



**Submission to the 4th Cycle of the UN Human Rights Council
for Consideration of the State Report of Türkiye
During the 49th Session (Apr – May 2025)
by**

İFADE ÖZGÜRLÜĞÜ DERNEĞİ (İFÖD)

An independent non-governmental organization specialized in defending and promoting freedom of expression

İfade Özgürlüğü Derneği – İFÖD (Türkiye)

Association Registration ID: 34-235-076

E-mail: iletisim@ifade.org.tr

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

X (Twitter): [@ifadeorgtr](https://twitter.com/ifadeorgtr) & [@engelliweb](https://twitter.com/engelliweb)

Address: Osmanağa mh. Hasırcıbaşı cd. No: 24/4, 34717 Kadıköy, İstanbul, Türkiye

I. Introduction on İfade Özgürlüğü Derneği

1. **İfade Özgürlüğü Derneği** [Freedom of Expression Association (“İFÖD”)] established on 08.08.2017, aims to protect and foster the right to freedom of opinion and expression in Türkiye. The Association envisions a society in which everyone enjoys freedom of opinion and expression and the right to access and disseminate information and knowledge. More recently, İFÖD received **Consultative Status** with the Economic and Social Council (“ECOSOC”) of UN on **25.07.2023**.
2. İFÖD’s overall goal is to advance the right to free expression, promote transparency and strengthen democracy in Türkiye. The association is unique in terms of working in the field of freedom of expression with a specific focus on Internet freedom, academic freedom and freedom of information rather than focussing just on media and journalists related issues.
3. İFÖD’s systematic work on documenting Internet censorship in Türkiye remains unique and a global reference point for the media, policy makers, civil society and academia. Under its EngelliWeb project, İFÖD has been systematically monitoring, documenting and analysing Internet censorship involving websites, news providers and content as well as social media accounts and content since the association started its Research and Monitoring programme in November 2018. In addition to the annual EngelliWeb reports,¹ İFÖD also publishes Internet censorship related developments on a daily basis through its social media accounts and website. This activity attracted attention and since 2020, İFÖD’s website has been subject to approximately 100 access blocking and content removal decisions. The association also published a series of reports on the right to be forgotten.²

II. Thematic List of Issues Involving Freedom of Expression to be Addressed

4. The Third Cycle of the UPR for Türkiye produced several recommendations on freedom of expression, including Internet and content regulation, media freedom, journalists, human rights defenders, access to information, and judicial oversight. Given the constraints of UPR submissions, İFÖD will focus on **recommendations concerning Internet content and freedom of expression**.
5. Türkiye supported recommendations on ensuring freedom of expression in all its forms by refraining from censoring social media (**Norway**, 45.157) and continuing efforts to ensure national laws protect freedom of expression both online and offline (**Bulgaria**, 45.166). Türkiye also **noted** Brazil’s recommendation to refrain from blocking online content without judicial oversight and avoiding Internet shutdowns (45.167).

III. İFÖD’s UPR Submission

6. This submission focuses on Internet-related freedom of expression issues, particularly the provisions and application of Law No. 5651, which is used predominantly to block access to websites, news articles, and social media accounts. İFÖD will demonstrate that Turkish law and practice violate constitutional and international standards, as seen with the recent blocking of **Instagram**, **Roblox**, and **Wattpad** platforms in the summer of 2024. Moreover, the submission will show how existing legal measures fail to safeguard against the abuse of power by public authorities and criminal judgements of peace, and legislative amendments have not prevented arbitrary interference with Internet freedom.

