Flygtningenævnets baggrundsmateriale

Bilagsnr.:	**356**
Land:	Tyrkiet
Kilde:	Freedom House
Titel:	Freedom on the Net 2014
Udgivet:	4. december 2014
Optaget på baggrundsmaterialet:	12. maj 2015

Freedom House

Turkey

	2013	2014
Internet Freedom Status	**Partly Free**	**Partly Free**
Obstacles to Access (0-25)	12	14
Limits on Content (0-35)	18	18
Violations of User Rights (0-40)	19	23
TOTAL* (0-100)	**49**	**55**

* 0=most free, 100=least free

Population:	76.1 million
Internet Penetration 2013:	46 percent
Social Media/ICT Apps Blocked:	Yes
Political/Social Content Blocked:	Yes
Bloggers/ICT Users Arrested:	Yes
Press Freedom 2014 Status:	Not Free

Key Developments: May 2013 – May 2014

- Access to both Twitter and YouTube were blocked prior to local elections held on March 30, 2014. After individual petitions were submitted to the Constitutional Court, it ruled that the bans violated the freedom of expression of all users and the blocking orders were subsequently overturned (see **Limits on Content**).
- Amendments to the controversial Law No. 5651 on regulating the internet were made in February 2014. Among many additions, the changes extend the liability of hosting and access providers, introduce one- to two-year data retention requirements on providers, establish an Association for Access Providers to centrally enforce blocking orders, and allow URL-based blocking of websites for cases involving a violation of personal rights or privacy infringements (see **Limits on Content**).
- Social media platforms were widely used during the Gezi Park protests in May 2013, when mainstream Turkish media failed to report on widespread civil discontent. In the aftermath, at least 30 people were detained and investigated on the basis of their tweets and other online postings (see **Violations of User Rights**).
- Osman Garip was sentenced to over a year in jail for defaming Prime Minister Erdogan on Facebook, while an individual with "Allah" in his Twitter handle was jailed for 15 months for offending religious values. Similarly, two staff members at a popular Turkish website were given lengthy suspended sentences for offending religion, while renowned pianist Fazil Say received a 10-month suspended sentence in a September 2013 retrial related to "offensive" tweets (see **Violations of User Rights**).
- A law passed in April 2014 allows the Turkish intelligence agency (MIT) to request user data from ISPs without the need for a court order, while setting out broad circumstances in which the agency may intercept communications. MIT officials were also given some degree of immunity over their actions (see **Violations of User Rights**).

Introduction

Mass protests, corruption scandals, and local elections contributed to a tumultuous year in Turkey. In each of these three areas, the internet has been a key battleground for control. In June 2013, protestors took to Istanbul's Taksim Gezi Park in a bid to halt construction of a shopping mall on the site. Police responded with brute force, escalating the low level demonstrations into a broader protest against the disproportionate police violence and the government of Prime Minister Recep Tayyip Erdoğan, who in August 2014 was voted president in Turkey's first direct elections for the post.[1] Traditional Turkish media—much of which is owned or controlled by elements close to the ruling Justice and Development Party (AKP)—refused to cover the events, moving most coverage to online channels and social media. This led Erdoğan to label Twitter "the worst menace to society" as part of an overall strategy of demonizing and discrediting social media, one of the few forms of information that is not yet controlled by progovernment individuals. Turkey temporarily blocked Soundcloud, Vimeo, and other social media platforms during the coverage period, and in total, the amount of blocked websites increased by 11,000 to over 40,000 by April 2014.[2]

Social media took the spotlight for a second time in December 2013. Recordings posted to YouTube, purporting to reveal illegally wiretapped conversations between top government officials, including Erdoğan, appeared to implicate many in corruption allegations. Erdoğan dismissed the tapes as distorted and characterized their circulation as part of an attempt by Fethullah Gülen, a U.S.-based exiled preacher, and his followers to take down the government. The leaks led to the dismissal or reshuffling of hundreds of police officers and judges with suspected ties to Gülen, once an ally of Erdoğan's AKP. In February 2014, a judiciary reform law was passed to boost the influence of the Justice Ministry in appointing judges in a clear threat to judicial independence,[3] although elements of that law were later overturned by the Constitutional Court in April.[4]

The role of social media in the "Occupy Gezi" protests and the dissemination of leaked wiretaps led to significant movement on the legal front. Lawmakers passed amendments to Turkey's Law 5651, which regulates the internet, in an attempt to provide a stronger legal basis for the immediate blocking of content that violates privacy—for example, leaked audio recordings—and, in exceptional cases, entire social media platforms. The amended law also placed heavy burdens on intermediaries such as ISPs and cybercafes. Protests in Taksim Square in January 2014 did not halt the passage of the bill, introduced as part of an omnibus package, in February. The law attempted to provide a sound legal basis for the blanket blocking of social media platforms, which escalated one month later.

In advance of local elections on March 30, the government took greater steps to limit the flow of information. Twitter was blocked in its entirety on March 21 for failing to comply with government requests to ban anonymous users that had posted links to alleged corruption leaks. In the ensuing

1 Umut Uras, "Erdogan wins Turkey's presidential election," Al Jazeera, August 11, 2014 http://www.aljazeera.com/news/middleeast/2014/08/erdogan-wins-turkey-presidential-election-2014810172347586150.html.

2 Engelliweb.com is a website that documents information about blocked websites from Turkey. Site accessed April 30, 2013,

3 For more on the HYSK law, see Blaise Misztal and Jessica Michek, "The Separation of Powers in Turkey: Erdogan vs. the Judiciary," Bipartisan Policy Center, April 21, 2014, http://bipartisanpolicy.org/blog/foreignpolicy/2014/04/21/separation-powers-turkey.

4 Tim Arango, "Turkish Court Overturns Part of Law on Judiciary, Loosening Government's Grip," New York Times, April 11, 2014, http://www.nytimes.com/2014/04/12/world/europe/turkish-court.html.

outcry, the discovery and sharing of workarounds by tech-savvy users led to a sharp increase in the number of tweets from Turkey. This spike in activity was short-lived, however, as the regulator took steps to block alternative methods of accessing banned sites. Six days later, YouTube was blocked after the apparent leak of a recording of top national security officials debating the possibility of faking an attack on Turkey in order to justify military intervention in Syria.

The bans on Twitter and YouTube were eventually overturned on April 3 and May 29, respectively, after historic decisions from the Constitutional Court. The Turkish judiciary has served as a crucial check against executive authorities in the fight for internet freedom in the country. Supranationally, citizens have filed five separate applications to the European Court of European Rights (ECtHR) to challenge the government's past blocks. In December 2012, the court ruled in the case of *Ahmet Yildirim v. Turkey*,[5] unanimously finding that the blanket blocking of entire platforms, in this case the hosting service Google Sites, violates freedom of expression provisions in Article 10 of the European Convention of Human Rights.[6] A separate application related to the blocking of Last.fm has yet to be decided, while the ECtHR published the statement of facts for applications related to a case on YouTube on April 16, 2014. The court has asked the Turkish government to comment on the applications by September 20, 2014. Rather than take steps to remedy the country's laws on the internet, the Turkish government has only passed more laws that worsen the rights and freedoms of Turkish users. Turkish lawmakers passed a law in April to allow intelligence agents broad access to stored user data as well as greater scope for intercepting online communications without a court order, while making it more difficult for agents to be held accountable by the courts.

Turkish users also faced increased arrests and legal prosecution for their online activities. Dozens of people were charged with inciting protests or defaming the prime minister over tweets relating to the Gezi Park demonstrations. Osman Garip, a university student, was sentenced to over a year in prison for defaming Erdoğan on Facebook. Several others were ordered to pay fines on similar charges. Poet and pianist Fazil Say, as well as staff at the popular Turkish website Ekşisözlük were handed lengthy suspended sentences for offending religion, while a Twitter user with the word "Allah" in his Twitter handle was sent to jail for 15 months for the same charge. Overall, decisions to punish users or restrict content on disproportionate political, social, or religious grounds continue to imperil Turkish internet freedom.

