

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	435
Land:	Tyrkiet
Kilde:	Freedom House
Titel:	Freedom on the Net 2017 – Turkey
Udgivet:	14. november 2017
Optaget på baggrundsmaterialet:	11. juni 2018

Turkey

	2016	2017		
Internet Freedom Status	Not Free	Not Free	Population:	79.5 million
Obstacles to Access (0-25)	13	13	Internet Penetration 2016 (ITU):	58.4 percent
Limits on Content (0-35)	21	23	Social Media/ICT Apps Blocked:	Yes
Violations of User Rights (0-40)	27	30	Political/Social Content Blocked:	Yes
TOTAL* (0-100)	61	66	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2017 Status:	Not Free

* 0=most free, 100=least free

Key Developments: June 2016 – May 2017

- After protests erupted over the removal from office of 28 mayors in the Kurdish-majority southeast, authorities restricted internet access for approximately 12 million residents in the region (see **Restrictions on Connectivity**).
- Access to Twitter, Facebook, and YouTube was repeatedly disrupted in the aftermath of terrorist attacks, while Wikipedia was permanently blocked over articles on Turkey's involvement in the Syrian civil war (see **Blocking and Filtering**).
- Turkey accounted for 65 percent of all content that was locally restricted by Twitter during the coverage period, as the government cracked down on independent reporting (see **Content Removal**).
- The hacktivist group RedHack leaked over 57,000 emails from Berat Albayrak, son-in-law of President Recep Tayyip Erdoğan, revealing the extent of a government campaign to manipulate social media and smear prominent opposition figures (see **Media, Diversity, and Content Manipulation and Technical Attacks**).
- The government has implemented an arbitrary and disproportionate purge of state officials, teachers, journalists, and others, dismissing or arresting them for alleged ties to a July 2016 coup attempt based on flimsy circumstantial evidence, including communication apps allegedly found on their phones, attendance at a digital security training in Istanbul, and tweets that criticized the government (see **Prosecutions and Detentions for Online Activities**).

Introduction

Internet freedom sharply declined in Turkey in 2017 due to the repeated suspension of telecommunications networks and social media access, as well as sweeping arrests for political speech online.

During the coverage period, Turkey suffered more than a dozen terrorist attacks, an economic and monetary crisis, and a failed coup on July 15, 2016, in which a rogue faction of the Turkish military attempted to overthrow the government. Internet connections were throttled, and major social media platforms were blocked. Loyalist forces later reestablished internet service, and President Erdoğan addressed the nation through a FaceTime video call made to a television news anchor on CNN Türk, urging citizens to take to the streets in a show of support for the government. Order was eventually restored, but not before some 300 people were killed in clashes between pro- and anticoup forces. Government officials publicly blamed exiled Islamic preacher Fethullah Gülen for instigating the coup. A state of emergency was declared on July 20, allowing the Council of Ministers (cabinet), chaired by President Erdoğan, to issue decrees without parliamentary or judicial oversight.

Since then, the government has implemented a massive purge in which more than 60,000 citizens have been arrested for alleged connections to Gülen or other banned groups, while over 140,000 have been suspended or dismissed from their jobs.¹ In addition, at least 5 news agencies, 62 newspapers, 16 television channels, 19 periodicals, 29 publishing houses, and 24 radio stations have been forcibly closed down by decree.² Despite the ongoing state of emergency, authorities went ahead with a referendum to grant greater power to the president and abolish the office of prime minister.³ The constitutional amendments, which would take effect in 2019, passed with 51.4 percent of the vote in April 2017, though the process was criticized by independent monitors from the Organization for Security and Co-operation in Europe. Erdoğan, who was elected as prime minister in 2003 and then became president in 2014, could theoretically remain in power until 2029 due to a clause that resets term limits.⁴

The government has repeatedly suspended access to Facebook, Twitter, YouTube, and WhatsApp on national security grounds, while Wikipedia has been permanently blocked due to articles related to Turkey's role in the Syrian civil war. Popular services offering virtual private networks (VPNs) and the Tor anonymity network have been blocked to prevent users from accessing censored content. At the same time, ongoing tensions between the Kurdish minority and the central government resulted in the arrest of parliamentarians, mayors, and officials from the pro-Kurdish People's Democratic Party (HDP), which the government accused of ties to the Kurdistan Workers' Party (PKK), a Kurdish militant group that is classified as a terrorist organization by Turkey, the United States, and a number of other governments. A 23-year-old fine arts student was sentenced to more than four years in prison after posting political tweets that were deemed to promote terrorist propaganda and insult the president. The government has used similar charges to detain scores of journalists, political activists, and ordinary citizens for little more than criticizing the ruling Justice and Development Party (AKP), often using their social media posts as evidence in court. Turkish users must also

1 See Turkey Purge at <https://turkeypurge.com/>

2 CHP, "Sarıhan: Gece Yarısı Kararnameleri ile Gelen Karanlık: Bu Bir Kiyimdir! Kiyima Hayır!," February 9, 2017, <https://www.chp.org.tr/Haberler/4/sarihan-gece-yarisi-kararnameleri-ile-gelen-karanlik-bu-bir-kiyimdir-kiyima-hayir-53283.aspx>

3 "Questions and Answers: Turkey's Constitutional Referendum," Human Rights Watch, April 4, 2017, <https://www.hrw.org/news/2017/04/04/questions-and-answers-turkeys-constitutional-referendum>

4 James Masters and Kara Fox, "International monitors deliver scathing verdict on Turkish referendum," CNN, April 18, 2017, <http://www.cnn.com/2017/04/17/europe/turkey-referendum-results-Erdogan/index.html>

contend with intrusive government surveillance and the proven use of sophisticated malware tools by law enforcement agencies. In a country where the government reportedly listed social media as one of the main threats to national security,⁵ internet freedom remains on a starkly negative trajectory.

Obstacles to Access

The most significant obstacle to internet access in Turkey remains the practice of shutting down telecommunications networks during security operations, mainly in the southeastern part of the country. Internet penetration continues to grow, particularly through mobile broadband, as three companies have begun to offer “4.5G” services.

