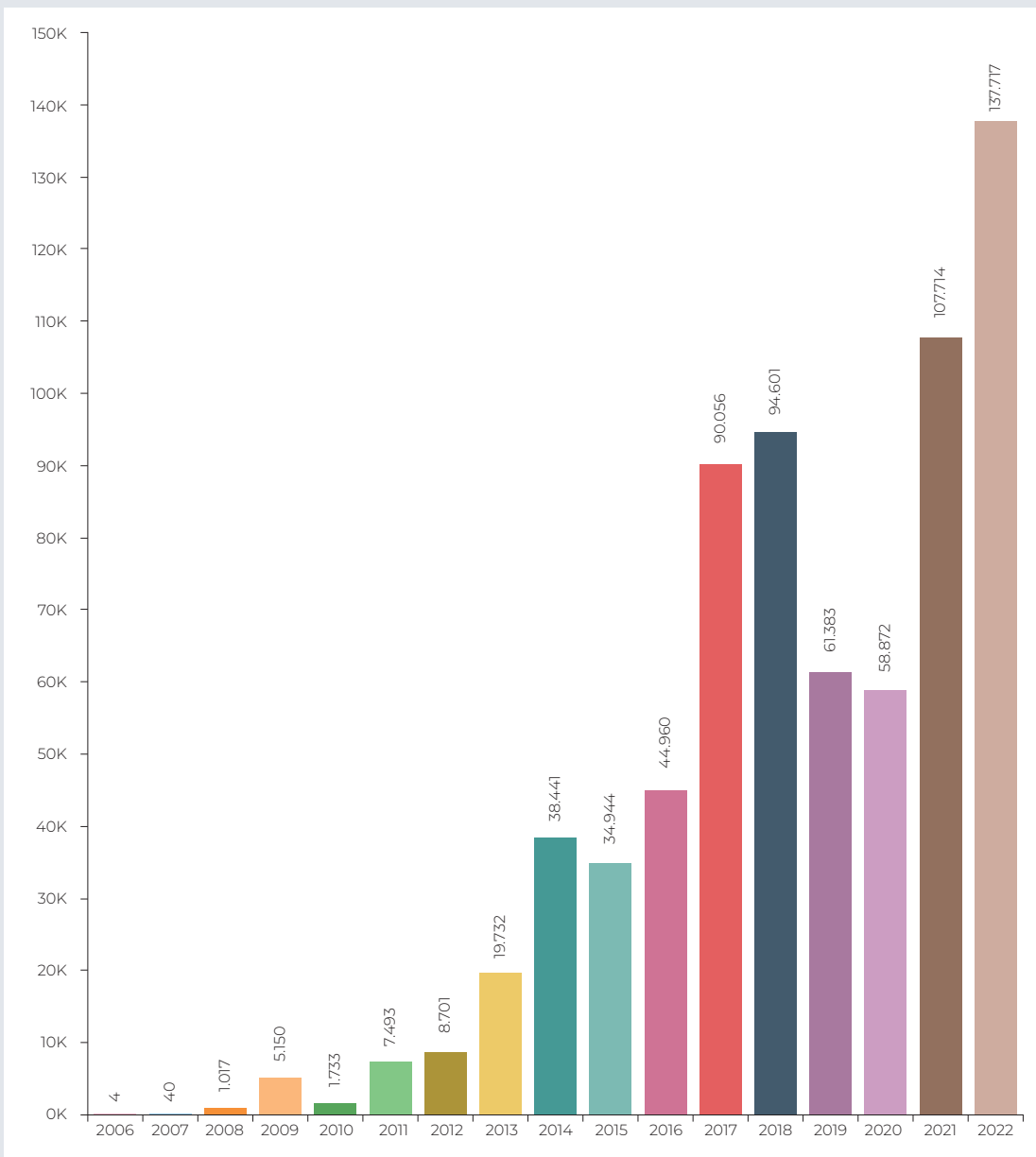


Figure 30: Websites Blocked from Türkiye by the Blocking Authority: 2014-2022

Blocking Authority										
	2014	2015	2016	2017	2018	2019	2020	2021	2022	Total
BTK	13	3	20,138	85,181	89,387	42,207	52,187	98,046	109,037	496,476
TIB	37,716	33,306	18,197	0	0	0	0	0	0	129,164
Courts	605	1,212	4,234	2,840	2,483	17,009	3,085	5,839	3,005	43,938
Turkish Football Federation	0	0	0	0	0	0	0	0	22,585	22,585
Ministry of Health	65	374	2,336	1,732	1,715	1,384	1,429	657	502	10,202
Capital Markets Board	0	0	5	94	98	292	1,615	2,143	1,904	6,159
Spor Toto	0	3	35	47	458	69	234	432	203	1,481
National Lottery	0	0	6	68	78	335	128	110	246	971
Tobacco and Alcohol Directorate	1	10	4	20	1	1	88	471	230	826
Ministry of Agriculture and Forestry	0	0	0	0	129	81	96	0	0	306
Ministry of Trade	1	0	1	14	204	0	0	0	0	220
Türkiye Jockey Club	0	0	0	53	41	3	2	2	0	101
Bailiff and Execution Offices	32	31	0	0	0	0	3	0	2	69
Association of Internet Access Providers	3	5	4	7	7	2	4	2	0	34
Banking Regulation and Supervision Agency	0	0	0	0	0	0	1	12	1	14
Supreme Electoral Council	0	0	0	0	0	0	0	0	0	5
Ministry of Finance	5	0	0	0	0	0	0	0	0	5
Advertisement Board	0	0	0	0	0	0	0	0	2	2

On the other hand, within the scope of the EngelliWeb project, it was found that a total of **35.023** news articles (**URLs**) were blocked and that **29.253** news articles (**URLs**) were deleted or removed in accordance with article 9 of Law No. 5651. These URL addresses were blocked subject to **6.509 separate decisions** issued by **543 separate criminal judgements of peace**. While **2022** ranked first with **6.528** blocked news articles on an annual basis, it was also the year in which the highest number of news articles were deleted or removed (**5.388** news articles). In 2022, a total of **6.528** news articles, the publication of which was in the public interest, were blocked, while **5.388** news articles were removed from publication and censored as a result of the increasing number of “violation of personal rights” decisions. A significant portion of the **954 