IV. Internet Freedom in Serious Decline in Türkiye

7. Internet censorship has a long history in Türkiye, as documented in multiple reports and rulings by both the Constitutional Court and the European Court of Human Rights. Law

No. 5651, originally enacted in 2007 to protect children, was expanded in 2014 to cover individual rights and privacy protection. Although intended for positive use, Law No. 5651 has facilitated the blocking of major platforms such as YouTube (2008-2010 & 2014) and Twitter (2014), prompting violation rulings from the European Court³ and the Constitutional Court.⁴ Further amendments in 2015 introduced national security justifications, but led to the blocking of **Wikipedia** for 2.5 years until the Constitutional Court found a violation of freedom of expression.⁵

8. The October 2022 amendments expanded the authority of the President of the Information Technologies and Communications Authority (ITCA) to block content, imposed stricter regulations for the social media platforms and regulated the OTT platforms such as WhatsApp and Telegram.
9. Reports, including from the US⁶ and the European Commission,⁷ noted that Türkiye continues to restrict Internet freedom, citing the misuse of various legislation to block content without judicial oversight. Law No. 5651 has been **criticized as a censorship tool**⁸ by the civil society and the Council of Europe's Commissioner for Human Rights criticized the law for enabling the executive branch to arbitrarily block content without adequate judicial safeguards.⁹
10. According to İFÖD's research **1.043.312** websites and domain names were blocked by a total of **892.951 different decisions** issued by **833 different institutions and judgeships** by the end of first quarter of 2024.¹⁰

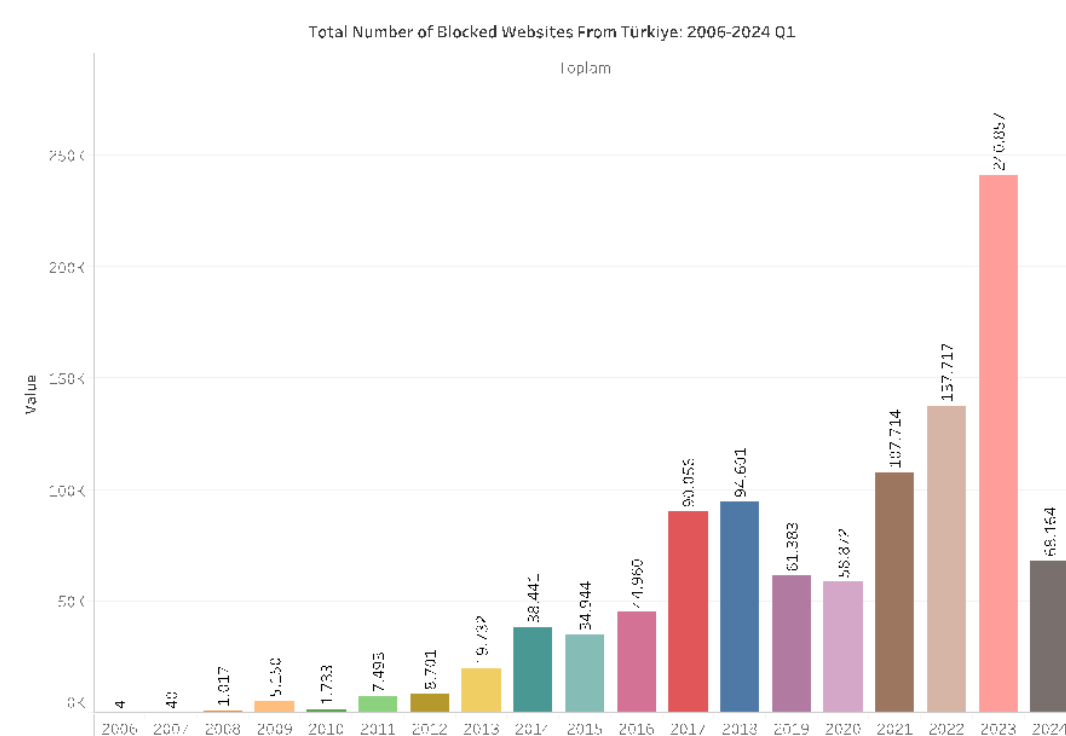


Figure 1

V. Provisions of the Law No. 5651

11. In summary, the current **Turkish Internet Content Control Model** through the Law No. 5651 includes the following:
 - a. **Access blocking** to websites
 - b. **Access blocking** to individual Internet addresses (URL based)

