

Turkish Constitutional Court: Decision to Completely Block Access to a News Site Violates Freedom of Speech and Freedom of the Press

1 Jun 2020

Turkish Constitutional Court ruled that the applicant's freedom of speech and freedom of the press are violated by the decision to completely block access to the website that the applicant is representative of.

In the present case,

- 118 websites and social media accounts, including the website that the applicant is representative of were decided to be blocked, with Directorate General of Security Affairs of the Prime Ministry's request and Telecommunications Communication Presidency's ("TCP") (closed) letter dated 25 July 2015.
- TCP submitted its decision to block access to Gölbaşı Criminal Court of Peace's approval. TCP reported to the Court this decision was made because *"the contents in question cause a violation of the right to life and the safety of people's lives and property."*
- Gölbaşı Criminal Court of Peace approved TCP's decision to block access on 26 July 2015 for the same reason.
- The applicant's objection to the approval decision was dismissed by the Ankara 6th Criminal Court of Peace on 14 August 2015.
- The rejection was notified on 9 September 2015 and the applicant made an individual application on 9 October 2015.

The Constitutional Court examined the application by referring its previous decisions to that end. The Constitutional Court sets forth that interference with the freedom of speech and freedom of the press can only be legitimate if it complies with the principles of legality, legitimate purpose, and the requirements of the democratic social order. The Constitutional Court has also stated that the method of removing content and/or blocking access in relation to the publications on the internet is an exceptional method to be used in cases where its delay is inconvenient and therefore requires urgent interference.

As a result of the application of the principles to the case, the Constitutional Court has stated that it is only possible to decide on blocking access as a result of a non-contentious case in cases where unlawfulness and interference with public interests are clear enough to be understood at first glance and it is imperative to eliminate the damage quickly. However, the Constitutional Court made the following determinations as a result of its examination:

- Access to a total of 118 internet addresses, including the website subject to the application, has been blocked; however, the issues to be considered in interferences within the scope of the Law have not been evaluated by either the administrative authorities or the first instance courts.

- In order to block access to the website subject to the application, the relationship between the content contained in this address and the reason for its limitation could not be revealed, nor could the existence of a situation that its delay is inconvenient.
- Since access to the said addresses is blocked for a single general reason, it is not included in the decision that which parts of the publications on the website subject to the application will cause a violation of people's right to life and the safety of life and property for what reasons.
- The interference to completely block access to the website subject to the application clearly constitutes a disproportionate interference with freedom of speech and freedom of the press.

In conclusion, the Turkish Constitutional Court decided that the freedom of speech and the freedom of the press were violated since there is no sufficient justification that the restriction on the complete blocking of access to the website subject to the application meets a compulsory social need and is proportionate and therefore complies with the requirements of the democratic social order by administrative and/or judicial authorities and decided to accept the applicant's application.

Please see this [link](#) for the full text of the decision of Turkish Constitutional Court's decision dated 11 March 2020 numbered 2015/16368, published in the Official Gazette dated 2 May 2020 and numbered 31115 (only available in Turkish).