separate decisions** issued by **270 separate criminal judgements of peace** were, as in previous years, based on the requests of high level public figures, as well as public institutions and companies close to the government. Criminal judgements of peace disregarded the principles of freedom of expression and freedom of the press, the public’s right to information and public interest, and continued to act as **guardians** of the offended reputation, honour and dignity of high ranking public figures. In our 2021 report, we had also stated that with these decisions, not only political news articles of close public interest, but also historical news with archival value are removed digital and press archives and **destroyed**. In fact, the extent of the problem related to archives was also analysed in the report published by İFÖD, entitled “*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*”,¹³⁹ and it was shown that the de-

¹³⁹ 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*, September 2022, https://ifade.org.tr/reports/UnutulmamaHakki_2021_Eng.pdf

cisions issued by criminal judgeships of peace have caused serious damage to **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.¹⁴⁰ In Türkiye, however, online archives are under constant pressure and threat. As the statistical analysis shows, 2022 was the year in which news articles published on online news websites was under the most pressure, the most news articles were blocked and the most news articles were removed from publication and archives.

Therefore, while the **grim picture that emerged in our 2018-2021 reports continued**, the impact of the legal amendments made in 2020 started to be felt in 2021 and 2022, and **content providers removed a higher number of content**. In fact, it is observed and experienced that **censorship practiced more effectively** especially with the news articles removed and destroyed. It is also observed that some news articles and other content of great concern to the public **were blocked or removed on the same day they were published**.