Availability and Ease of Access

Key Access Indicators		
Internet penetration (ITU) ^a	2016	58.4%
	2015	53.7%
	2011	43.1%
Mobile penetration (ITU) ^b	2016	97%
	2015	96%
	2011	89%
Average connection speeds (Akamai) ^c	2017(Q1)	7.6 Mbps
	2016(Q1)	7.2 Mbps

^a International Telecommunication Union, “Percentage of Individuals Using the Internet, 2000-2016,” <http://bit.ly/1cblxxY>.

^b International Telecommunication Union, “Mobile-Cellular Telephone Subscriptions, 2000-2016,” <http://bit.ly/1cblxxY>.

^c Akamai, “State of the Internet - Connectivity Report, Q1 2017,” <https://goo.gl/TQH7L7>.

Internet penetration has continued to increase over the last few years. According to the International Telecommunication Union, it stood at 58.35 percent at the end of 2016, up from 43.07 percent five years earlier.⁶ There were 53.5 million mobile broadband subscribers as of the first quarter of 2017, while the number of fixed broadband subscribers stood at 772,325.⁷ Regular mobile subscriptions reached 75.7 million, representing a penetration rate of over 107 percent.

According to the results of the Turkish Statistical Institute’s Household Usage of Information Technologies Survey, the share of households with internet access has risen to 76 percent.⁸ For individuals aged 16–74, computer usage stood at 95.9 percent, and internet usage was 93.7 percent.

5 The National Security Council allegedly listed social media as one of the main threats to Turkey’s national security, along with protests and civil disobedience; parallel state structures; communication security; cyber security; organizations exploiting religion, such as the Islamic State militant group; and ethnic-based terrorist groups, such as the Kurdistan Workers’ Party (PKK). “National Security Council under Erdoğan updates top secret national security ‘book,’” *Hurriyet Daily News*, April 30, 2015, <http://bit.ly/1UVBcCM>.

6 International Telecommunication Union, “Statistics,” 2016, <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

7 Information and Communication Technologies Authority, “Electronic Communications Market in Turkey – Market Data (2017 Q1),” https://www.btk.gov.tr/File/?path=ROOT%2f1%2fDocuments%2fPages%2fMarket_Data%2f2017_Q1_Eng.pdf.

8 Türkiye İstatistik Kurumu, “Household Usage of Information Technologies Survey of Turkish Statistical Institute, 2015,” [in Turkish] August 18, 2015, accessed October 13, 2016, http://www.tuik.gov.tr/PreTablo.do?alt_id=1028.

Prices remain high in comparison with the minimum wage. Turkey ranked 70th on the global ICT Development Index (IDI) for 2016, one spot down from the previous year.⁹

Restrictions on Connectivity

Restrictions on connectivity are frequent, particularly in the restive southeastern region, where ethnic Kurds form a majority. On September 11, 2016, landline, mobile phone, and internet services were shut down in 10 cities for six hours, affecting some 12 million residents. The shutdown related to the forced removal of 28 Kurdish mayors from their posts.¹⁰ One month later, the government suspended mobile and fixed-line internet service in 11 cities for several days, leaving 6 million citizens offline. Key public services, such as banks and payment mechanisms, were reportedly unavailable. The shutdown coincided with mass protests prompted by the detention of local Kurdish politicians, including the two co-mayors of Diyarbakır, and was apparently intended to delay or inhibit coverage of the police response. Reporters were forced to travel to nearby cities in order to upload and share footage of police beating protesters.¹¹ Shutdowns have often been imposed during military operations in the region. Connectivity is also affected by poor telecommunications infrastructure and electricity blackouts.

Turkey's internet backbone is run by TTNET, a subsidiary of Türk Telekom that is also the largest internet service provider (ISP) in the country. Türk Telekom, which is partly state owned, has 234,176 km of fiber-optic infrastructure, with around half of it serving as backbone infrastructure. Other operators have a combined total of 63,444 km of fiber length.¹²

There are three internet exchange points (IXPs) owned by private companies: IST-IX, established by Terramark in 2009; TNAP, established by seven leading ISPs in 2013; and DEC-IX, a German company that established its operation in Istanbul as "a neutral interconnection and peering point for internet service providers from Turkey, Iran, the Caucasus region and the Middle East."¹³

ICT Market

There were 446 operators providing information and communications technology (ICT) services in the Turkish market in the first quarter of 2017.¹⁴ There are around 359 ISPs, though the majority act as resellers for Türk Telekom. TTNET, founded in 2006 by Türk Telekom, is the dominant player, with a market share of more than 70 percent.¹⁵

Turkcell is the leading mobile phone provider, with 44.1 percent of the market, followed by Vodafone

9 International Telecommunication Union, *ICT Development Index 2016*, <http://www.itu.int/net4/ITU-D/idi/2016/>

10 Bilge Yesil and Efe Kerem Sozeri, "Turkey's Internet Policy after the Coup Attempt," June 28, 2016, http://globalnetpolicy.org/wp-content/uploads/2017/02/Turkey1_v6-1.pdf

11 The 11 cities were Diyarbakır, Mardin, Batman, Siirt, Van, Elazığ, Tunceli, Gaziantep, Şanlıurfa, Kilis and Adıyaman. Turkey Blocks, "New internet shutdown in Turkey's Southeast: 8% of country now offline amidst Diyarbakır unrest," October 27, 2016, <https://turkeyblocks.org/2016/10/27/new-internet-shutdown-turkey-southeast-offline-diyarbakir-unrest/>

12 Information and Communication Technologies Authority, "Electronic Communications Market in Turkey – Market Data (2017 Q1)," https://www.btk.gov.tr/File/?path=ROOT%2f1%2fDocuments%2fPages%2fMarket_Data%2f2017_Q1_Eng.pdf

13 "DEC-IX Istanbul," accessed February 20, 2015, <https://www.de-cix.net/products-services/de-cix-istanbul/>

14 Information and Communication Technologies Authority, "Electronic Communications Market in Turkey – Market Data (2017 Q1)," https://www.btk.gov.tr/File/?path=ROOT%2f1%2fDocuments%2fPages%2fMarket_Data%2f2017_Q1_Eng.pdf