- c. **Removal** of individual news articles or social media content (URL based)
- d. **Right to be forgotten** orders targeting search engines' results
- e. **Liability** of social media platform providers

12. There are different content criteria for blocking/removal under articles 8, 8/A, 9, and 9/A, with distinct legal procedures.¹¹ Overall, the Venice Commission found these provisions incompatible with European standards in 2016, recommending significant revisions.¹²
13. The Turkish authorities claim that they apply a notice-and-take-down procedure before blocking content, **but no such process is stipulated** in Law No. 5651. Without proper due process, procedural safeguards, or appeal mechanisms, the wholesale blocking of entire websites often occurs without justification, falling short of ICCPR and ECHR standards.

A. Article 8 of the Law No 5651

14. Article 8, intended to protect children, allows non-judicial authorities like the President of ITCA to issue access-blocking orders without judicial approval subject to certain “catalogue crimes” such as obscenity and child pornography.¹³ As can be seen in **figure 2**, majority of the article 8 decisions are issued by the President of ICTA. This overreach has led to concerns about **abuse of power** and **lack of legal certainty**, a principle the Constitutional Court emphasized in a 2019 ruling, which has been ignored in subsequent practice leading into for example access blocking to the **Instagram** platform.¹⁴

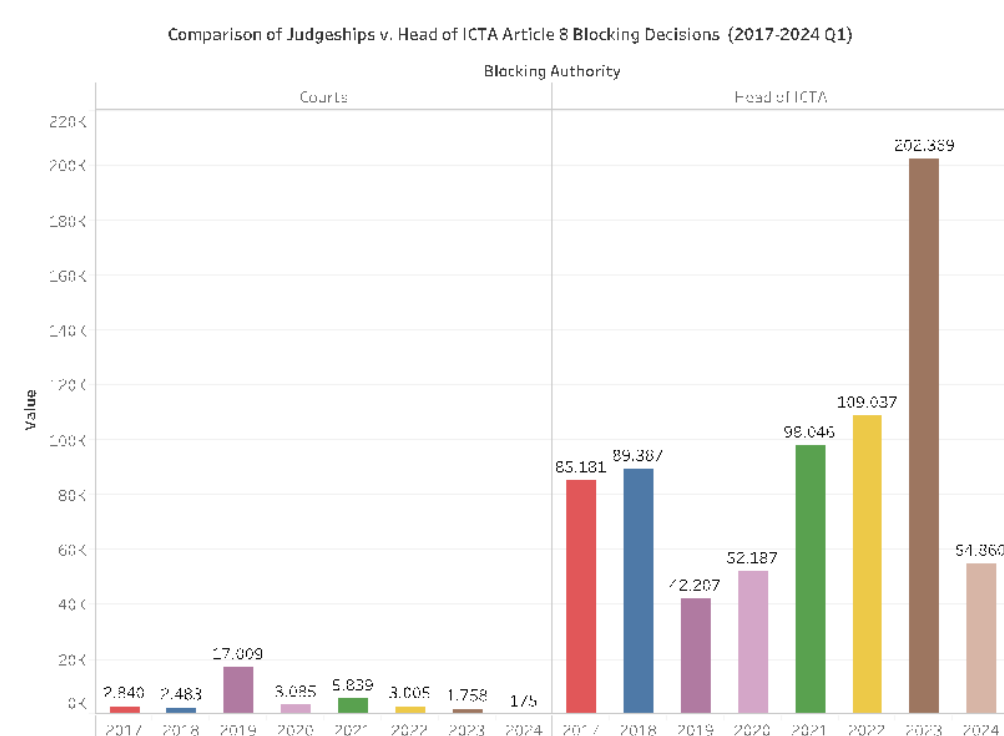


Figure 2

15. More recently, the Constitutional Court annulled the power to **remove content** granted to the President of ICTA by **Law No. 7253**.¹⁵ The Court ruled that allowing the President of ICTA to unilaterally determine that an act constitutes a criminal offence and remove content indefinitely, without judicial review, violates the **presumption of innocence**. The annulment decision will come into force on **10.10.2024**.