Obstacles to Access

Despite an increasing penetration rate in the last few years, obstacles to internet access in Turkey remain. Internet penetration stood at 46.25 percent in 2013, up from 34.37 percent in 2008.[7] As of mid-2014, the number of broadband subscribers has reached 37 million, according to Turkey's Information and Communications Authority (BTK), of which 28.4 million were mobile broadband

5 Application no.3111/10.

6 See further "Turkish block on Google site breached Article 10 rights, rules – Strasbourg," at http://ukhumanrightsblog.com/2013/01/16/turkish-block-on-google-site-breached-article-10-rights-rules-strasbourg/.

7 International Telecommunication Union (ITU), "Percentage of individuals using the Internet, fixed (wired) Internet subscriptions, fixed (wired)-broadband subscriptions," 2008 & 2013, accessed July 12, 2014, http://bit.ly/14IIykM.

subscriptions.[8] In total, mobile penetration was at 92.96 percent in 2013 and all mobile phone operators offer third-generation (3G) data connections.[9]

Most users access the internet from workplaces, universities, and internet cafes. Poor infrastructure and a lack of electricity in certain areas, especially in the eastern and southeastern regions, have had a detrimental effect on citizens' ability to connect to the internet, particularly from home. While prices have decreased, they do remain high. Bandwidth capping has become standard practice and a part of the broadband services offered by major providers since 2011. A lack of technical literacy, particularly among older Turks, also inhibits wider internet use.

There are around 150 internet service providers (ISPs) in Turkey, though the majority act as resellers for the partly state-owned company Turk Telecom, whose subsidiary TTNet controls around 78 percent of the broadband market.[10] Turkcell is the leading mobile phone provider, with 48.92 percent of subscribers, followed by Vodafone and Avea.[11] Overall, delays in the liberalization of local telephony continue to undermine competition in the fixed-line and broadband markets. ISPs are required by law to submit an application for an "activity certificate" from the Telecommunications Communication Presidency (TIB), a regulatory body, before they can offer services. Internet cafes are also subject to regulation. Those operating without an activity certificate from a local municipality may face fines of TRY 3,000 to 15,000 (US$ 1,335 to US$ 6,680). Mobile phone service providers are subject to licensing through the BTK.

The Computer Center of Middle East Technical University has been responsible for managing domain names since 1991. The BTK oversees and establishes the domain name operation policy and its bylaws. Unlike in many other countries, individuals in Turkey are not permitted to register and own ".com.tr" and ".org.tr" domain names unless they own a company or civil society organization with the same name as the requested domain. A new set of rules on domain names registration was published in the Official Gazette on November 7, 2010.

The BTK and the TIB, which it oversees, act as the regulators for ICTs and are well staffed and self-financed.[12] However, the fact that board members are government appointees is a potential threat to the BTK's independence, and its decision-making process is not transparent. Nonetheless, there have been no reported instances of certificates or licenses being denied. The TIB also oversees the application of the country's website blocking law and is often criticized by pressure groups for a lack of transparency and its apparent lack of independence from the executive.

8 "Electronic Communications Market in Turkey – Market Data (2014 Q2)," Information and Communication Technologies Authority, http://eng.btk.gov.tr/kutuphane_ve_veribankasi/pazar_verileri/2014_Q2_ECM_MarketData.pdf, accessed November 5, 2014, slide 8.

9 International Telecommunication Union (ITU), "Mobile-cellular telephone subscriptions," 2013, accessed July 12, 2014, http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx#.

10 "Electronic Communications Market in Turkey – Market Data (2014 Q2)," Slide 32. Figures do not include cable internet.

11 "Electronic Communications Market in Turkey – Market Data (2014 Q2)," Slide 38.

12 Information and Communication Technologies Authority, http://www.tk.gov.tr/Eng/english.htm.

Limits on Content

Internet censorship continues to increase steadily in Turkey. Over the past 12 months alone, access to around 11,000 additional websites was blocked.[13] This figure includes numerous sites that were blocked for political or social reasons, such as news outlets or online communities that report on LGBTI issues, ethnic minorities, or events in the southeast of the country, which is home to a decades-long separatist conflict with Kurdish militants. Changes to Turkey's internet law entrusted the TIB with broad discretion to block privacy violations, while failing to establish strong checks and balances. These changes came after the leaking of alleged phone conversations of top government officials on December 17, 2013, and laid the groundwork for the eventual blocking of social media platforms such as Twitter and YouTube. Access to WordPress, DailyMotion, SoundCloud, and video-sharing platform Vimeo was also temporarily blocked over the coverage period. Social media facilitated the dissemination of leaks, and mobilization of massive protests in Istanbul's Taksim Gezi Park and elsewhere.

The blocking and removal of online content is regulated under the "Regulation of Publications on the Internet and Suppression of Crimes Committed by means of Such Publication," referred to as Law No. 5651.[14] The law was initially established to protect children and prevent access to illegal and harmful internet content. This includes material related to child sexual abuse, drug use, the provision of dangerous substances, prostitution, obscenity, gambling, suicide promotion, and crimes against Mustafa Kemal Ataturk, the founding father of modern Turkey.[15] The responsibilities of content providers, hosting companies, public access providers, and ISPs are delineated in Law No. 5651. Domestically-hosted websites with proscribed content can be taken down, while websites based abroad can be blocked and filtered through ISPs. The law, first passed in 2007, has already been found to be in contravention of the European Convention of Human Rights.

Blocking orders are issued by courts as well as the TIB.[16] The procedures surrounding decisions are nontransparent in both cases, creating significant challenges for those seeking to appeal. Judges can issue blocking orders during preliminary investigations as well as during trials. The reasoning behind court decisions is not provided in blocking notices and the relevant rulings are not easily accessible. As a result, it is often difficult for site owners to determine why their site has been blocked and which court has issued the order. The TIB's mandate includes executing judicial blocking orders, but it can also issue administrative orders under its own authority for certain content. Moreover, in some cases it has successfully asked content and hosting providers to remove offending items from their servers, allowing it to avoid issuing a blocking order that would affect an entire website. This occurs despite the fact that intermediaries are not responsible for third party content on their sites.

In December 2011, an administrative court in Ankara rejected an appeal to obtain official blocking statistics under Turkey's freedom of information law. A subsequent appeal to the Council of State,

13 Engelliweb.com is a website that documents information about blocked websites from Turkey. Site accessed April 30, 2013,

14 Law No 5651 was published on the Turkish Official Gazette on 23.05.2007, No. 26030. A copy of the law can be found (in Turkish) at http://www.wipo.int/wipolex/en/details.jsp?id=11035.

15 "Turkey: Internet Freedom, Rights in Sharp Decline," Human Rights Watch, September 2, 2014, http://www.hrw.org/news/2014/09/02/turkey-internet-freedom-rights-sharp-decline.

16 According to TIB statistics from May 2009, the last date these were available, the courts are responsible for 21 percent of blocked websites, while 79 percent are blocked administratively by the TIB. Reporters Without Borders, "Telecom Authority Accused of Concealing Blocked Website Figures," news release, May 19, 2010, http://en.rsf.org/turkey-telecom-authority-accused-of-19-05-2010,37511.html.

the highest administrative court in Turkey, was lodged in January 2012 to obtain the statistics. The Court had not issued a decision as of May 2014.

Currently, access to a number of well-known sites and services is blocked, including Last.fm, Metacafe, the digital library Scribd, and Ktunnel, a popular proxy service that was blocked in late 2013. The courts have indefinitely blocked access to the websites of several alternative news sources that report news on southeastern Turkey and Kurdish issues, such as *Atilim*, *Özgür Gündem*, *Azadiya Welat*, *Keditör*, *Günlük Gazetesi*, and Firat News Agency.

