

Turkish Constitutional Court Strikes Out Regulator's Power to Block Foreign-Hosted Websites for Obscene Content

30 Mar 2018

Turkey's Constitutional Court recently annulled a legislative provision which allowed the president of the Turkish Information Technologies and Communications Authority ("**Authority**") to ex officio block foreign-hosted websites based on obscene content. The court ruled that the provision violated the principle of restriction of fundamental rights and freedoms by law, freedom of communication, as well as freedom of expression (Articles 13, 22 and 26 of the Turkish Constitution).

Through a majority decision on 15 November 2017, the Constitutional Court annulled Article 8(4) of Law number 5651 Regulating Internet Broadcasting and Prevention of Crimes Committed by Internet Broadcasting ("**Law**").

The 13th Chamber of the Council of State applied to the Constitutional Court in 2007, seeking to annul Article 8(4) because it violates freedom of communication (Article 22 of the Turkish Constitution).

Article 8(4) allowed the Authority's president to prevent access to websites due to certain crimes specified in the Law. These crimes include encouraging suicide, child pornography, prostitution, obscenity, and crimes against Atatürk. regulated under the same law.

The Constitutional Court reviewed Article 8(4) and ultimately ruled to strike out the provision, effective from 7 February 2019. It noted that Article 8(4) gave authority to prevent access with an undetermined scope and content. Therefore, the Constitutional Court decided that the article, which constitutes a limitation of fundamental rights and freedoms, does not meet the condition of clarity. Therefore, it ruled that Article 8(4) violates the principle of restriction of fundamental rights and freedoms by law, freedom of communication, as well as freedom of expression (Articles 13, 22 and 26 of the Turkish Constitution).

Please see this [link](#) for the full text of the Constitutional Court decision dated 15 November 2017 and numbered 2015/76 E., 2017/153 K. published in Official Gazette number 30325 on 7 February 2018 (only available in Turkish).

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