16. Despite the Court's decisions, the ITCA blocked access to **Instagram** under vague references to "catalogue crimes" in August 2024. This incident underscores the law's susceptibility to misuse, undermining freedom of expression.
17. İFÖD contends that the broad powers granted to the President of ICTA to issue **ex officio** decisions on content removal and access blocking without any judicial oversight are in clear violation of **Article 19 of the ICCPR**.

B. Article 8/A of the Law No 5651

18. Article 8/A, introduced in 2015, permits content blocking for national security or public order reasons, with administrative decisions often preceding judicial review.¹⁶ This provision has been used as a political tool to target Kurdish and left-wing media outlets.¹⁷ By the end of 2023, **1,536 decisions** were issued under article 8/A, affecting thousands of Internet addresses, including news sites and social media content.¹⁸
19. The blocking of **Wikipedia** and other platforms like **Ekşi Sözlük** underscores the arbitrary use of Article 8/A. Although the Constitutional Court has ruled against such practices and ruled that such **violations stemmed directly from the law**,¹⁹ these measures persist, often justified under vague threats to public order and national security. The recent blocking of popular websites and platforms such as **National Film Board of Canada**,²⁰ the Internet music and podcast platform **iHeart.com**, the popular reading and writing platform **Wattpad**²¹ and the gaming platform **Roblox**²² exemplifies the misuse of this provision, reflecting broader systemic issues within Türkiye's regulatory approach to the Internet. The persistence of these **practices indicates a troubling disregard** for constitutional protections of freedom of expression, as well as the standards set out under Article 19 of the ICCPR.

C. Article 9 of the Law No 5651

20. Amended in 2014, article 9 allows individuals to request content removal to protect their personal rights. While the aim of the measure is legitimate, it is often abused by public figures to suppress political criticism. İFÖD's reports show that a large portion of blocked or removed content pertains to issues of public interest, particularly politically sensitive topics.²³
21. İFÖD, through its EngelliWeb Project, determined that **43,769 news articles (URLs)** were **blocked** and **38,145 news articles (URLs)** were **removed** or **deleted** subject to **7,663** separate article 9 decisions issued by **582 separate judgeships** in 2014-2023.

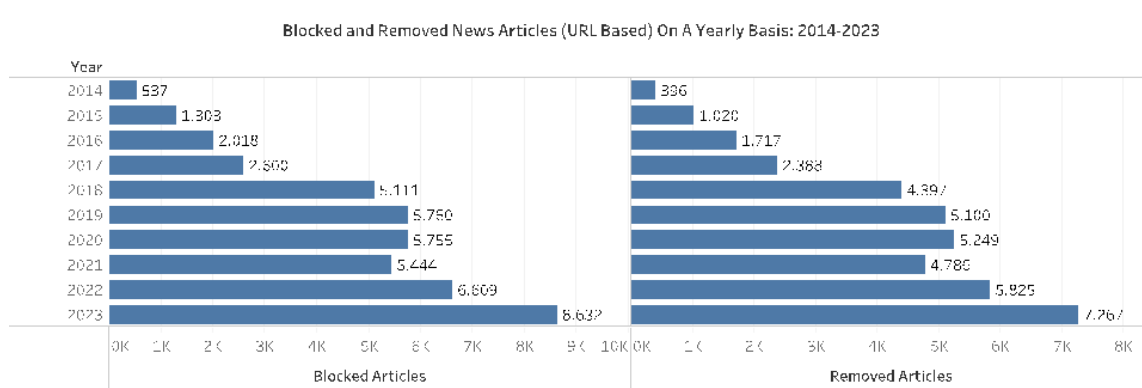


Figure 3

22. The Constitutional Court has identified **structural problems** in article 9 in a pilot judgment²⁴ and then **annulled the provision**²⁵ calling for reform to prevent arbitrary and

disproportionate interference with freedom of expression. The annulment decision however will come into force on **10.10.2024** and therefore has been in force since the annulment decision has been published on the Official Gazette on 10.01.2024.