15 Information and Communication Technologies Authority, "Electronic Communications Market in Turkey – Market Data (2016 Q1)," accessed October 10, 2016, slide 34, http://www.btk.gov.tr/File/?path=ROOT%2f1%2fDocuments%2fPages%2fMarket_Data%2f2016-Q1-En.pdf

and Avea (which currently operates under the brand Türk Telekom).¹⁶ An auction of 4G frequency bands was held in August 2015, and by April 2016, all three of these companies had started offering “4.5G” technology to mobile subscribers.¹⁷

Though all legal entities are allowed to operate an ISP, there are some requirements to apply for authorization, pertaining to issues like the company’s legal status, its scope of activity, and its shareholders’ qualifications. Info mal obstacles may also prevent newly founded companies without political ties or economic clout from entering the market. ISPs are required by law to submit an application for an “activity certificate” to the Information and Communication Technologies Authority (BTK) before they can offer services. Internet cafés are subject to regulation as well. Those operating without an activity certificate from a local municipality may face fines of TRY 3,000 to 15,000 (US\$800 to US\$4,000). Mobile phone service providers are subject to licensing through the BTK. Moreover, the BTK has the authority to request written notifications from ISPs. In December 2016, BTK asked all ISPs to submit weekly progress reports on the status of new restrictions on virtual private networks (VPNs).¹⁸

Regulatory Bodies

Policymaking, regulation, and operation functions are separated under the basic laws of the telecommunications sector. The Ministry of Transportation, Maritime Affairs, and Communications is responsible for policymaking, while the BTK is in charge of regulation.¹⁹

The BTK has its own dedicated budget, but its board members are government appointees and its decision-making process is not transparent. Nonetheless, there have been no reported instances of certificates or licenses being denied. After the 2016 coup attempt, the Telecommunication and Communication Presidency (TİB), which implemented the country’s website blocking law, was shut down under an emergency decree. All of its responsibilities were transferred to the BTK.²⁰ The TİB—described by President Erdoğan as “among the places that has all the dirt”—was closed due to suspicions that it was used by Gülenists as a “headquarters for illegal wiretapping.”²¹

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 domain names ending with the country extension .tr, such as .com.tr and .org.tr, unless they own a trademark, company, or civil society organization with the same name as the requested domain.

16 Information and Communication Technologies Authority, “Electronic Communications Market in Turkey – Market Data (2017 Q1),” https://www.btk.gov.tr/File/?path=ROOT%2f1%2fDocuments%2fPages%2fMarket_Data%2f2017_Q1_Eng.pdf

17 Tulay Karadeniz, “Turkey’s 4G tender outstrips predictions with bids for 4.5 billion,” Reuters, August 26, 2015, <http://www.reuters.com/article/2015/08/26/us-turkey-telecoms-idUSKCN0QV1X120150826>

18 Fusun S. Nebil, “BTK’nin VPN Engelleme Israrı Devam Ediyor,” Turk-Internet, December 5, 2016, <http://www.turk-internet.com/portal/yazigoster.php?yaziid=54731>

19 Information and Communication Technologies Authority, “Establishment,” accessed October 11, 2015, <http://bit.ly/1QsTRoE>

20 “Turkey shuts down telecommunication body amid post-coup attempt measures,” *Hurriyet Daily News*, August 15, 2016, <http://www.hurriyetdailynews.com/turkey-shuts-down-telecommunication-body-amid-post-coup-attempt-measures.aspx?pageID=238&nID=102936&NewsCatID=338>

21 “Turkey shuts down telecommunication body amid post-coup attempt measures,” *Hurriyet Daily News*, August 15, 2016, <http://www.hurriyetdailynews.com/turkey-shuts-down-telecommunication-body-amid-post-coup-attempt-measures.aspx?pageID=238&nID=102936&NewsCatID=338>

Limits on Content

Limits on content continued to increase in Turkey over the past year. In response to a series of deadly terrorist attacks and the coup attempt, the government repeatedly blocked or throttled social media platforms as well as instant messaging services in a bid to halt the dissemination of images and other information pertaining to the events. In addition, scores of news sites and Twitter accounts were blocked or removed, particularly those covering the government's conflict with Kurdish militants. Journalists, scholars, and public figures who are critical of the government faced coordinated harassment by progovernment trolls on Twitter.

Blocking and Filtering

Blocking continues to expand steadily in Turkey. Engelliweb, a website that tracked total blocking figures, found that more than 114,000 websites were inaccessible as of November 2016, up from about 40,000 in 2013. More recent figures are unavailable, as the website and its social media accounts have been closed down without explanation. Over 90 percent of websites were blocked due to "obscenity," which includes any site with certain sexual keywords in the domain, resulting in the collateral blocking of several websites related to the LGBT (lesbian, gay, bisexual, and transgender) community.²² Websites are also blocked if they are deemed defamatory to Islam, including websites that promote atheism.²³ However, the most recent uptick in censored content during the coverage period relates to news sites, particularly those whose editorial policies conflict with the populist media narrative of the government.

The BTK and Turkish courts blocked access to at least 17 news sites during the coverage period, including Medyascope, *Yarın Bakış*, *Yeni Hayat Gazetesi*, Can Erzincan TV, *Gazeteport*, *Haberdar*,²⁴ *Karşı Gazete*, dokuz8haber, and the relaunched website of the left-leaning news outlet Jiyan, Jiyan.us.²⁵ A judge closed the pro-Kurdish daily *Ozgur Gundem* and news agency DiHA due to alleged "terrorist organisation propaganda,"²⁶ and the website and social media accounts of İMC TV were blocked after its license was revoked by decree.²⁷ A news website operated by prominent journalist Can Dundar, *Ozguruz.org*, was blocked before it had even published any news.²⁸

Facebook, Twitter, YouTube, and other services were briefly blocked or throttled on multiple occasions during the coverage period:

22 Bilge Yesil and Efe Kerem Sozeri, "Turkey's Internet Policy after the Coup Attempt," June 28, 2016, http://globalnetpolicy.org/wp-content/uploads/2017/02/Turkey1_v6-1.pdf