Despite the fact that it is not illegal, sexually-explicit content is often blocked by the authorities under the pretext of protecting minors, including 5Posta, a Turkish-language website which features writings of a sexual nature, and the *Playboy* website. 5Posta is blocked by two different decisions, and an appeal is ongoing.[17] An individual petition was separately lodged with the Constitutional Court by the owner of 5Posta in November 2013. Similarly, two university professors lodged an appeal at the Council of State level against the *Playboy* block in early 2014. Grindr, a mobile application that uses location data to connect gay, bisexual, and bi-curious men, became the first app to be rendered inaccessible from Turkey in August 2013. The Istanbul 14th Criminal Court of Peace blocked the app as a "protection measure." The ban also covers the application's website. Grindr had over 125,000 active monthly users at the time.[18]

In addition to these compulsory blocks, ISPs offer "child" and "family" filtering options under rules established by the BTK in 2011, though the filtering criteria have been criticized as arbitrary and discriminatory.[19] The child filter blocks access to Facebook, YouTube, Yasam Radyo ("Radio Life"), the Armenian minority newspaper *Agos,* and several websites advocating the theory of evolution,[20] while some anti-evolution websites remain accessible.[21] The filtering database is maintained by the government without clear criteria. A "Child and Family Profiles Criteria Working Committee" was introduced to address this in 2012, but was largely made up of BTK members or appointees, and does not appear active.

The BTK tried to mandate filtering for all users in 2011,[22] but withdrew the proposal following a legal challenge.[23] A decision on a separate challenge to the legality of the voluntary filters launched by the Alternatif Bilişim Derneği (Alternative Information Technologies Association) in expected from the Council of State in 2014.

17 Ankara 8th Administrative Court Decision No 2010/3103, dated 18 October 2012; Ankara 6th Criminal Court of Peace Decision No 2011/94 dated 24 January 2011.

18 Rakesh Ramchurn, "Gay hook-up app Grindr fights back against Turkish ban with threat of legal action," The Independent, September 20, 2013, http://www.independent.co.uk/life-style/gadgets-and-tech/gay-hookup-app-grindr-fights-back-against-turkish-ban-with-threat-of-legal-action-8829360.html.

19 "New Internet Filtering System Condemned as Backdoor Censorship," Reporters Without Borders, December 2, 2011, http://en.rsf.org/turquie-new-internet-filtering-system-02-12-2011,41498.html.

20 Dorian Jones, "Turkey Blocks Web Pages Touting Darwin's Evolution Theory," Voice of America, December 23, 2011, http://www.voanews.com/english/news/europe/Turkey-Blocks-Web-Pages-Touting-Darwins-Evolution-Theory-136162663.html.

21 Sara Reardon, "Controversial Turkish Internet Censorship Program Targets Evolution Sites," Science Magazine, December 9, 2011, http://news.sciencemag.org/scienceinsider/2011/12/controversial-turkish-internet-c.html?ref=hp; "Agos'u Biz Değil Sistem Engelledi" [AGOS was filtered through the Ministry of Education filter. See Haber Merkezi], Bianet, January 23, 2012, http://www.bianet.org/bianet/ifade-ozgurlugu/135645-agosu-biz-degil-sistem-engelledi.

22 Decision No. 2011/DK-10/91 of Bilgi Teknolojileri ve İletişim Kurumu, dated February 22, 2011.

23 On September 27, 2011, the Council of State rejected the "stay of execution" request by Bianet referring to the annulment of the February 22, 2011. The case between Bianet and BTK is currently on-going as of early 2012.

Internet access is filtered at primary education institutions and public bodies. The Ministry of Education received public criticism for blocking access to a number of minority news websites in January 2012.[24] In response to a number of parliamentary written questions, the Ministry acknowledged that it uses Fortiguard web filtering software at primary education institutions. In a separate written response to Member of Parliament (MP) Ibrahim Binici dated February 27, 2012, the administrators of the Turkish parliament said that internet access within parliament was filtered and that access to gambling, pornographic, gaming, and terrorist websites is blocked.[25] In December 2012, they rejected claims that access to websites pertaining to the Alevi Islamic minority was among the content blocked.

Rather than addressing Law No. 5651's shortcomings in the wake of public criticism, one of the main legal developments over the past year in Turkey was the passage of amendments which made it more repressive.[26] While the original version of Law No. 5651 included only notice-based liability and takedown provisions for violations of individual rights, the amended version extends this provision to include URL-based blocking orders to be issued by a judge at a Criminal Court of Peace in relation to the objectionable content. In certain circumstances, if deemed necessary a judge may also issue an order to block complete domains such as YouTube or Twitter.

The amendments expanded powers for the TIB. When the privacy of an individual or legal entity may have been violated, they can now apply directly to the TIB, who can issue an order to ISPs to block the content in question. While the TIB does not require a court order to have the content blocked, under the law, the victim of the privacy violation must submit a court petition within 24 hours. The court must then rule on the matter within 48 hours, otherwise the order is suspended and the content is unblocked. If the court decides to block the website, only then can an individual apply to a court to reverse the decision. In cases where no complaint has been received, but content may result in adverse consequences to the privacy of others, the head of the TIB can also act *ex officio* to block at his or her own discretion. Individuals may also dispute this in a court. The amended version of Law No. 5651 also shields TIB staff if they commit crimes during the exercise of their duties. Criminal investigations can only be initiated subject to an authorization from the TIB Director for TIB staff and from the relevant Minister for the TIB Director. This process casts a serious doubt on the functioning and accountability of the TIB.

Under the newly amended law, ISPs are required to set up a new Association for Access Providers, membership of which is compulsory in order to obtain an "activity certificate" to legally operate in the country. ISPs must also comply with blocking orders from the TIB within four hours under a penalty of up to TRY 300,000. Failure to take measures to block all alternative means of accessing the blocked site, such as proxy sites, may result in a fine of up to TRY 50,000 (US$ 22,000).[27]

24 See http://www.tib.gov.tr/tr/tr-duyuru-30-guvenli_internet_hizmeti%E2%80%99nin_1._yili_dolayisiyla_ankara_ve_istanbul%E2%80%99da_etkinlikler_duzenlendi.html.

25 See response to Ibrahim Binici dated 27 February 2012, TBMM response no. A.01.0.K KB.0.10.00.00-120.07(7/3747)-79795-50631.

26 Law No 5651 was published on the Turkish Official Gazette on 23.05.2007, No. 26030. A copy of the law can be found (in Turkish) at http://www.wipo.int/wipolex/en/details.jsp?id=11035.

27 For further information on this section, see, The Representative on Freedom of the Media, "Briefing on Proposed Amendments to Law No. 5651," The Organization for Security and Co-operation in Europe, January 2014, http://www.osce.org/fom/110823?download=true, and "WILMAP: Turkey" The Center for Internet and Society, Stanford Law School, http://cyberlaw.stanford.edu/page/wilmap-turkey, accessed November 6, 2014.

The most criticized and publicized blocks imposed in the past year involved social media platforms. On December 17, 2013, links to unverified audio tapes which appeared to implicate Erdoğan, his son Bilal, and several ministers in high-level corruption, were disseminated on Twitter. The recordings, leaked during a widespread corruption investigation, led some to demand Erdoğan's resignation. An anonymous Twitter account also released hundreds of pages of documents, allegedly from a police investigation into the corruption affair. Erdoğan blamed U.S.-based preacher Fethullah Gülen for ordering illegal wiretaps via his supporters in the police and judiciary, in a plot to bring down the government.[28]

On March 20, 2014, shortly before local elections, Erdoğan vowed to "wipe out" the social network, which he referred to as "Twitter, schmiter!"[29] The next day, the TIB unilaterally issued an order to block the platform, citing Twitter's failure to comply with three court orders and one prosecutor's decision to ban "fake" users that defamed public officials.[30] Twitter challenged one of the blocking decisions in a local court, pointing to its status as a hosting provider and the fact that it does not hold operations within the country puts the company outside of Turkish legal jurisdiction.[31]

Less than a week later, a video posted on YouTube broadcast audio of a conversation which allegedly took place between top security officials in which they discussed mounting a fake attack on Turkey in order to strengthen public support for Turkish military intervention in Syria.[32] Within hours, the entire YouTube platform became inaccessible after the TIB blocked it through a "precautionary administrative measure" based on an order from the Gölbaşı Court of Peace.[33] Ahmet Davutoğlu, Turkish foreign minister at the time, said "the ban on YouTube is a matter of national security."[34] This was not the first time that YouTube or other video-hosting sites have been blocked in the country. YouTube was intermittently blocked between 2007 and 2010 to prevent users from accessing videos critical of Turkey's founding father Mustafa Kemal Ataturk. The Istanbul 10th Criminal Court of Peace separately issued an order to block Vimeo for 24 hours on January 9, 2014.[35] Citizen journalists had been using the site to post videos of countrywide protests.[36]

28 Dasha Afanasieva and Humeyra Pamuk, "Leaked documents purport to reveal Turkish graft allegations," Reuters, March 14, 2014, http://www.reuters.com/article/2014/03/14/us-turkey-corruption-idUSBREA2D0KR20140314.

