

## Procedures and Principles on Social Network Providers

*9 Oct 2020*

Law number 5651 ("**Law number 5651**") on Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts has been amended with the Official Gazette numbered 31262 published on 31 July 2020. As a result of the relevant change, the regulation on social network providers is entered into force as of 1 October 2020. Detailed information about these changes can be found in our [article](#) published on MA | Gazette dated 18 August 2020 and numbered 93.

The Information and Communication Technologies Authority ("**Authority**" or "**ICTA**") published the Information and Communication Technologies Board Decision ("**Board Decision**") in the Official Gazette dated 2 October 2020 and determined the obligations of social network providers and the related procedures and principles in detail.

### Provisions Regarding the Representatives

#### Obligations of the Representatives

According to Law number 5651, foreign social network providers are authorized to receive notifications, notices, and requests from public authorities and/or private individuals. They are also obliged to appoint at least one representative in Turkey and entitled to notify the Authority to respond to such notifications, notices, and requests. The abovementioned Board Decision determined that the foreign social network provider's representative in Turkey might also be a legal entity established in Turkey.

According to the Board Decision, ICTA has determined the following obligations of the representative and/or representatives who are required to be appointed pursuant to Law number 5651;

- Fulfilling the notice requirements, notifications or requests to be sent by the Authority, association, judicial or administrative authorities,
- Responding to applications of the individuals within the scope of Law number 5651,
- Reporting,
- Fulfilling the responsibilities arising from the social network provider being a content or hosting provider,
- Fulfilling all kinds of liabilities within the scope of Law number 5651.

#### Obligation to Provide Contact Information and Notify the Authority

The obligation of social network providers, introduced by Law number 5651, to provide the representatives' contact information on websites in an easily visible and accessible manner is extended by the Board Decision. The Authority ruled on social network providers to provide information on the representative or representatives' related e-mail addresses and the notification addresses in Turkey on the related social network providers website. In case of a change in the contact information of the representative or representatives, the information published on the website will be updated.

Social network providers are obliged to notify the Authority regarding the identity, title, and contact information of the representative or representatives that they assign. Furthermore, any change in this information should be apprised to

the Authority within 24 hours at the latest.

## Failure to Fulfill the Obligations

Law number 5651 implemented a five-tiered sanction system for social network providers failing to fulfill their obligations to appoint a representative and inform the Authority. The given sanctions are regulated under the Board Decision in the same way.

### Other Obligations

## Responding to the Content Removal Requests

The obligation of the foreign and domestic social network providers responding to content removal requests within 48 hours at the latest in accordance with personal rights and right to privacy regulations stipulated under Law number 5651 is detailed by the Board Decision. Individuals can file their requests in Turkish and the social network provider should answer those requests in Turkish.

The Authority will examine whether the social network provider has fulfilled the obligation upon the applicant's complaint during the reporting periods by taking into account the following issues:

- Failing to implement the necessary systems to fulfill its obligation,
- Providing negative responses to certain persons or institutions regularly,
- Breaching the deadlines systematically,
- unjustified negative responses to the applications.

The Authority has the power to impose an administrative fine on social network providers who fail to comply with the responding obligations regulated under Law number 5651.

## Reporting Obligation

Reports prepared by social network providers containing statistical and categorical information regarding applications made by individuals will be published on their website by clearing personal data of the individuals. The Authority will determine and notify the procedures regarding the preparation of the reports and their publication on the website and the issues regarding the notification.

## Obligation to Host User Data in Turkey

Foreign and domestic social network providers are obliged to give priority to take necessary measures to host the data of Turkey based users within Turkey regarding the data on essential user information and relating to the matters to be notified by the Authority. Social network providers will inform the Authority regarding the measures taken, including the issues notified by the Authority in each reporting period. However, no penal sanction has been regulated in case of a breach of the said obligation.

### Out of Scope Evaluation

Social network providers with less than one million daily accesses from Turkey may apply to the Authority with the claim to stay out of scope. As a result of the technical evaluation, the Authority confirms whether the social network provider is out of scope. If the Authority will notify the social network provider if it determines more than one million daily access.

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

## Related Practices

- [Privacy and Data Protection](#)
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