23. The Constitutional Court, much like the Venice Commission, determined that the review mechanisms for articles 8/A and 9, as conducted by the criminal judgeships of peace, do not meet international standards. The Court emphasized that the oversight provided by these judgeships fails to safeguard human rights and the rule of law, as judges have issued tens of thousands of blocking decisions without considering procedural fairness, such as the right to a fair trial and the significance of freedom of expression. This disregard for fundamental rights, coupled with the absence of proper judicial scrutiny, was a key factor leading the Constitutional Court to find violations, ultimately annulling article 9 and identifying structural problems with article 8/A. Any forthcoming legislative reform must address these deficiencies, ensuring that any new framework adheres to the principles of fair trial and procedural justice.
24. İFÖD believes that, in alignment with international human rights standards, Türkiye should consider adopting measures that focus on less intrusive solutions such as content anonymization or redaction and the right to reply for affected parties rather than outright removal or blocking, especially when dealing with news websites. Such measures should respect both personal rights and the public's right to access information on matters of public interest, ensuring that freedom of expression is not unduly restricted in the digital age.

D. Article 9 Decisions and Press Archives

25. The right to be forgotten, often invoked under article 9, poses a threat to press archives and social memory. Content removal orders are frequently applied indiscriminately, even when the content in question does not violate personal rights.
26. However, search engines are typically the appropriate target for right-to-be-forgotten requests, yet **Turkish authorities focus** on press websites and news archives, erasing valuable historical records.
27. Judicial oversight of content removal requests remains insufficient, leading to a skewed balance between protecting personal rights and preserving freedom of expression.²⁶ The resulting harm to press archives is irreversible, undermining the public's right to remember.²⁷

VI. İFÖD's Conclusions

28. The aggressive use of Law No. 5651 to suppress political speech reflects broader restrictions on freedom of expression in Türkiye. Despite violation rulings by the Constitutional Court, access to many platforms and websites remains blocked. These actions fail to comply with Türkiye's obligations under both domestic and international law.
29. Overall, the Government's **aggressive policy to systematically block access to political speech** on the Internet should be considered within the broader restrictions on freedom of expression, freedom of the media and Internet freedom. This policy should be reflected within the context of a general deterioration in the state of freedom of expression in Türkiye alongside a broader crackdown on dissenting voices. Therefore, measures taken under Law No. 5651 **cannot be isolated from a general atmosphere targeting freedom of expression and media freedom in Türkiye.**²⁸

30. Despite multiple violation and annulment decisions by the Constitutional Court, authorities continue to disregard these decisions, leading to the persistent use of Law No. 5651. Platforms like **Wattpad**, **Roblox**, **iheart.com**, and the **National Film Board of Canada** remain blocked, along with critical international news outlets like **Voice of America** and **Deutsche Welle** since June 2022 under Law No. 6112.²⁹ This **systemic failure** to uphold the rule of law and protect freedom of expression highlights the urgent need for reform.
31. The widespread use of access blocking and content removal measures in Türkiye clearly violates both the Turkish Constitution and the ICCPR. As stated in General Comment No. 34 on Article 19 of the ICCPR, restrictions on websites or other online platforms are only permissible if they are content-specific and compatible with paragraph 3.³⁰ Broad, generic bans, particularly those based on government criticism, do not meet these standards and directly contravene international law.³¹
32. In conclusion, Türkiye's current Internet content regulation, including the access blocking and content removal provisions of Law No. 5651 and related measures under the Radio and Television Law, **fails to meet the requirements of Article 19(3)** of the ICCPR. The Turkish Government must urgently reform its laws and practices to ensure that restrictions on Internet content are precise, proportionate, and serve legitimate aims, rather than silencing dissent.