23 Golbasi Criminal Court of Peace Decision No 2015/191 D.Is, dated February 27 2015; Efe Kerem Sozeri, "Turkey quietly escalating online censorship of atheism," *The Daily Dot*, March 4, 2015, <http://bit.ly/1M9kZpa>

24 "Arrested for 'praising the coup'?", IFEX, July 25, 2016, https://www.ifex.org/turkey/2016/07/25/coup_aftermath/

25 Efe Kerem Sozeri, "Turkey declares war on ISIS, censors Kurdish news instead", 2 August, 2015, <https://medium.com/@efekerem/turkey-declares-war-on-isis-censors-kurdish-news-instead-3f30a9e5264f#.b5hmjmor2>

26 Elif Akgul, "Özgür Gündem Newspaper Shut Down," BIANet, August 16, 2016, <http://bianet.org/english/media/177853-ozgur-gundem-newspaper-shut-down>

27 "Turkey closes 20 TV and radio stations in post-coup clampdown," *The Guardian*, September 30, 2016, <https://www.theguardian.com/world/2016/sep/30/turkey-closes-20-tv-and-radio-stations-post-coup-clampdown>

28 "Ozguruz.org Blocked Before Site Could Publish Any News," BIANet, January 27, 2017, <http://bianet.org/english/media/183060-ozguruz-org-blocked-before-site-could-publish-any-news>

- Facebook and Twitter were throttled for two hours after a terrorist attack on Istanbul Atatürk Airport killed 38 people on June 28, 2016.²⁹
- Twitter, Facebook, and YouTube were blocked between 11 p.m. and 12 a.m. local time on the day of the coup attempt, July 15, 2016. The government subsequently ordered ISPs to lift the ban on social media sites to help spread President Erdoğan's call on citizens to defend the country.³⁰
- On August 20, 2016, a suicide bomber targeted a Kurdish wedding in Gaziantep, killing 57 people and wounding 60 others. After the attack, Turkey's Radio and Television Supreme Council (RTÜK) issued a media ban, resulting in the blocking of Facebook, Twitter, and YouTube for six hours.³¹
- On August 25, 2016, Twitter, Facebook, and YouTube were inaccessible for more than seven hours.³² Observers could not definitively point to one incident to explain the outage.
- Following the arrest of 11 HDP parliamentarians on November 4, 2016, Twitter, Facebook, YouTube, and WhatsApp were throttled. Prime Minister Binali Yıldırım justified the blocking as a "temporary security measure."³³
- On December 19, 2016, Facebook, Twitter, YouTube, and WhatsApp were blocked for over 10 hours following the assassination of Russian ambassador Andrey Karlov.³⁴ Later, a judge ordered the blocking of more than 100 URLs related to the assassination,³⁵ including the news site of the Dutch Broadcast Foundation (NOS).³⁶
- After the release of footage of the immolation of two Turkish soldiers by Islamic State (IS) militants on December 22, 2016, Twitter, Facebook, YouTube,³⁷ and the Turkish social media site Ekşi Sözlük were either blocked or throttled for four days. Officials never confirmed the restrictions, instead stating that the outage was due to a cyberattack.³⁸

29 Efe Kerem Sozeri, "Turkey Blocks News Sites, Twitter, Facebook After Deadly Attack," June 28, 2016, <http://www.vocativ.com/334890/turkey-blocks-news-sites-twitter-facebook-after-deadly-attack/>

30 Julia Carrie Wong, "Social media may have been blocked during Turkey coup attempt," July 15, 2016, <https://www.theguardian.com/world/2016/jul/15/turkey-blocking-social-facebook-twitter-youtube>

31 Turkey Blocks, "Social media blocked in Turkey following Gaziantep blast," August 21, 2016, <https://turkeyblocks.org/2016/08/21/social-media-blocked-turkey-following-gaziantep-blast/>

32 Turkey Blocks, "Social media blocked in Turkey," August 25, 2016, <https://turkeyblocks.org/2016/08/25/social-media-blocked-turkey/>

33 May Bulman, "Facebook, Twitter and Whatsapp blocked in Turkey after arrest of opposition leaders," Independent, November 4, 2016, <http://www.independent.co.uk/news/world/asia/facebook-twitter-whatsapp-turkey-Erdoğan-blocked-opposition-leaders-arrested-a7396831.html>

34 "Turkey blocks access to Facebook, Twitter and WhatsApp following ambassador's assassination," The Telegraph, December 20, 2016, <http://www.telegraph.co.uk/technology/2016/12/20/turkey-blocks-access-facebook-twitter-whatsapp-following-ambassadors/>

35 Ankara First Judgeship of Peace decision dated December 20, 2016, https://www.lumendatabase.org/file_upload/ads/files/4159952/004/159/952/original/Ankara_3_d_Criminal_Judgeship_of_Peace_2016-6929_Misc.-Lumen.pdf

36 Turkey Blocks, "News site of Dutch Broadcast Foundation NOS blocked in Turkey," December 21, 2016, <https://turkeyblocks.org/2016/12/21/nos-dutch-broadcast-foundation-blocked-in-turkey/>

37 Turkey Blocks, "Social media shutdowns in Turkey after ISIS releases soldier video," December 23, 2016, <https://turkeyblocks.org/2016/12/23/social-media-shutdowns-turkey-isis-releases-soldier-video/>

38 Fusun S. Nebil, "Elinin Hamuru ile Siber Saldırı Haberi mi?," Turk-Internet, December 27, 2016, <http://www.turk-internet.com/portal/yazigoster.php?yaziid=54927>

On October 8, 2016, Dropbox, OneDrive, GitHub, Google Drive, and Internet Archive were temporarily blocked after they were used by hackers to host 17 GB of leaked government emails. The documents were obtained by RedHack, a Turkish Marxist-Leninist hacker group, from the private account of Berat Albayrak, the energy minister and President Erdoğan's son-in-law.³⁹ The BTK banned news regarding the leak, and Twitter banned the accounts of RedHack. In a separate incident, Turkey blocked access to WikiLeaks after nearly 300,000 emails from the AKP were indexed on the website.⁴⁰

In November 2016, the BTK order ISPs to ban more than 10 VPN services,⁴¹ as well as the circumvention tool Tor.⁴² In May 2017, Wikipedia was blocked in the country. The ban was approved by Ankara's 1st Criminal Court in order to prevent access to two articles, "Foreign Involvement in the Syrian Civil War" and "State-Sponsored Terrorism," that mentioned the Turkish government's involvement in Syria.⁴³

The blocking and removal of online content (see "Content Removal" below) is regulated under Law No. 5651, whose full name is "Regulation of Publications on the Internet and Suppression of Crimes Committed by Means of Such Publication."⁴⁴ It was initially enacted in 2007 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 Atatürk, the founder of the Republic of Turkey.⁴⁵ 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 has already been found to be in contravention of the European Convention on Human Rights.