29 The original phrase was "Twitter, mwitter!" translated by Today's Zaman in "Erdogan's government blocks access to Twitter ahead of local vote," Today's Zaman, March 20, 2014, http://www.todayszaman.com/news-342632-hours-after-erdogans-threat-turkish-govt-restricts-access-to-twitter.html.

30 "Turkey blocks Twitter, after Erdogan vowed 'eradication'," Hurriyet Daily News, March 20, 2014, http://www.hurriyetdailynews.com/turkey-blocks-twitter-after-erdogan-vowed-eradication.aspx?PageID=238&NID=63884&NewsCatID=338.

31 T.R. Istanbul Anadolu 18th Criminal Court of Peace, "Miscellaneous Decision 2014/98, March 27, 2014, translation available at https://g.twimg.com/blog/twitter-translation-turkish-order.pdf, via Vijaya Gadde, "Victory for free expression in Turkish court," Twitter Blog, March 28, 2014, https://blog.twitter.com/2014/victory-for-free-expression-in-turkish-court.

32 Oren Dorell, "Turkey blocks YouTube after audio record leaked," USA Today, March 28, 2014, http://www.usatoday.com/story/news/world/2014/03/27/turkey-blocks-youtube/6958649/.

33 Constanze Letsch and Dominic Rushe, "Turkey blocks YouTube amid 'national security' concerns," The Guardian, March 28, 2014, http://www.theguardian.com/world/2014/mar/27/google-youtube-ban-turkey-erdogan.

34 Oya Armutcu, "Turkish court reinstates YouTube ban," Hurriyet Daily News, April 5, 2014, http://www.hurriyetdailynews.com/turkish-court-reinstates-youtube-ban.aspx?pageID=238&nID=64593&NewsCatID=339.

35 Bianet, "Vimeo Banned in Turkey," 10 January, 2014 at http://www.bianet.org/english/freedom-of-expression/152728-vimeo-banned-in-turkey.

36 "Vimeo blocked in Turkey after amendment to Internet law," Today's Zaman, January 9, 2014, http://www.todayszaman.com/national_vimeo-blocked-in-turkey-after-amendment-to-internet-law_336224.html.

In a momentous step, the Constitutional Court intervened on the side of freedom of expression in both cases. Two law professors, Yaman Akdeniz and Kerem Altiparmak, petitioned the court against the Twitter block, arguing that the TIB order was arbitrary and without legal basis.[37] In April, the court ruled that the order violated the applicants' freedom of expression, safeguarded by Article 26 of the constitution and ordered the TIB to lift its blocking decision. Twitter was unblocked on April 3, after the AKP emerged victorious in the March 30 local elections.[38]

Challenges to the YouTube ban went back and forth in local courts. The Gölbaşı Court of Peace, responsible for the initial ban, changed its ruling in April to ban 15 specific videos instead of the entire site.[39] The higher Gölbaşı Criminal Court of First Instance overturned that decision, ruling that all of YouTube must remain blocked until it removes all "criminal content," and the platform remained inaccessible.[40] On May 29, the General Assembly of the Constitutional Court ruled that the ban was unconstitutional and infringed on applicants' freedom of expression.[41] Access to YouTube was restored on June 3, more than two months after the initial ban.[42]

In addition to widespread filtering, state authorities are proactive in requesting the deletion or removal of content online. According to the BIAnet news website, numerous news sites faced the threat of closure if they did not remove content.[43] In one example, T24 was asked by the TIB to remove a report related to a parliamentary question posed by opposition parliamentarian Umut Oran that referenced corruption allegations related to the sale of Turkuaz Media Group, and implicated Erdoğan, his son, business connections, and other politicians. Oran, Deputy Chairman of the opposition Republican People's Party (CHP), was also asked to remove details of his inquiry from his personal website. A court had ruled in favor of a TIB petition that the article should be removed.[44]

Turkish government officials said Twitter had blocked access to two anonymous accounts and removed over 200 posts, after meeting with them in April 2014.[45] The two accounts had followers of around 400,000 users each and were involved in disseminating the contested audio leaks.[46] In its latest Transparency Report, Twitter indicates that it has received 65 court orders and 121 executive

37 Application No. 2014/3986, decision date 02.04.2014

38 "Erdogan on a roll," The Economist, April 5, 2014, http://www.economist.com/news/europe/21600161-ak-party-wins-convincingly-what-next-erdogan-roll.

39 Semih Idiz, "Erdogan's quixotic battle against social media," Ezgi Akin, trans., Al Monitor, April 11, 2014, http://www.al-monitor.com/pulse/originals/2014/04/erdogan-battles-social-media.html.

40 Umut Uras, "Q&A: Turkey's battle with the internet," Al Jazeera, October 11, 2014, http://www.aljazeera.com/news/middleeast/2014/10/qa-turkey-battle-with-internet-20141010849561794 52.html.

41 Application No. 2014/4705, decision date 29.05.2014

42 "Turkish government complies with court order to unblock YouTube," Deutsche Welle, June 3, 2014, http://www.dw.de/turkish-government-complies-with-court-order-to-unblock-youtube/a-17680122.

43 Erol Önderoğlu, "PM Erdogan Starring in FoE Violations!" BIAnet, May 2, 2014, http://www.bianet.org/english/freedom-of-expression/155424-pm-erdogan-starring-in-foe-violations.

44 "Freedoms, rights grow weaker as censorship knows no boundaries," Today's Zaman, February 2, 2014, http://www.todayszaman.com/national_freedoms-rights-grow-weaker-as-censorship-knows-no-boundaries_338317.html.

45 Seda Sezer, "Turkey Twitter accounts appear blocked after Erdogan court action," Reuters, April 20, 2014, http://in.reuters.com/article/2014/04/20/turkey-twitter-idINKBN0D60AV20140420.

46 Kevin Collier, "Meet the accounts behind Turkey's controversial Twitter ban," The Daily Dot, April 21, 2014, http://www.dailydot.com/politics/turkey-twitter-accounts-banned-erdogan/?utm_content=Meet%20the%20accounts%20behind%20Turkey%27s%20controversial%20Twitter%20ban&utm_medium=syndication&utm_source=Mashable&utm_name=mashable%20syndication.

orders from January 1 to June 30, 2014, and has complied in 30 percent of total cases.[47] In the previous six-month period, Twitter received two requests to remove content from Turkish courts, with no instances of compliance.[48] As of mid-2014, Twitter had refused to comply with Turkish pressure to open up a local office in order to allow "closer coordination" between the two. The move would also have significant tax implications.[49]

Facebook came under fire from members of the Peace and Democracy Party (BDP), Turkey's largest pro-Kurdish political party, for removing several pages related to the group in July and August 2013. The personal fan pages of BDP parliamentarians such as Altan Tan, Sırrı Süreya Önder, Hasip Kaplan, and Leyla Zana were deleted for allegedly violating Facebook's terms of use on praising internationally-recognized terrorist organizations.[50] BDP representatives denied that the pages contained any violent content, instead saying that Facebook had removed the pages for an interview with a BDP parliamentarian in which he called for greater autonomy for "Kurdistan."[51] Facebook also banned pages run by a number of alternative news sources, including *Yüksekova Haber* (Yuksekova News), *Ötekilerin Postası* (The Others' Post), Yeni Özgür Politika (New Free Policy), Kürdi Müzik (Kurdish Music), and other groups related to Kurdish movements during 2013.[52] The BDP said Facebook's censorship policy was harsher than that of the Turkish government, on grounds that Facebook pages run by the ruling AKP include praise of Hamas, which the US and European Union have designated a terrorist organization; and that the government is in talks with the Kurdish Worker's Party (PKK), which is also a designated terrorist organization). Facebook was separately criticized for suspending pages used by antigovernment activists.[53]