VII. İFÖD's Recommendations to the Human Rights Council

1. **Call for Compliance with Article 19 of the ICCPR:** The Human Rights Council should urge Türkiye to immediately review and amend Law No. 5651 and other related laws to ensure full compliance with Article 19 of the ICCPR, particularly by limiting access blocking and content removal to narrowly defined, content-specific cases.
2. **Establish Transparent Oversight Mechanisms:** The Human Rights Council should recommend the establishment of transparent and independent oversight mechanisms to review access blocking decisions made under Law No. 5651, ensuring that such measures are subject to judicial scrutiny and periodic review.
3. **Ensure All Blocking and Removal Decisions are Subject to Adversarial Judicial Review:** İFÖD recommends that the Turkish authorities refrain from issuing administrative or judicial blocking and removal decisions which are not subject to adversarial judicial review. Any such decision must include the right of all affected parties to present their case and challenge the grounds of the decision. This process is crucial to ensure procedural fairness and preventing arbitrary interference with freedom of expression. Without adversarial review, there is a significant risk of abuse and disproportionate restrictions on Internet content, violating both domestic legal standards and Türkiye's obligations under international law.
4. **End Generic and Overbroad Bans:** The Human Rights Council should recommend that Türkiye cease the use of broad, generic bans on entire platforms, websites, or services and ensure that any restrictions on content are based on clearly defined legal grounds and do not disproportionately affect freedom of expression.
5. **Ensure Implementation of Constitutional Court Decisions:** The Human Rights Council should emphasize the need for Türkiye to enforce Constitutional Court rulings on violations related to access blocking and content removal. Public authorities and judges should be held accountable for ignoring or failing to implement these decisions.

6. **Promote Access to International News and Information Platforms:** The Human Rights Council should urge Türkiye to lift restrictions on international news websites like **Voice of America** and **Deutsche Welle**, ensuring that access to independent journalism is not restricted for political reasons. Blocking such platforms undermines democratic society and violates Türkiye's constitutional protections and ICCPR obligations. The Council should stress that no news or information platform should be blocked solely for criticizing the government, and the Turkish government must guarantee public access to all news platforms, including foreign sources.
7. **Restore Access to Social Media and Information-Sharing Platforms:** The Human Rights Council should recommend that Türkiye restore access to platforms like **Roblox**, **Wattpad**, **iheart.com** and the **National Film Board of Canada** which have been blocked without clear or proportionate legal justification. These platforms are essential for social interaction, creative expression, and education, and their blocking not only infringes on freedom of expression but also stifles innovation and cultural exchange. The Turkish government should be urged to avoid broad, unjustified restrictions on social media and ensure that any future actions align with the principles of legality, necessity, and proportionality under Article 19(3) of the ICCPR.