In December 2015, the European Court of Human Rights ruled that the blocking of YouTube in 2008 violated Article 10 of the European Convention on Human Rights, specifically the right to freedom of expression. The case was brought to the court by law professors Yaman Akdeniz and Kerem Altıparmak, as well as lawyer Serkan Cengiz.⁴⁶

Law No. 5651 has repeatedly been amended in recent years to broaden the scope for censorship.⁴⁷ A set of amendments enacted in March 2015 authorized cabinet ministers to order the TİB to block

39 Efe Kerem Sozeri, "How hacktivist group RedHack gamed Turkey's censorship regime," October 12, 2016, <https://www.dailydot.com/layer8/redhack-gamed-turkey-censorship/>

40 Kareem Shaheen, "Turkey blocks access to WikiLeaks after Erdoğan party emails go online," The Guardian, July 20, 2016, <https://www.theguardian.com/world/2016/jul/20/turkey-blocks-access-to-wikileaks-after-erdogan-party-emails-go-online>

41 Efe Kerem Sozeri, "Activists fight back against Turkish government's block on Tor and VPNs," November 6, 2016, <https://www.dailydot.com/layer8/turkey-block-tor-vpns-activists/>

42 Lorenzo Franceschi-Bicchieri, "Turkey Doubles Down on Censorship With Block on VPNs, Tor," Vice, November 4, 2016, https://motherboard.vice.com/en_us/article/turkey-doubles-down-on-censorship-with-block-on-vpns-tor

43 Efe Kerem Sozeri, "Inside Turkey's war on Wikipedia," May 9, 2017, <https://www.dailydot.com/layer8/turkey-bans-wikipedia-censorship/>

44 Law No. 5651 was published in the *Official Gazette* on May 23, 2007, in issue No. 26030. A copy of the law can be found (in Turkish) at World Intellectual Property Organization, "Law No. 5651 on Regulating Broadcasting in the Internet and Fighting Against Crimes Committed through Internet Broadcasting," <http://www.wipo.int/wipolex/en/details.jsp?id=11035>; Telekomunikasyon İletişim Başkanlığı (TİB), "Information about the regulations of the content of the Internet," in "Frequently Asked Questions," <http://bit.ly/1PtuhBN>

45 Human Rights Watch, "Turkey: Internet Freedom, Rights in Sharp Decline," September 2, 2014, <http://bit.ly/1r1kJ0F>

46 "Human rights court rules block on YouTube violated freedom of expression," *Today's Zaman*, December 1, 2015, http://www.todayszaman.com/anasayfa_human-rights-court-rules-block-on-youtube-violated-freedom-of-expression_405790.html

47 World Intellectual Property Organization, "Law No.5651 on Regulating Broadcasting in the Internet and Fighting Against Crimes Committed through Internet Broadcasting," May 4, 2007, <http://www.wipo.int/wipolex/en/details.jsp?id=11035>

content when necessary to “defend the right to life, secure property, ensure national security and public order, prevent crime, or protect public health.” The orders are then taken up within four hours by the TİB (now the BTK after the TİB’s closure in 2016), which must also submit the decision to a criminal court within 24 hours. If a judge does not validate the decision within 48 hours, the blocking order must be rescinded.⁴⁸ A similar bill passed in September 2014 had been overturned by the Constitutional Court in October of that year. While the original version of Law No. 5651 included only notice-based liability and takedown provisions for content that violates individual rights, changes passed in February 2014 extended this provision to include URL-based blocking orders to be issued by a criminal court judge. The February 2014 amendments also entrusted the TİB with broad discretion to block content that an individual or other legal claimant perceives as a violation of privacy, while failing to establish strong checks and balances. These changes came after leaks of the alleged phone conversations of top government officials on December 17, 2013, and they laid the groundwork for the eventual blocking of social media platforms.

The February 2014 amendments to Law No. 5651 also shielded TİB staff if they committed crimes during the exercise of their duties. Criminal investigations into TİB staff could only be initiated through an authorization from the TİB director, and investigations into the director could only be initiated by the relevant minister. This process cast serious doubt on the functioning and accountability of the TİB.

ISPs must join an Association for Access Providers in order to obtain an “activity certificate” to legally operate in the country. ISPs must also comply with blocking orders from the BTK within four hours or face a penalty of up to TRY 300,000 (US\$80,000). Failure to take measures to block all alternative means of accessing the targeted site, such as proxy sites, may result in a fine of up to TRY 50,000 (US\$13,000).⁴⁹

The vast majority of blocking orders have been issued by the TİB and its successor the BTK,⁵⁰ rather than by the courts.⁵¹ The procedures surrounding blocking decisions are opaque 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 BTK’s mandate includes executing judicial blocking orders, but it can also issue administrative orders for foreign websites, content involving sexual abuse of children, and obscenity. Moreover, in some cases it successfully asks content and hosting providers to remove offending items from their servers, in order 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. The filtering database is maintained by the government without clear criteria. A “Child

48 “Approved article gives Turkish gov’t power to shut down websites in four hours,” *Hurriyet Daily News*, March 20, 2015, <http://bit.ly/1C3iuA8>

49 For further information on this section, see Representative on Freedom of the Media, “Briefing on Proposed Amendments to Law No. 5651,” Organization for Security and Co-operation in Europe, January 2014, <http://bit.ly/1X3Z4az>; Center for Internet and Society, Stanford Law School, “WILMAP: Turkey,” accessed November 6, 2014, <http://stanford.io/1YcN8EX>

50 Engelli Web, “Kurum Bazında İstatistikler,” accessed February 28, 2016, <http://engelliweb.com/istatistikler/>

51 According to TİB 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 TİB. Reporters Without Borders, “Telecom Authority Accused of Concealing Blocked Website Figures,” May 19, 2010, <http://en.rsf.org/turkey-telecom-authority-accused-of-19-05-2010,37511.html>

and Family Profiles Criteria Working Committee” was introduced to address this problem in 2012, but it was largely made up of BTK members or appointees and does not appear to be active.