Although Google has not made available any of information on government requests to remove content over the past year, Turkish media reports in March indicated that at least three YouTube accounts that had uploaded leaked audio conversations were suspended.[54]

When they were available, social-networking sites were crucial for internet users mobilizing protests during the coverage period. In late May 2013, what started as a relatively small and peaceful protest over a plan to transform Gezi Park into a shopping mall rapidly descended into a series of massive demonstrations against police abuse and a disproportionate use of force from Istanbul to Ankara, Izmir, Adana, and other cities. Turkish mainstream media largely failed to report on the events; instead YouTube, Facebook, and Twitter arose as some of the few outlets for reliable coverage on

47 See "Removal requests," Twitter Transparency Report, Jan 1 – Jun 30, 2014, available at https://transparency.twitter.com/removal-requests/2014/jan-jun.

48 See "Removal requests," Twitter Transparency Report, Jul 1 – Dec 30, 2013, available at https://transparency.twitter.com/removal-requests/2013/jul-dec.

49 Emre Peker, "Twitter to Quickly Implement Turkey Court Orders," Wall Street Journal, April 17, 2014, http://online.wsj.com/articles/SB10001424052702304311204579507283167511354.

50 Hurriyet Daily News, "Kurdish politicians to take action after Facebook admits to banning pages with PKK content," August, 29, 2013 at http://www.hurriyetdailynews.com/kurdish-politicians-to-take-action-after-facebook-admits-to-banning-pages-with-pkk-content.aspx?pageID=238&nID=53465&NewsCatID=339.

51 See DW, "Facebook censorship of pro-Kurdish political party," November 2, 2013, at http://www.dw.de/facebook-censorship-of-pro-kurdish-political-party/a-17199752.

52 Bianet, "Facebook Hypocritical, We Must Form Our Social Network," October 24, 2013 at http://www.bianet.org/english/freedom-of-expression/150803-facebook-hypocritical-we-must-form-our-social-network.

53 Adbusters, "Censored on Facebook," June 5, 2013, https://www.adbusters.org/blogs/censored-facebook.html.

54 Erol Önderoğlu, "Balance of 3 Months: How Many Interventions to the Media with Recordings?" BIAnet, May 6, 2014, http://www.bianet.org/english/freedom-of-expression/155478-balance-of-3-months-how-many-interventions-to-the-media-with-recordings.

the protests, leading Prime Minister Recep Tayyip Erdoğan to describe social media as "the worst menace to society."[55]

Journalists and scholars who are critical of the government faced coordinated harassment on Twitter, often by dozens or even hundreds of users.[56] Reports from Turkish media in September 2013 indicated that the AKP had enlisted some 6,000 volunteers to set the agenda, counter government critics, and drive discussions on important foreign policy issues on social media. The move was seen as a response to the use of social media during the Gezi Park protests, when the far majority of Turkish Twitter users were critical of the government. AKP advisors are quick to instruct followers to retweet progovernment messages or infographics that smear opposition critics. "One has to beat them at their own game," the mayor of Istanbul said in 2013.[57] Some observers have speculated that the government may have hired PR companies or bought tens of thousands of fake followers as a part of the strategy. Turkish newspaper *Radikal* has also reported that the Gülen movement, followers of US-based Sunni Muslim cleric and former AKP ally Fethullah Gülen, have used similar tactics to protest government.[58] Erdoğan himself has complained of a "robot lobby" of bots on social media that churn out antigovernment tweets.

Turkish users increasingly rely on internet-based publications as a primary source of news, and despite the country's restrictive legal environment, the Turkish blogosphere is surprisingly vibrant and diverse. There are a wide range of blogs and websites through which citizens question and criticize Turkish politics and leaders, including issues that are generally viewed as politically sensitive. The majority of civil society groups maintain an online presence.

Despite the large number of websites blocked, circumvention tools are widely available, enabling even inexperienced users to avoid filters and blocking mechanisms. Each time a new order is issued and a popular website is blocked, a large number of articles are published to instruct users on how to access the banned websites. YouTube was the eighth most-accessed site in Turkey in 2010, when it was widely blocked.[59] However, when internet users employed Google's Domain Name System (DNS) service and OpenDNS to evade blocks during the blocking of both Twitter and YouTube in 2014,[60] Google announced that they had received several credible reports and confirmed with their own research that Turkish ISPs had intercepted the hijacked the settings.[61]

55 The Guardian, "Social media and opposition to blame for protests, says Turkish PM," June 3, 2013, at http://www.theguardian.com/world/2013/jun/02/turkish-protesters-control-istanbul-square.

56 Emre Kizilkaya, "AKP's social media wars," Al Monitor, November 15, 2013, http://www.al-monitor.com/pulse/originals/2013/11/akp-social-media-twitter-facebook.html#.

57 Senada Sokollu, "Erdogan to use Twitter as propaganda tool," Deutsche Welle, September 19, 2013, http://www.dw.de/erdogan-to-use-twitter-as-propaganda-tool/a-17101031.

58 Emre Kizilkaya, "Twitter moves to rein in 'robot lobbies' in Turkey," Hurriyet Daily News, March 20, 2014, http://www.hurriyetdailynews.com/twitter-moves-to-rein-in-robot-lobbies-in-turkey.aspx?pageID=238&nID=63826&NewsCatID=339.

59 According to Alexa, a web information company, as of August 26, 2010, http://www.alexa.com/topsites/countries/TR.

60 Emre Peker, Joe Parkinson, and Sam Schechner, "Google, Others Blast Turkey," Wall Street Journal, March 31, 2014, http://online.wsj.com/articles/SB10001424052702303978304579473190997035788.

61 "Google says Turkey intercepting its Web domain," Hurriyet Daily News, April 31, 2014, http://www.hurriyetdailynews.com/google-says-turkey-intercepting-its-web-domain.aspx?pageID=238&nID=64358&NewsCatID=339.

Protestors once again took to the streets on January 18, 2014 to protest against the rushed amendments to Law No. 5651. Hundreds gathered in Istanbul's central Taksim Square for a peaceful rally, only to be dispersed by police using water cannons and teargas.[62]

Violations of User Rights

The passage of restrictive laws, mounting physical assaults on online journalists, and cyberattacks against independent news sites during critical periods contributed to an overall decline in Turkish users' digital rights over the past year. As social media gained more prominence as a tool for activism, legal cases against Facebook and Twitter users has increased. Over the past year, well known personalities were charged with inciting protests, defaming the prime minister, insulting public authorities, or offending religious values for their posts. At the same time, intelligence agents have gained greater surveillance powers, as judicial checks on executive authorities continue to weaken.

The Turkish constitution includes broad protections for freedom of expression. Article 26 states, "everyone has the right to express and disseminate his thought and opinion by speech, in writing or in pictures or through other media, individually or collectively."[63] Turkish law and court judgments are subject to the European Convention on Human Rights and bound by the decisions of the European Court of Human Rights. The constitution also seeks to guarantee the right to privacy, although there are limitations on the use of encryption devices, and surveillance by security agencies is highly prevalent. There are no laws that specifically criminalize online activities like posting one's opinions, downloading information, sending e-mail, or transmitting text messages. Instead, many provisions of the criminal code and other laws, such as the Anti-Terrorism Law, are applicable to both online and offline activity.