For instance, on **16.12.2022** news articles were published on news websites such as Cumhuriyet and Gazete Duvar claiming that the judge **Mehdi Komşul**, who sentenced Istanbul Metropolitan Municipality Mayor Ekrem İmamoğlu to prison for allegedly insulting members of the Supreme Election Council (“YSK”), had violated his personal rights. **On the same day**, these articles were blocked for access by the decision of Istanbul Anatolia 10th Criminal Judgeship of Peace Judgeship (no. 2022/11313, **16.12.2022**). on the grounds of “violation of personal rights” of course.

Screenshot 133: News articles blocked by Istanbul Anatolia 10th Criminal Judgeship of Peace



¹⁴⁰ Fuchsmann v. Germany, no. 71233/13, 19.10.2017, §§ 37-39. See also. Times Newspapers v. UK (nos. 1 and 2), nos. 3002/03 and 23676/03, § 45, ECHR 2009.

Similarly, the column titled “Mide bulandıran öykü” (“A nauseating story”) published on **30.11.2022**, in which Cumhuriyet writer Barış Pehlivan reported that a businessman had filed a complaint against suspects including a drug trafficker, a member of the Court of Cassation and a former intelligence officer, was blocked for access **on the same day** on the grounds of “violation of personal rights” with the decision of Bakırköy 6th Criminal Judgeship of Peace (no. 2022/6664, **30.11.2022**).

Screenshot 134: Column blocked by Bakırköy 6th Criminal Judgeship of Peace



News articles published on **01.11.2022** alleging that former TÜRGEV President Ahmet Ergün had bribed the former TCDD General Director Süleyman Karaman was also blocked for access **on the same day** on the grounds of “violation of personal rights” with the decision of Istanbul Anatolia 5th Criminal Judgeship of Peace (no. 2022/8983, **01.11.2022**).

Screenshot 135: News articles blocked by Istanbul Anatolia 5th Criminal Judgeship of Peace



The news report from **16.08.2022** by Seyhan Avşar published on HalkTV, which contained allegations of tension between the Minister of Interior Süleyman Soylu and the Speaker of the Turkish Grand National Assembly Mustafa Şentop, and how this tension affected the appointment and promotion decisions of the Gendarmerie General Command in 2022, was blocked for access **on the same day** with the decision of Samsun 3rd Criminal Judgeship of Peace (no. 2022/3852, **16.08.2022**), on the grounds of “violation of personal rights.”

Screenshot 136: News article blocked by Samsun 3rd Criminal Judgeship of Peace



Examples can be multiplied, but not only the number of requests made on the grounds of “violation of personal rights” increased during 2022, but also requests started to be made at a rapid pace. As a result, interventions in news articles and op-eds/columns published on news websites **have begun immediately**. While news websites mostly **comply with the decisions** sent from criminal judgeships of peace, **fresh news and articles are also instantly removed** from press archives. In many **identical decisions**, it is not explained which personal rights of the applicants have been violated or how, and there is no connection established between the applicants and the news and content subject to the requests. For example, when the access to the **Havrita** website was blocked, Ankara 1st Criminal Judgeship of Peace **did not explain** how the **personal rights** of the **Paw Protectors Animal Protection Association** (“Pati Koruyucuların Hayvanları Koruma Derneği”) were violated. In fact, the decision did not explain how any personal rights were violated. Similarly, when access blocking decisions were made regarding news and content related to **dog deaths in a shelter** in Konya, Ankara 3rd Criminal Judgeship of Peace did not explain how the **Ministry of Family and Social Services’** personal rights were violated or in what way.