In addition to these 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.⁵² The BTK tried to mandate filtering for all users in 2011,⁵³ but withdrew the proposal following a legal challenge.⁵⁴ The child filter obstructs access to Facebook, YouTube, Yasam Radyo (Life Radio), the Armenian minority newspaper *Agos*, and several websites advocating the theory of evolution,⁵⁵ even as some antievolution websites remain accessible.⁵⁶ Internet access is filtered at primary education institutions and public bodies, resulting in the blocking of a number of minority news sites.⁵⁷

Content Removal

In addition to widespread filtering, state authorities are proactive in requesting the deletion or removal of content. Social media platforms comply with administrative decisions and court orders as promptly as possible in order to avoid blocking and, more recently, throttling. Like international social media platforms, popular Turkish websites are subject to content removal orders. Courts issued several orders pertaining to user-generated content websites such as *Eksi Sözlük* (Sour Dictionary), *İnci Sözlük* (Pearl Dictionary), and *İTÜ Sözlük* (Istanbul Technical University Dictionary).

Turkey has consistently ranked among the countries with the highest number of removal requests sent to Twitter. Turkey accounted for 65 percent of all accounts reported to Twitter for the period of June 2016 to May 2017. The company withheld at least some content in 11 percent of the removal requests in the first half of 2017.⁵⁸ It explained, “Whenever possible under Turkish law, Twitter filed legal objections in response to all court orders involving journalists and news outlets.... Disappointingly, none of our objections prevailed.”⁵⁹

According to Facebook’s Government Requests Report for the period of July to December 2016, the company restricted 1,111 pieces of content on orders from both the BTK and Turkish law enforcement agencies, particularly in compliance with Law No. 5651.⁶⁰ Figures from Reddit indicate that it complied with all six requests it received from the Turkish government in 2016, resulting in the blocking of one post and five subreddits for Turkish IP addresses.⁶¹ The requests related to

52 Reporters Without Borders, “New Internet Filtering System Condemned as Backdoor Censorship,” December 2, 2011, <http://bit.ly/1W3FNp7>

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

54 On September 27, 2011, the Council of State rejected the “stay of execution” request by BİAnet referring to the annulment of the February 22, 2011.

55 Dorian Jones, “Turkey Blocks Web Pages Touting Darwin’s Evolution Theory,” Voice of America, December 23, 2011, <http://bit.ly/1Lh9DmR>

56 Sara Reardon, “Controversial Turkish Internet Censorship Program Targets Evolution Sites,” *Science Magazine*, December 9, 2011, <http://bit.ly/1OfytU>

; Haber Merkezi, “Agos’u Biz Değil Sistem Engelledi,” [Agos was filtered through the Ministry of Education filter], *BİAnet*, January 23, 2012, <http://bit.ly/1jzOWr4>

57 “Meclis’te Alevi Sitesine Yanlışlıkla Sansür,” *BİAnet*, December 8, 2014, <http://bit.ly/1FNfbzb>

58 Twitter, “Turkey,” *Transparency Report* <https://transparency.twitter.com/en/removal-requests.html#removal-requests-jan-jun-2017>

59 “Turkey leads in social media censorship: new Twitter transparency report,” Turkey Blocks, March 21, 2017, <https://turkeyblocks.org/2017/03/21/turkey-leads-social-media-censorship-new-twitter-transparency-report/>

60 Facebook, “Turkey,” *Government Requests Report*, July to December 2015, accessed October 15, 2016, <https://govtrequests.facebook.com/country/Turkey/2015-H2/#>

61 “Transparency Report,” Reddit, April 2017, <https://www.reddit.com/wiki/transparency/2016>

content deemed “obscene” under Turkish law. Although Reddit did not reveal the nature of the content, researchers discovered that some of the subreddits related to LGBTI-friendly sections of the website.⁶²

Media, Diversity, and Content Manipulation

Digital media are inhibited by self-censorship, government manipulation, and shutdowns of independent outlets. A steep rise in prosecutions under the charge of defaming the president has also had a chilling effect on social media users. This has been compounded by decrees passed under the state of emergency that have expanded surveillance. Turkish-Armenian relations have become less controversial in recent years, but they remain sensitive, particularly during periods of ethnic tension and violence in the southeast.

Turkish users increasingly rely on internet-based publications as a primary source of news, despite the country’s restrictive legal environment and growing self-censorship. There are a wide range of blogs and websites through which citizens question and criticize Turkish politics and leaders, though many such platforms have been blocked since the attempted coup and the flare-up in hostilities between government forces and Kurdish separatists. The November 2016 blocking of Tor and popular VPN services made it more difficult for users to reach blocked websites.⁶³

In addition, several well-known news outlets have been taken over or shut down by the authorities. The Gülen-linked newspapers *Zaman* and *Today’s Zaman*, as well as Cihan News Agency, were seized on March 4, 2017. New progovernment editorial boards were established by court order.⁶⁴ The online archives of each paper were deleted, as was *Zaman*’s previous Twitter activity.⁶⁵ *Zaman* and some 130 other news companies had been shut down on July 27, 2016, by Decree No. 668, immediately after the government arrested 89 media workers for alleged ties to the Gülen movement.⁶⁶

As of mid-2017, the progovernment newspaper *Sabah* had the most visited news site in the country, followed by *Haber7* and *Ensonhaber*.⁶⁷ New models for citizen journalism and volunteer reporting have recently gained traction; examples include 140journos, dokuz8haber, and *Ötekilerin Postası*, whose editor was arrested in November 2015. Media coverage regarding the Kurdish-populated southeastern region is heavily influenced by the government. Frequent power outages, mobile internet shutdowns, and censorship of prominent local news sites make information gathering even more difficult in that area.