Dozens of Twitter users, some with only hundreds of followers, were detained for tweeting "propaganda" or "misleading information" in relation to the June 2013 Gezi protests. At least 29 individuals face up to three years in prison for tweets that called on users to join protests, often by simply providing the location of the protests.[64] Prominent actor Mehmet Ali Alabora was called in for questioning in July 2013 after he tweeted, in the course of the Gezi Park protests, "It is not just Gezi Park, mate. Haven't you understood it yet? Come along."[65] After Prime Minister Erdoğan publically complained about the tweet, Alabora was accused of "inciting an armed rebellion against the government" under Article 313/1 of the penal code, a charge that carries a prison sentence of up

62 ABC News, "Turkish police fire tear gas, rubber bullets in protests against internet control, corruption," January 19, 2014, http://www.abc.net.au/news/2014-01-19/turkish-police-fire-tear-gas2c-rubber-bullets-in-protests-agai/5207210.

63 "The Constitution of the Republic of Turkey," Constitutional Court of the Republic of Turkey, Accessed April 22, 2013, http://www.anayasa.gov.tr/index.php?l=template&id=210&lang=1&c=1.

64 Kevin Collier, "Turkey takes 29 dissidents to trial for protest tweets," The Daily Dot, April 17, 2014, http://www.dailydot.com/politics/turkey-29-twitter-trial/.

65 İhsan Dagi, "Criminalizing the opposition," Today's Zama, July 28, 2013, http://www.todayszaman.com/newsDetail.action;jsessionid=Mr20fkISrg0Z4y+cV2qiaHJ6?newsId=322109&columnistId=0.

to 25 years.[66] In January 2014, the Istanbul Public Prosecutor's Office dismissed allegations against Alabora.[67]

Legal action is also taken against users deemed to have insulted public authorities. In November 2013, Osman Garip, a 24-year-old university student, was sentenced to 1 year and 15 days imprisonment by a Criminal Court of Peace in Konya for defaming the prime minister on Facebook during the Gezi protests.[68] Garip has announced that he will appeal against the decision. Furthermore, the journalist Gökhan Kaya is under investigation for allegedly defaming the police forces for a tweet he posted during the Gezi protests.[69]

Erdoğan has filed hundreds of similar defamation suits in order to silence critics. İhsan Eliaçık, the leading figure of a "Socialist Muslim" movement, faced prosecution for defaming Erdoğan on Twitter. Erdoğan's lawyers filed a petition with a court in Ankara related to 12 tweets in June 2013. In January 2014, Eliaçık was ordered to pay civil damages of TRY 2,000 (US$ 900) related to nine tweets in which he was highly critical of Erdoğan, calling him such things as a "dictator, a corrupt leader, provocateur, liar and arrogant."[70]

A petition was also filed in June 2013 against Hüseyin Aygün, a member of parliament from the opposition CHP, for civil damages of TRY 100,000 (US$ 44,400) related to defamatory tweets.[71] Aygun had called Erdoğan a "terrorist" while tweeting during the Gezi protests.[72] He was later ordered to pay TRY 25,000 to Erdoğan.[73]

In November 2013, Erdoğan sued two LGBTI activists for defamation related to ironic tweets they had posted about the prime minister.[74] The tweets related to a statement by Erdoğan, a Sunni, in which he sought to boost his credentials with the country's Alevi minority by claiming his love of Ali, an imam they revere, made him a "four out of four" Alevi (*dört dörtlük,* a Turkish idiom meaning "perfect" or "through and through").[75] Critics saw this as yet another example of Erdoğan paying

66 Alev Yaman, "Gezi Park Protests: The impact on Freedom of Expression in Turkey," PEN International, available at http://www.pen-international.org/wp-content/uploads/2014/03/PEN-Gezi-Report.pdf.

67 Bianet, "Second Nolle Prosequi to Alabora's Gezi Tweet," 07 January, 2014 at http://www.bianet.org/english/freedom-of-expression/152652-second-nolle-prosequi-to-alabora-s-gezi-tweet

68 Milliyet, "Sosyal medyada Başbakan'a hakaretten 1 yıl hapse mahkum oldu," 15.11.2013, at http://gundem.milliyet.com.tr/sosyal-medyada-basbakan-a/gundem/detay/1792578/default.htm

69 See "Gazeteci Gökhan Kaya'ya Gezi tweeti soruşturması!" October, 23, 2013 http://www.turnusol.biz/public/haber.aspx?id=17459&pid=75&haber=Gazeteci%20G%F6khan%20Kaya%92ya%20Gezi%20tweeti%20soru%FEturmas%FD.

70 "Turkey: PEN International submit joint report to the United Nations," PEN International, June 14, 2014, http://www.pen-international.org/newsitems/turkey-pen-international-submits-joint-report-to-the-united-nations/?print=print. Full report available at http://www.pen-international.org/wp-content/uploads/2014/07/PEN-International-joint-submission-to-the-UPR-Turkey.pdf.

71 Alev Yaman, "Gezi Park Protests: The impact on Freedom of Expression in Turkey," PEN International, available at http://www.pen-international.org/wp-content/uploads/2014/03/PEN-Gezi-Report.pdf.

72 OdaTV, "Başbakan Erdoğan'a 'terörist' demek suç değil," November 28,.2013, http://www.odatv.com/n.php?n=basbakan-edogana-terorist-demek-suc-degil-2811131200.

73 Elif Akgul, "Victim Erdogan, Suspect FoE," BIAnet, September 11, 2014, http://www.bianet.org/english/freedom-of-expression/158459-victim-erdogan-suspect-foe.

74 Bianet, "PM Files Complaint Over "Queer" Tweet," November, 20, 2013 at http://www.bianet.org/english/gender/151461-pm-files-complaint-over-queer-tweet.

75 In Islam, Ali is the son-in-law of the prophet. See Today's Zaman, "I am a perfect Alevi if Alevism means loving Caliph Ali, Erdogan says," July 18, 2013, http://www.todayszaman.com/news-321159-i-am-a-perfect-alevi-if-alevism-means-loving-caliph-ali-erdogan-says.html.

tribute to an oppressed minority in his rhetoric, while continuing to take actions that oppress them. In this context, Levent Pişkin, an LGBTI activist and District Chair for the People's Democratic Party (HDP), tweeted, "I now expect from the PM the following statement: I'm queer (*ibne*) myself, four out of four, and I'm not about to learn being queer from the likes of you."[76] Hakan Demir, also an LGBTI activist and a blogger, posted a similar tweet.[77] After Demir and Pişkin were charged with criminal libel, the latter subsequently countersued the prime minister for implying that being homosexual is an insult.[78] In May 2014, Pişkin was fined TRY 1,500 (US$ 660) for defamation in a sentence that the court said was equivalent of two and a half months in jail.[79]

Users also face arrest and prison terms for online posts that are deemed to insult or offend religious values. One of the cases that received the most media attention in recent years relates to the composer and pianist Fazil Say. In June 2012, Say was charged with offending Muslims over posts he made on Twitter, including an April 2012 tweet in which he joked about a call to prayer lasting only 22 seconds and for retweeting several lines attributed to the poet Omar Khayyam. Say was charged in June 2012 with inciting hatred and public enmity, as well as insulting "religious values" under Section 216(3) of the criminal code.[80] He received a suspended sentence of 10 months in prison, meaning that his sentence will not come into force unless he commits another offense within five years.[81] However, subsequent to an appeal by his lawyers to annul the sentence, a retrial was ordered in April 2013.[82] At the retrial, the 19th Istanbul Criminal Court of Peace once again handed Say a 10-month suspended sentence in September 2013 for insulting religious values on Twitter.[83] He must also remain under court supervision.

In another case related to blasphemy, Turkish-Armenian linguist and former columnist Sevan Nişanyan was sentenced to 13 months imprisonment in April 2013 for "publicly insulting the religious values of part of the population." The allegations related to a blog entry he authored in 2012 about the "Innocence of Muslims" video which sparked protests across the Arab world.[84]

76 LGBTI News Turkey, "We know faggotry very well!" November 21, 2013, http://lgbtinewsturkey.com/2013/11/22/levent-piskin-we-know-faggotry-very-well/.

77 LGBTI News Turkey, "Prime Minister Files Criminal Complaint for "Fag" Tweet," November 21, 2013, http://lgbtinewsturkey.com/2013/11/21/prime-minister-erdogan-makes-criminal-complaint-for-levent-piskins-fag-tweet/.

