

Changes within the Scope of the Internet Law

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The Law Amending ("**Amendment Law**") the Law number 5651 ("**Law Number 5651**") on Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts was published in the Official Gazette on 31 July, 2020. With the Amendment Law, important changes were made to the internet law. It is possible to examine the changes brought under two main headings: changes in social media regulations and changes in the general process.

Regulations on Social Media:

With the Amendment Law, the definition of "social network provider" was introduced for the first time. The social network provider is defined as "*real persons or legal entities that enable users to create, share or view content, information or data such as text, images, sound, location via Internet, for the purpose of social interaction.*" The definition of social network providers has been roughly drafted and the scope will become clearer with further regulations and implementation.

With the Amendment Law, foreign social network providers with more than one million daily accesses from Turkey are obliged to comply with the following requirements. Obligations for the social networks will come into force as of 1 October 2020.

Obligation to Appoint a Representative

Foreign social network providers obliged to appoint at least one representative in Turkey and entitled to notify the Information and Communication Technologies Authority ("**Authority**"), who will be authorized to receive notifications, notices and requests from public authorities and/or private individuals, and to comply with and respond to such notifications, notices and requests. In case the representative is a real person, this person must be a Turkish citizen. Social network providers also provide the representatives contact information on their websites in an easily visible and accessible manner.

Social network providers who do not fulfill their obligations to appoint a representative and inform the Authority, a five-tiered sanction system will be implemented;

- The social network provider who do not fulfill their obligations to appoint a representative and inform the Authority, will be notified by the Authority initially. If they fail to fulfill the obligation within 30 days as of the receipt of the notice, the Authority may apply administrative monetary fine of 10 million Turkish Liras.
- In case the obligation of the administrative fine is still not fulfilled within 30 days as of the notification date, a monetary fine of 30 million Turkish Liras will be imposed.
- In case the obligation is still not fulfilled within 30 days as of the second monetary fine, Authority will prohibit the resident tax-payers to give advertisements to the social network providers. In this regard, providers will be prohibited to execute new contracts and money transfers.
- In case the obligation is still not fulfilled within three months as of the advertisement ban decision, Authority may apply to criminal justice of piece for throttling of the internet traffic bandwidth of social network provider by **50%**.
- In case this obligation is still not fulfilled within 30 days as of the execution of the first bandwidth throttling decision, the Authority may apply to the criminal justice of the peace to request the Internet traffic bandwidth to be narrowed down by **90%**.

If the social network operator complies with the obligation to appoint a representative and notify the Authority, the decisions would become void, only 1/4 of the administrative fines imposed will be charged and the advertising ban will be set aside.

Responding to the Content Removal Requests

Foreign and domestic social network providers are obliged to respond to content removal requests within 48 hours at the latest in accordance with personal rights and right to privacy regulations. In order to fulfill this obligation, social network providers must complete the necessary work within three months as of the effective date of the regulation, 1 October 2020. If social network providers fail to comply with this obligation, an administrative fine of 5 million Turkish Liras might be imposed.

Reporting Obligations

Foreign and domestic social network providers will provide the Authority with reports, which has been reported to them, including statistical and categorical data regarding content removals, execution of access ban decisions and individual requests, in six-month periods. The submission date of the first report is set as June 2021. If social network providers fail to comply with this obligation, an administrative fine of 10 million Turkish Liras might be imposed.

Obligation to Host User Data in Turkey

Foreign and domestic social network providers, to take all necessary measures to host the data of Turkey-based users within Turkey.

24-Hours for Enforcement of the Court Decisions

Social network providers will be held responsible for the damages arising from failure to removing or blocking access to content which is deemed unlawful by a judge or court order, within 24 hours despite the notification to social network providers. Unlike the regulations above, this obligation will be applied to all social network providers regardless of the number of accesses.

Amendments Regarding the General Process

The following regulations came into force as of the publication of the Amendment Law in the Official Gazette:

Notification Process

Administrative monetary fine decisions made within the scope of Law number 5651 may be notified by the Authority via electronic means through information obtained via communication tools, domain name, IP address, and similar resources on the internet pages to the foreign counterparts. Notification is deemed to have been made at the end of the fifth day following the date of notification.

Alternative for Content Removal

With the amendments made to the article 8 regulating catalog crimes and article 9 regulating personality rights as per Amendment Law, the court can prefer to decide on the removal of the partial content constituting a crime if possible, instead of blocking the access.

Protection of Personal Rights

Upon the request of applicants whose personal rights are violated due to the content broadcasted on the Internet, the Amendment Law allows judges to decide not to associate the applicant's name with the internet addresses that subject to the violation. It will also allow search engines will be notified by the Access Providers Union. Therefore,

personal rights will be protected effectively.

Please find the full text of the Amendment Law [here](#). (Only available in Turkish)

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