62 “LGBTI sections disappear as Reddit complies with 100% of Turkey censorship orders,” Turkey Blocks, April 4, 2017, <https://turkeyblocks.org/2017/04/04/lgbti-sections-disappear-as-reddit-complies-with-turkey-censorship-orders/>

63 Fusun S. Nebil, “BTK’nin VPN Engelleme Israrı Devam Ediyor,” Turk-Internet, December 5, 2016, <http://www.turk-internet.com/portal/yazigoster.php?yaziid=54731>

64 “Zaman newspaper: Seized Turkish daily ‘now pro-government,’” BBC News, March 6, 2016, <http://www.bbc.com/news/world-europe-35739547>; “Istanbul court to appoint trustees for Zaman, Today’s Zaman editorial board,” Committee to Protect Journalists, March 4, 2016, <https://cpj.org/2016/03/istanbul-court-to-appoint-trustees-for-zaman-today.php>

65 Zaman’s Twitter account has been renamed “@AnalizMerkez.” See to Efe Kerem Sozeri’s statement: <https://twitter.com/efekerem/status/706282702861942784?lang=en> and <https://web.archive.org/web/20160306005700/https://twitter.com/analizmerkez>

66 “Turkey: Media Shut Down, Journalists Detained,” Human Rights Watch, July 28, 2016, <https://www.hrw.org/news/2016/07/28/turkey-media-shut-down-journalists-detained>

67 See “Turkey,” Alexa, accessed October 2017, <https://www.alexa.com/topsites/countries/TR>

Numerous reports have revealed that an “army of trolls,”⁶⁸ numbering around 6,000 individuals, has been enlisted by the ruling AKP to manipulate discussions, drive particular agendas, and combat government critics on social media.⁶⁹ Emails leaked in October 2016 (see “Technical Attacks”) provided insight into a coordinated campaign by President Erdoğan’s inner circle to counter critical narratives and weaken protest movements on social media.⁷⁰ Messages sent to Berat Albayrak discussed the establishment of “a team of professional graphic designers, coders, and former army officials who received training in psychological warfare,” according to a report by the *Daily Dot*. One email proposed exposing the drug habits of celebrities who had supported the 2013 Occupy Gezi movement, resulting in a police raid on the homes of 55 actors, directors, and other celebrities two months later. The images of the celebrities were widely shared by progovernment outlets on social media. Also using social media, an AKP lawmaker rallied an angry mob to physically attack the headquarters of *Hurriyet* in September 2015 after the newspaper criticized President Erdoğan’s security policy.⁷¹

Journalists and scholars who are critical of the government have faced orchestrated harassment on Twitter, often by dozens or even hundreds of users.⁷² Shortly before the November 2015 elections, progovernment trolls circulated allegations that Oy ve Ötesi (Vote and Beyond), the first civic election-monitoring initiative in Turkey, was committing fraud and aiding terrorist organizations. A Twitter account named “Vote and Fraud” with 42,000 followers warned supporters not to get involved with the group. Only a week before the smear campaign, the same account had purported to be a young girl sharing romantic quotes, adding to speculation that “Vote and Fraud” was a fake account created solely for the purposes of trolling.⁷³ Progovernment trolls have also been active amid rapid shifts in relations with foreign governments, such as Russia, which commenced a propaganda campaign against Turkey after Turkish forces shot down a Russian jet near the Syrian border in December 2015. In response, “TrollState Russia” became a trending topic on Twitter in a campaign allegedly orchestrated by Erdoğan’s public communication office.⁷⁴

Digital Activism

Digital activism has played a significant role in the country since the 2013 Occupy Gezi protests, although activism has waned somewhat as a result of the repressive climate after the coup attempt. Ten activists—eight Turkish human rights activists and two foreign trainers—were detained while participating in a digital security workshop at a hotel in Istanbul in July 2017.⁷⁵ The individuals

68 Dion Nissembaum, “Before Turkish Coup, President’s Drive to Stifle Dissent Sowed Unrest,” *The Wall Street Journal*, July 15, 2016, <http://www.wsj.com/articles/before-turkish-coup-presidents-drive-to-stifle-dissent-sowed-unrest-1468632017>

69 “CHP asks if pro-gov’t trolls put on AK Party payroll,” *Cihan*, September 4, 2014, <http://bit.ly/1UWSepJ>

70 Efe Kerem Sozeri, “RedHack leaks reveal the rise of Turkey’s pro-government Twitter trolls,” *The Daily Dot*, September 30, 2016, <http://www.dailydot.com/layer8/redhack-turkey-albayrak-censorship/>

71 Efe Kerem Sozeri, “RedHack leaks reveal the rise of Turkey’s pro-government Twitter trolls,” *The Daily Dot*, September 30, 2016, <http://www.dailydot.com/layer8/redhack-turkey-albayrak-censorship/>

72 Emre Kizilkaya, “AKP’s social media wars,” *Al Monitor*, November 15, 2013, <http://bit.ly/1LhdTCG>

73 Efe Kerem Sozeri, “How pro-government trolls are using a sexy Twitter bot to sway Turkey’s election,” *Daily Dot*, October 31, 2015, <http://www.dailydot.com/politics/turkey-election-twitter-troll-vote-and-beyond-vote-and-fraud/>

74 Efe Kerem Sozeri, “Inside the great troll war between Russia and Turkey,” *Daily Dot*, December 14, 2015, <http://www.dailydot.com/politics/russia-turkey-missile-turkey-troll-war-twitter/>

75 Aria Bendix, “Turkish Police Detain Activists on Suspicion of Terrorist Affiliations” *The Atlantic*, July 6, 2017, <https://www.theatlantic.com/news/archive/2017/07/turkish-police-detain-rights-activists-on-suspicion-of-terrorism/532851/>

included İdil Eser, director of Amnesty International's Turkey branch. As of mid-2017, they were awaiting trial on trumped-up charges of aiding a terrorist group.⁷⁶