78 Bianet, "PM Countersued in "Queer" Case," 06 January 2014 at http://www.bianet.org/english/freedom-of-expression/152628-pm-countersued-in-queer-case.

79 Çiçek Tahaoğlu, "'Fag' Tweet Fined," BIAnet, May 23, 2014, http://www.bianet.org/english/gender/155927-fag-tweet-fined.

80 The Guardian, Turkish pianist Fazil Say on trial for 'insulting Islam' on Twitter, October 18, 2012 at http://www.guardian.co.uk/world/2012/oct/18/turkish-pianist-fazil-say-islam.

81 Sebnem Arsu, "Pianist's Post on Twitter Spur Penalty From Turkey," New York Times, April 5, 2013, http://www.nytimes.com/2013/04/16/world/middleeast/turkish-pianist-sentenced-for-twitter-postings.html?_r=0.

82 Hürriyet Daily News, "Turkish pianist Fazıl Say to be retried on blasphemy charges," April 26, 2013, at http://www.hurriyetdailynews.com/turkish-pianist-fazil-say-to-be-retried-on-blasphemy-charges.aspx?pageID=238&nID=45718&NewsCatID=341.

83 Hurriyet, "Turkish pianist Fazıl Say sentenced to 10 months in prison for blasphemy in retrial," September 20, 2013 at http://www.hurriyetdailynews.com/turkish-pianist-fazil-say-sentenced-to-10-months-in-prison-for-blasphemy-in-retrial.aspx?PageID=238&NID=54824&NewsCatID=341.

84 See "Living by the 'de jure' sword," Hurriyet Daily News, May 24, 2013 at http://www.hurriyetdailynews.com/living-by-the-de-jure-sword.aspx?pageID=238&nID=47499&NewsCatID=398 See further Sevan Nisanyan: Turkish-Armenian blogger jailed for blasphemy, http://www.globalpost.com/dispatch/news/regions/europe/turkey/130523/sevan-nisanyan-turkish-armenian-blogger-jailed-blasphemy.

Nişanyan, currently imprisoned for another unrelated crime, launched an ongoing appeal against the sentence.[85]

On May 29, 2014, a user with "Allah" in his Twitter handle was sentenced to 15 months in prison for offending religious values.[86] The holder of the account, was accused of "writing harmful content" by pretending to write in the voice of God, at times to criticize Turkish officials.[87] The user said that his account had been hacked.

In August 2013, the Public Prosecutor's Office in Istanbul charged Sedat Kapanoglu and 40 other users with publicly degrading religious values due to their posts on Ekşisözlük ("Sour Dictionary"), a popular social media website in Turkey. Kapanoglu is the owner of the social media platform which features posts on Muslim, Christian, and religious topics, among others. In May 2014, Kapanoglu and Özgür Kuru received suspended sentences of 10 and 7.5 months, respectively. The other 38 defendants had their cases suspended.[88]

Several court cases in recent years have illuminated how other laws are being used to prosecute online activity. For example, in October 2011, the Anti-Terrorism Law was used to prosecute journalist Recep Okuyucu for allegedly advocating terrorist propaganda by downloading Kurdish music files and accessing the blocked Kurdish Firat News Agency website.[89] A Diyarbakir court found him not guilty. More recently, Adana High Criminal Court No. 8 sentenced Metin Öztürk to nine years and seven months' imprisonment for sharing terrorist propaganda through Facebook in January 2013.[90]

Ten people, including three university students, were arrested in relation to a hacking collective called Redhack which infiltrated government websites in 2012. They face terrorism-related charges, including membership in a terrorist organization.[91] All denied association with Redhack, stating they do not possess the technical knowledge required to hack into government servers. Redhack says the accused individuals have no ties with the group. Indeed, speaking through social networks, Redhack stated that the terrorism allegations are simply part of the government's ongoing targeting of its

85 Hurriyet Daily News, "Turkish-Armenian writer to be jailed after losing appeal in illegal construction trial," December 13, 2013 at http://www.hurriyetdailynews.com/turkish-armenian-writer-to-be-jailed-after-losing-appeal-in-illegal-construction-trial.aspx?PageID=238&NID=59563&NewsCatID=339.

86 "User gets prison sentence for using 'Allah CC' nickname on Twitter," Hurriyet Daily News, May 29, 2014, http://www.hurriyetdailynews.com/user-gets-prison-sentence-for-using-allah-cc-nickname-on-twitter.aspx?pageID=238&nID=67148&NewsCatID=341.

87 Colin Daileda, "Twitter User Jailed For Using 'Allah' in His Handle," Mashable, May 29, 2014, http://mashable.com/2014/05/29/twitter-turkey-jailed-religion/.

88 "Court sentences founder of popular online forum for blasphemy," Hurriyet Daily News, May 15, 2014, http://www.hurriyetdailynews.com/court-sentences-founder-of-popular-online-forum-for-blasphemy.aspx?pageID=238&nID=66544&NewsCatID=339.

89 "Court Acquits Journalist Who Interviewed Kurdish Separatist," Reporters Without Borders, December 29, 2011, http://en.rsf.org/turkey-journalists-under-pressure-as-26-10-2011,41282.html.

90 See http://www.evrensel.net/news.php?id=45658.

91 See http://english.alarabiya.net/articles/2012/11/26/251896.html.

domestic opponents.[92] Another 14 people were detailed in November 2013, including actor Barış Atay, on accusations of links to Redhack, but released by an Ankara court after a week.[93]

The constitution states that "secrecy of communication is fundamental," and users are allowed to post anonymously online. However, the anonymous purchase of mobile phones is not allowed and buyers need to provide official identification. Turkey has yet to adopt a data protection law, though the September 2010 amendments to the Turkish Constitution included data protection provisions. It is expected that a draft data protection bill will reach the parliament during 2014. In 2011, the use of encryption hardware and software became subjected to regulations introduced by the BTK. Suppliers are now required to provide encryption keys to state authorities before they can offer their products or services to individuals or companies within Turkey. Failure to comply can result in administrative fines and, in cases related to national security, prison sentences.

The constitution specifies that any action that could potentially interfere with freedom of communication or the right to privacy must be authorized by the judiciary. For example, judicial permission is required for technical surveillance under the Penal Procedural Law. Despite constitutional guarantees, most forms of telecommunication continue to be tapped and intercepted.[94] Between 2008 and 2009, several surveillance scandals received widespread media attention, and it is suspected that all communications are subject to interception by various law enforcement and security agencies, including the Gendarmerie (military police). Some reports indicate that every day, up to 50,000 phones—both mobile and landlines—are legally tapped, and 150,000 to 200,000 interception requests are made each year. During 2013 and 2014, stories related to the bugging of the prime minister and top officials continued to hit the headlines.

In April 2014, a law was passed that expanded the powers of the National Intelligence Agency (MIT). Law No. 6532 on Amending the Law on State Intelligence Services and the National Intelligence Agency allows intelligence agents unfettered access to communications data with no need for a court order. The law forces public and private bodies to hand over data, documents, and information to the MIT upon request, with failure to do so punishable by prison. In the clause relating to the ability of the MIT to intercept and store private data related to "external intelligence, national defense, terrorism, international crimes, and cybersecurity passing through telecommunication channels", there is no requirement to procure a court order.[95] The law also limits the ability of the judiciary or press to hold the MIT accountable for wrongdoing. Courts must acquire the permission of the head of the agency in order to investigate agents, and journalists or editors who publish leaks on MIT activities via media channels may be imprisoned for three to nine years, a new provision. Some observers have commented that the bid to shield the MIT from judicial investigations was intended to provide legal cover for the agency's ongoing negotiations with the Kurdish Workers'

92 See 'Terrorist organization'? Turkish hackers face quarter-century prison terms, October 10, 2012 at http://rt.com/news/redhack-turkey-terrorism-trial-056/.