Endnotes

- ¹ The Association has published six annual reports so far. See EngelliWeb 2018: An Assessment Report on Blocked Websites, News Articles and Social Media Content from Türkiye, June 2019, at https://ifade.org.tr/reports/EngelliWeb_2018_Eng.pdf; EngelliWeb 2019: An Iceberg of Unseen Internet Censorship in Türkiye, July 2020, at https://ifade.org.tr/reports/EngelliWeb_2019_Eng.pdf; EngelliWeb 2020: Fahrenheit 5651: The Scorching Effect of Censorship, August 2021, at https://ifade.org.tr/reports/EngelliWeb_2020_Eng.pdf; EngelliWeb 2021: The Year of the Offended Reputation, Honour and Dignity of High-Level Public Personalities, October, 2022, at https://ifade.org.tr/reports/EngelliWeb_2021_Eng.pdf; EngelliWeb 2022: The Constitutional Court in The Shadow of Criminal Judgeships of Peace, November 2023, at https://ifade.org.tr/reports/EngelliWeb_2022_Eng.pdf and EngelliWeb 2023: Symbol of Injustice in Türkiye: Criminal Judgeships of Peace & Internet Censorship, September 2024, Turkish version at https://ifade.org.tr/reports/EngelliWeb_2023.pdf
- ² Y. 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, İFÖD, May, 2023, at https://ifade.org.tr/reports/UnutulmamaHakki_2021_Eng.pdf; Y. Akdeniz, The Right to Remember: The Impact of Internet Censorship on Social Memory, İFÖD, June 2024, at https://ifade.org.tr/reports/HatirlamaHakki_2024.pdf
- ³ *Cengiz and Others v. Turkey*, nos. 48226/10 and 14027/11, 01.12.2015.
- ⁴ Yaman Akdeniz and Others, Application No: 2014/3986, 02.04.2014; YouTube LLC Corporation Company and Others (Plenary), Application No: 2014/4705, 29.05.2014.
- ⁵ Wikimedia Foundation and Others (Plenary), Application No: 2017/22355, 26.12.2019.
- ⁶ US 2020 Country Reports on Human Rights Practices: Turkey, <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/turkey/>
- ⁷ The European Commission Staff Working Document accompanying the 2020 Communication on EU Enlargement Policy, Turkey 2020 Report, SWD(2020) 355 final, 06.10.2020, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/turkey_report_2020.pdf, p 34.
- ⁸ Communication from NGOs (İfade Özgürlüğü Derneği, Human Rights Association, Article 19) (27/01/2021) in the Ahmet Yildirim group of cases v. Turkey (Application No. 3111/10), DH-DD(2021)144, 08.02.2021. See further Akdeniz, Y. & Güven, O., EngelliWeb 2019: An Iceberg of Unseen Internet Censorship in Turkey, İFÖD, August 2020, p.16, at https://ifade.org.tr/reports/EngelliWeb_2019_Eng.pdf.
- ⁹ Third party intervention by the Council of Europe Commissioner for Human Rights, Application no. 25479/19 *Wikimedia Foundation, INC. v. Turkey*, CommDH(2019)28, 18.11.2019, at <https://rm.coe.int/third-party-intervention-before-the-european-court-of-human-rights-app/168098e542>, § 11. See further Ahmet Yildirim group v. Turkey (Application No. 3111/10), Supervision of the execution of the European Court's judgments, 1398th meeting, 9-11 March 2021 (DH), §§ 6-8.
- ¹⁰ EngelliWeb 2023: Symbol of Injustice in Türkiye: Criminal Judgeships of Peace & Internet Censorship, September 2024, Turkish version at https://ifade.org.tr/reports/EngelliWeb_2023.pdf
- ¹¹ See **Annex I**. The table in Annex I is included to show the different legal criteria for blocking and removal, as well as the relevant blocking authority for the four separate provisions (articles 8, 8/A, 9 and 9/A) under Law No. 5651. The below table also clearly shows the date when each measure and the amendments came into force.
- ¹² See the Venice Commission, Opinion on Law No.5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications, No. 805/2015, CDL-AD(2016)011, June 2016, at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)011-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)011-e)
- ¹³ See further Annex I.
- ¹⁴ Constitutional Court Judgment, E. 2015/76., K. 2017/153, 15.11.2017, Official Gazette, 07.02.2018, no. 30325.
- ¹⁵ Constitutional Court Judgment, E. 2020/76., K. 2023/172, 11.10.2023, Official Gazette, 10.01.2024, no. 32425.
- ¹⁶ According to the **Venice Commission**, the “access-blocking” decisions issued under article 8/A are not “precautionary measures” to prevent irreparable damages pending a substantive trial, but are **fully-fledged, independent procedures** through which substantive decisions on “access-blocking” are made. Venice Commission, Opinion on Law No. 5651 (“The Internet Law”), CDL-AD(2016)011, 15.06.2016, § 35.
- ¹⁷ In addition to left-wing news websites like Sendika.org and SiyasiHaber.org, regional news websites that publish articles in both Kurdish and Turkish -crucial for Kurdish politics- have been regularly blocked under article 8/A. These news websites include Yüksekova Güncel, Dicle Haber Ajansı (“DİHA”), Azadiya Welat, Özgür Gündem, Yeni Özgür Politika, Rudaw, RojNews, ANF, Kaypakkaya Haber, Güney doğu’nun Sesi İdil Haber, Kentin Özgün Sesi Bitlis Güncel, Besta Nuce, JINHA, Demokrasi.com, and JinNews.