In fact, the **main responsibility** for all these problems that allow for arbitrariness lies with the **Constitutional Court**, which, despite identifying “**structural problems**” regarding article 9 of Law No. 5651, **has not addressed the pending annulment requests related to the same provision** through objections and has failed to fulfil the requirements of the Keskin Kalem and Others pilot judgment. While hundreds of de-

decisions continue to be issued every year by criminal judgeships of peace not only subject to article 9, but also subject to article 8/A of Law No. 5651, the Constitutional Court did not issue any judgment on article 8/A of Law No. 5651 in 2021 and 2022, issuing its judgment only on the application of Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others in 2021 and leaving **the entirety of 2022 blank**. As of June 2023, when our 2022 Report was finalized and translated in September 2023, the Constitutional Court has **neither concluded and decided** the long-pending applications related to article 8/A **nor fulfilled** the requirements of the pilot judgment related to article 9. Furthermore, despite failing to render decisions on applications made under article 8/A of Law No. 5651 since September 2020 and despite the fact that the decisions of the criminal judgeships of peace subject to this article completely ignore the jurisprudence and the principled approach of the Constitutional Court, a pilot judgment addressing the structural problems with article 8/A has not been implemented, and structural problems related to article 8/A are yet to be identified.

Furthermore, the **increasing number of new applications** before the Constitutional Court, along with the **growing number of pending applications** that have remained unresolved **since 2015 and** are now **starting to collect dust** on shelves, is **becoming noticeable**. As we have previously emphasized in our reports, it is crucial that applications related to interventions on vital communication platforms like the Internet, **which can only be described as censorship, should be evaluated more promptly**. However, judgments issued by the Constitutional Court, which have been considerably delayed, are also disregarded by the criminal judgeships of peace which continue to issue access blocking and content removal orders. In other words, access blocking and content removal decisions continue to be issued **as if the Constitutional Court had never made a decision or did not exist**. In our EngelliWeb reports, statistical data is presented every year to demonstrate that the Constitutional Court's Ali Kızık and Keskin Kalem and Others judgments and the principles therein are **arbitrarily not enforced** by criminal judgeships of peace. It has been repeatedly emphasized **in our previous reports that this situation is not coincidental**.

As previously mentioned in our reports, it is clear that article 9 of Law No. 5651, which does not impose an obligation to assess whether there is a prima facie violation or not, does not have the material characteristics of a law and does not have **the quality requirement** required by Article 13 of the Constitution. The rule, **in its current state**, does not provide the **certainty, predictability, and protection against arbitrary interference** that should be present in a law. Although the Constitutional Court has recognized this problem and has been very late in issuing the pilot judgment, the publication of the pilot judgment **has not eliminated these problems either**.

The Constitutional Court not only refrained from fulfilling the requirements of the pilot judgment in Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others, but also continued to refrain from conducting a normative review on article 9 of Law No. 5651. As explained in our 2022 report, the CHP's annulment action has been pending since September 2020 (case no. 2020/76). Similarly, the objection application of Tavşanlı Criminal Judgeship of Peace (docket no. 2022/41) was included in the agenda of the General Assembly of the Constitutional Court on 21.04.2022, and after being merged with the CHP's annulment application, the **substantive examination of these two**

files has not yet been carried out. Therefore, **instead of solving the problems**, the Constitutional Court has become a part of the problems and issues related to the implementation of Law No. 5651 and despite occasional violation judgments, it has **become ineffective** due to its jurisprudence significantly being ignored by the lower level criminal judgements of peace. This **situation has continued to worsen in 2022** despite the pilot judgment, with **6.509** different article 9 decisions being issued by **543** separate criminal judgements of peace. What's even worse is that in 2022, with a **total of 6.528 blocked news articles**, it became the year with the **most news articles removed or taken down** with a total of **5.388** news articles since the implementation of article 9 of Law No. 5651 in 2014.