93 Hurriyet Daily News, "Turkish actor accused of being RedHack member released by court," November 25, 2013 at http://www.hurriyetdailynews.com/turkish-actor-accused-of-being-redhack-member-released-by-court.aspx?PageID=238&NID=58478&NewsCatID=341

94 For a history of interception of communications, see: Faruk Bildirici, *Gizli Kulaklar Ulkesi* [The Country of Hidden Ears] (Istanbul: Iletisim, 1999); Enis Coskun, *Kuresel Gozalti: Elektronik Gizli Dinleme ve Goruntuleme* [Global Custody: Electronic Interception of Communications and Surveillance] (Ankara: Umit Yayincilik, 2000).

95 "Turkey: Internet Freedom, Rights in Sharp Decline," Human Rights Watch, September 2, 2014, http://www.hrw.org/news/2014/09/02/turkey-internet-freedom-rights-sharp-decline.

Party (PKK), which is officially recognized as a terrorist organization; it also facilitated the crackdown on domestic movements such as the Gülenists.[96]

These surveillance practices have been challenged in court on at least one occasion. In 2008, responding to complaints lodged by the TIB, the Supreme Court of Appeals overruled a lower court's decision to grant both the Gendarmerie and the MIT the authority to view countrywide data traffic retained by service providers.[97] Faced with criticism on the issue, in 2008 the parliament launched a major inquiry into illegal surveillance and interception of communications, though the inquiry concluded in January 2009 without finding any "legal deficiencies" in the interception regime. In January 2013, a new parliamentary commission was set up with a similar goal and, during its initial investigation, revealed that the Gendarmerie had intercepted the communications of 470,102 people subject to 75,478 court orders during the last 10 years.[98]

A Cyber Security Council was established in October 2012 and in June 2013, created a Strategy and Action Plan on Cyber Security (2013-2014). The action plan aims at identifying threats and measures to reduce or eliminate the impact of potential cyber security incidents.[99]

In reaction to the role of social media in the Gezi Park protests, Turkish police and intelligence authorities have stepped up monitoring of social media. In October 2013, it was reported that the Undersecretariat of Public Order and Security (KDGM) met with representatives from the police, intelligence, and the telecommunications directorate to discuss ways to prevent future mass demonstrations without resorting to blacking out 3G networks.[100]

While government surveillance is an issue in Turkey, ISPs are not required to monitor the information that goes through their networks, nor do they have a general obligation to seek out illegal activity. However, with the February 2014 amendments to Law No. 5651, the minimum amount of time that hosting providers must store user data was increased from 6 to 12 months, with the exact amount (up to 24 months) to be established under new bylaws that must be approved by the BTK. This also includes "Mass Use Providers," such as cybercafes and locations that provide Wi-Fi hotspots, who must also log data on their users and abide by blocking orders. All data must be made available to the TIB upon request – and without the need for a court order – under punishment of fines of TRY 10,000 to 100,000 (US$ 4,400 to 44,000).[101]

96 See Sebnem Arsu, "Turkish Leader Signs Bill Expanding Spy Agency's Power," New York Times, April 25, 2014, http://www.nytimes.com/2014/04/26/world/europe/turkish-leader-signs-bill-expanding-spy-agencys-power.html.
Fehim Taştekin, "Is Turkey reverting to a 'muhaberat' state?" Al Monitor, April 17, 2014, http://www.al-monitor.com/pulse/originals/2014/04/erdogan-mit-interference-authoritarian.html#.

97 The court stated that "no institution can be granted such authority across the entire country, viewing all people living in the Republic of Turkey as suspects, regardless of what the purpose of such access might be." See, "Supreme Court of Appeals Overrules Gendarmerie Call Detail Access," Today's Zaman, June 6, 2008, http://www.todayszaman.com/tz-web/news-144038-supreme-court-of-appeals-overrules-gendarmerie-call-detail-access.html.

98 See the Bianet article (in Turkish) at http://www.bianet.org/bianet/insan-haklari/145087-jandarma-10-yilda-470-bin-kisiyi-dinledi.

99 European Commission, Turkey: 2013 Progress Report, COM (2013) 700, Brussels, 16.10.2013 SWD(2013) 417.

100 "Turkish police, intelligence to actively monitor social media after Gezi," Today's Zaman, October 7, 2013, http://www.todayszaman.com/newsDetail.action;jsessionid=235GucqmAc87L7txcRwN6okC?newsId=328412&columnistId=0.

101 For further information on this section, see, The Representative on Freedom of the Media, "Briefing on Proposed Amendments to Law No. 5651," The Organization for Security and Co-operation in Europe, January 2014, http://www.osce.org/fom/110823?download=true, and "WILMAP: Turkey" The Center for Internet and Society, Stanford Law School, http://cyberlaw.stanford.edu/page/wilmap-turkey, accessed November 6, 2014.

Citizen journalists and reporters for online news outlets faced physical attacks in the course of their reporting. According to Reporters Without Borders, two journalists at the news site *Dokuz8Haber* were attacked by police while a reporter with the BIAnet news website was hit by a rubber bullet during the Gezi park protests of June 2013.[102] A reporter for *Sendika* was also injured by rubber bullets in May 2014. That month, several journalists were injured or detained during May Day protests. Deniz Zerin, the publisher of the news site T24, was detained while fleeing teargas on the way to his office in Istanbul. He was not released for three days, like most of the 171 people detained during the demonstrations. Many protestors died during the demonstrations, and there has been no official investigation of police conduct.[103]

Aside from attacks, social media users also face harassment online. Melih Gökçek, the mayor of Ankara and a member of the AKP, tweeted that local BBC journalist Selin Girit was a "traitor" and a "spy", going so far as to create and encourage followers to use the hashtag #ingiltereadınaajanlıkyapmaselingirit ("Don't be a spy in the name of England, Selin Girit"), according to the Committee to Protect Journalists. Supporters of the journalist created the hashtag #provokatörmelihgökçek ("Melih Gökçek is a provocateur")."[104]

Cyberattacks against the websites of popular news organizations such as *Zaman*, *Today's Zaman*, *Cihan*, *Rotahaber*, *Radikal*, *Sözcü*, and *Taraf* were recorded around the period of the March 30 local elections. *Cihan*, which experienced DDoS (distributed denial-of-service) attacks, speculated that the site was targeted for its reporting on election results in multiple languages. Internet access was suspended at the offices of Turkish-language *Zaman* and English-language *Today's Zaman* for several hours.[105]

In the past, Turkish government sites have been attacked by hacktivist organizations, such as Anonymous.[106] During 2012, the Marxist-Socialist Redhack group infiltrated several government websites and leaked confidential information. The group has over 675,000 followers on Twitter and hacked into the servers of the Ministry of Foreign Affairs, Ministry of Finance, and the Turkish Higher Education Authority, among others, during 2012 and early 2013.[107] At the request of a court order, Twitter made Redhack's Twitter account inaccessible from Turkey subject to its country withhold policy during 2014.

102 "More police attacks on media 12 months after unpunished Gezi violence," Reporters Without Borders, June 4, 2014, http://en.rsf.org/turquie-more-police-attacks-on-media-12-03-06-2014,46381.html.

103 "Turkey: growing and worrying repression of protestors and civil society," FIDH, July 12, 2013, https://www.fidh.org/en/europe/turkey/turkey-growing-and-worrying-repression-of-protesters-and-civil-society-13658.

104 "Turkish mayor harrasses BBC journalist on Twitter," Committee to Protect Journalists, June 24, 2013, http://cpj.org/2013/06/turkey-mayor-harasses-threatens-bbc-journalist-on.php.

105 "Cyber attacks on news websites threaten freedom of press, expression," Today's Zaman, April 1, 2014, http://www.todayszaman.com/national_cyber-attacks-on-news-websites-threaten-freedom-of-press-expression_343604.html.

106 "Anonymous Hacked BTK Database," Bianet, February 15, 2012, http://www.bianet.org/english/world/136178-anonymous-hacked-btk-database.

107 See among others http://redhack.tumblr.com/post/40121086113/press-release-council-of-higher-education-of-turkey and extensive media coverage of Redhack's activities through http://redhack.tumblr.com/archive.