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- ¹⁸ A total of **1.536 8/A blocking decisions** were issued by the **end of 2023** with access to more than **26.585 Internet addresses** including approximately 2.990 news websites and domain names, more than 775 news articles, more than 3.800 Twitter/X accounts, approximately 5.300 tweets, more than 700 Facebook content and more than 1.950 YouTube videos was blocked pursuant to these decisions. Recently, İFÖD has observed that Instagram, Blogspot, Telegram, Patreon, TikTok, Periscope and Pinterest content have also started to be subject to article 8/A decisions.
- ¹⁹ Constitutional Court Decisions: *BirGün İletişim and Yayıncılık Ticaret A.Ş.* No: 2015/18936, 22.05.2019; *Artı Media GmbH Application*, No: 2019/40078, 14.09.2023; *Ahmet Alphan Sabancı ve diğerleri*, No: 2015/13667, 21.11.2023.
- ²⁰ Çanakkale 1st Criminal Judgeship of Peace, no. 2022/3482, 26.10.2022.
- ²¹ Ankara 10th Criminal Judgeship of Peace, no. 2024/6507, 12.07.2024.
- ²² Adana 6th Criminal Judgeship of Peace, no. 2024/5282, 07.08.2024.
- ²³ High-level public figures, including the President of Türkiye, his family members, several ministers, and other high-ranking politicians, as well as numerous public institutions (such as municipalities and the Parliament), along with entities and companies close to the government, frequently claim through applications to the criminal judgeships of peace that their individual rights, reputation, honour, and dignity had been violated.
- ²⁴ *Keskin Kalem Yayıncılık ve Ticaret A.Ş. and Others*, No: 2018/14884, 27.10.2021. See further *Abdullah Kaya and Others*, No: 2016/1430, 22.11.2023. With this decision, the Court found violations of freedom of expression and right to effective remedy in **503 consolidated applications**. Regardless of the consolidated decision, large number of criminal judgeships of peace ignored the Constitutional Court's judgement and refused to conduct a retrial and fulfil the requirements of the judgement.
- ²⁵ Constitutional Court Decision, E.2020/76, K. 2023/172, 11.10.2023. The annulment decision however will come into force on **10.10.2024** and therefore has been in force since the annulment decision has been published on the Official Gazette on 10.01.2024.
- ²⁶ İFÖD's research has determined that a total of **15.732 news articles** and other content were subjected to sanctions, access was blocked, and, even worse, decisions were made to remove the news and content from publication and press archives in 930 different rulings during 2020-2022.
- ²⁷ Any new legal framework must be shaped in line with a recent decision of the **Grand Chamber of the European Court of Human Rights** in *Hurbain v. Belgium* (GC), no. 57292/16, 04.07.2023.
- ²⁸ See generally Y. Akdeniz & K. Altıparmak, Turkey: freedom of expression in jeopardy: Violations of the rights of authors, publishers and academics under the State of Emergency, English PEN (London), March 2018, at https://www.englishpen.org/wp-content/uploads/2020/07/Turkey_Freedom_of_Expression_in_Jeopardy_ENG.pdf.
- ²⁹ Subject to article 29/A of Law No. 6112 on Radio and Television Establishment and Broadcasting Services.
- ³⁰ See General comment No. 34: Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, 12.09.2011, § 43.
- ³¹ *Ibid.*