In conclusion, as we approach the 17th year of living with Law No. 5651, the state has made significant progress in its **struggle with the Internet**. Especially after the 2020 amendments, " **censorship** " has become **more effective**, compliance rates with criminal judgements of peace decisions, especially those claiming "infringement of personal rights," have increased, and thousands of news articles and content have been removed. As a result, **Internet archives have been cleansed of news related to matters of public concern, including corruption, harassment, sexual assault and femicide**. In other words, as demonstrated with examples in our 2022 report, "**reporting the truth**" is constantly being obstructed by criminal judgements of peace. The Constitutional Court, on the other hand, has **remained silent and helplessly plunged into darkness** in the shadow of criminal judgements of peace. Shamefully, the high court **has become a completely ineffective domestic remedy mechanism** in the face of severe violations of freedom of expression and press freedom while the control is entirely in the hands of criminal judgements of peace. While the legal system is turned completely upside down, under the control of criminal judgements of peace, the personal rights of all top-level public figures have been violated without exception, ensuring that they **remain unblemished**. Therefore, there is no longer any measure in the current structure and the **higher judiciary has been defeated by criminal judgements of peace**.

Screenshot 137: EngelliWeb website blocked by the Rize Criminal Judgement of Peace





The Freedom of Expression Association's EngelliWeb documentation project will continue in the coming years despite all the challenges. While the details of these challenges will be the subject of our 2023 report, it is not surprising that, in March 2023, first the EngelliWeb section¹⁴¹ of our Association's website and more than 500 announcements in this section were blocked¹⁴² by the Rize Criminal Judgeship of Peace. Secondly, in May 2023, the entire EngelliWeb 2021 report entitled *The Year of The Offended Reputation, Honour and Dignity of High-Level Public Personalities*, was unreasonably blocked by the Şile Criminal Judgeship of Peace.¹⁴³ Despite the increasing difficulty and hindrance, our efforts and work to expose, document, and archive the permanent damage caused by censorship will continue.

¹⁴¹ See, <https://ifade.org.tr/engelliweb/>

¹⁴² The decision of Rize Criminal Judgeship of Peace, no. 2023/1003, 20.03.2023. See İFÖD announcement dated 20.03.2023, <https://ifade.org.tr/engelliweb/engelliweb-erisime-engellendi/>

¹⁴³ The decision of Şile Criminal Judgeship of Peace, no. 2023/272, 18.03.2023. See <https://ifade.org.tr/engelliweb/engelliweb-2021-raporu-erisime-engellendi/>



The EngelliWeb 2022 report, as a continuation of the 2018-2021 EngelliWeb reports, is entitled **The Constitutional Court in the Shadow of Criminal Judgeships of Peace**. This is because, as will be seen in the report and as in previous years, thousands of news articles and other content of public interest were blocked, removed from publication, censored and deleted from the archives as a result of the “personal rights violations” decisions. Thematically, the 2022 report will demonstrate that the judgments of the Constitutional Court are ineffective, that since September 2020 it has not ruled on the applications submitted under article 8/A of Law No. 5651, that although the decisions of the criminal judgeships of peace under this provision completely ignore the jurisprudence and the principled approach of the Constitutional Court, no pilot judgment has been implemented and structural problems have not been identified. More seriously, the 2022 report will also detail that, despite identifying “structural problems” with article 9 of Law No. 5651 in October 2021, the Constitutional Court **did not implement** its own “pilot judgment” and did not rule on any article 9 applications in 2022, thus becoming part of the ongoing problem and turning into an ineffective domestic remedy.

As assessed in detail in the 2022 report, the practice of blocking access to the Internet and removing and deleting content continued at full speed, as in previous years. The amendments made in July 2020, in particular the sanction of “removal of content” added to article 9 of Law No. 5651, were frequently used in 2022 and criminal judgeships of peace continued to impose the sanction of removing news and content from publication, in addition to the sanction of access blocking. Foreign social network providers with more than one million daily hits from Türkiye established their legal representative offices in Türkiye during 2021, but their legal responsibilities were tightened and expanded by Law No. 7418 on Amendments to the Press Law and Certain Laws, which was enacted by the Turkish Grand National Assembly (“TGNA”) in October 2022.

In addition to these evaluations, 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 that have been blocked from Türkiye and/or have been subject to content removal decisions significantly increased in 2022. In this context, **the number of websites blocked from Türkiye reached 712.558 by the end of 2022.**

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.

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