Turkey Blocks, an organization that tracks censorship in real time, was granted Index on Censorship's 2017 award for digital activism.⁷⁷ Organizations such as Oy ve Ötesi used social media tools to enlist over 60,000 volunteers to monitor more than 130,000 ballot boxes during the general elections of November 2015.⁷⁸ Operations were scaled back for the 2017 constitutional referendum over fears of legal repercussions for their members.⁷⁹ Oy ve Ötesi later published a report about irregularities affecting around 100,000 ballots.⁸⁰ Dogruluk Payı ("Share of Truth"), Turkey's first and only political fact-checking website, was also a popular source for information during the coverage period.⁸¹

Violations of User Rights

While prison sentences for online speech have been rare, several individuals were sentenced to lengthy terms over the past year for allegedly insulting public officials or spreading terrorist propaganda. Journalists, public figures, and students have been targeted for nonviolent speech that is critical of the government or touches on controversial issues like Kurdish identity. Surveillance remains a key concern, but cybersecurity made headlines over the past year due to a massive leak of a government official's emails.

Legal Environment

The state of emergency, in place since July 20, 2016, weakens parliamentary and constitutional checks on executive decrees issued by President Erdoğan and his cabinet. Decrees have been used to arrest over 50,000 people allegedly linked to the coup attempt, suspend or dismiss over 140,000 individuals from their jobs, block websites, shut down communication networks, and close civil society organizations and news outlets.⁸² Decree No. 671, published on August 15, 2016, amended the Law on Digital Communications to authorize the government to take "any necessary measure" on the grounds of "national security, public order, prevention of crime, protection of public health and public morals, or protection of the rights and freedoms" guaranteed under Article 22 of the

76 Aria Bendix, "Turkish Court Jails Human-Rights Activists," *The Atlantic*, July 18, 2017, <https://www.theatlantic.com/news/archive/2017/07/turkish-court-jails-human-rights-activists/534105/>

77 "Digital Activism 2017," Index on Censorship, April 20, 2017, <https://www.indexoncensorship.org/2017/04/digital-activism-2017/>

78 Oy ve Ötesi Derneği, "Seçim Sonuç Değerlendirmeleri" [in Turkish], news release, June 10, 2015, <http://oyveotesi.org/1-kasim-2015-genel-secimleri/1-kasim-2015-secim-sonuc-degerlendirmeleri/>

79 Laura Pitel, "Turkey referendum monitor: 'It is a very, very different climate and a different environment to the last elections,'" Medium, April 14, 2017, <https://medium.com/@Pitel/turkey-referendum-monitor-it-is-a-very-very-different-climate-and-a-different-environment-to-the-cf5c62ffe1e3>

80 "Vote and Beyond Election Monitoring Organization Releases Report on Referendum," BIA News Desk, April 21, 2017, http://bianet.org/english/human-rights/185785-vote-and-beyond-election-monitoring-organization-releases-report-on-referendum?bia_source=rss

81 Riada Ašimović Akyol, "Will new Turkish fact-checking site be able to hold politicians accountable?," *Al Monitor*, February 3, 2016, <http://www.al-monitor.com/pulse/originals/2016/02/turkey-politics-meet-fact-checking.html#>

82 Patrick Kingsley, "Erdoğan Says He Will Extend His Sweeping Rule Over Turkey," *New York Times*, May 21, 2017, https://www.nytimes.com/2017/05/21/world/europe/turkey-Erdoğan-state-of-emergency.html?_r=0. See also, Turkey Purge, <https://turkeypurge.com/>

constitution. The decree also obliges telecommunications providers to enforce government orders within two hours of receiving them.⁸³

The Turkish constitution includes broad protections for freedom of expression. Article 26 states that “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.”⁸⁴ Turkish legislation 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, though there are limitations on the use of encryption devices, and surveillance by security agencies is believed to be widespread. There are no laws that specifically criminalize online activities like posting one’s opinions, downloading information, sending email, or transmitting text messages. Instead, many provisions of the criminal code and other laws, such as the Anti-Terrorism Law, are applied to both online and offline activities.

Defamation charges have frequently been used to prosecute government critics. According to Article 125 of the Turkish criminal code, “anyone who undermines the honor, dignity or respectability of another person or who attacks a person’s honor by attributing to them a concrete act or a fact, or by means of an insult, shall be sentenced to imprisonment for a term of three months to two years, or punished with a judicial fine” Defaming a public official carries a minimum one-year sentence, while insulting the president entails a sentence of one to four years in prison, according to Article 299. Several courts deemed Article 299 unconstitutional in the first half of 2016 and called for the matter to be taken up by the Constitutional Court.⁸⁵ Cases related to insulting the president have seldom resulted in jail sentences, although some defendants have been jailed while awaiting trial.

According to Article 7 of the Anti-Terrorism Law, “those who make propaganda of a terrorist organization by legitimizing, glorifying or inciting violent methods or threats” are liable to prison terms of one to five years. The law has been widely criticized for its broad definition of terrorism, which has been exploited by courts to prosecute journalists and academics with no link to terrorism for the simple act of criticizing the government.⁸⁶

Prosecutions and Detentions for Online Activities

The past year featured an unprecedented increase in the number of prosecutions and detentions of Turkish citizens for their online activities.

Tens of thousands of Turkish citizens have been arbitrarily detained for their alleged use of the encrypted communications app ByLock. Legal and technical experts have disputed the government’s claim that the app was primarily used by members of the Gülen movement, pointing to its wide availability and popularity in 41 countries. It was once available to download at no cost on the app

83 Efe Kerem Sozeri, “Turkey uses emergency decree to shut down internet on 11 Kurdish cities to ‘prevent protests’,” *The Daily Dot*, October 27, 2016, <https://www.dailydot.com/layer8/turkey-cuts-kurdistan-internet/>

84 The Constitution of the Republic of Turkey, accessed April 22, 2013, https://global.tbmm.gov.tr/docs/constitution_en.pdf

85 “Local court applies to Turkey’s top court to annul article on ‘insulting president’,” *Hurriyet Daily News*, March 30, 2016, <http://www.hurriyetdailynews.com/local-court-applies-to-turkeys-top-court-to-annul-insulting-president-law.aspx?pageID=238&nID=97103&NewsCatID=509>

86 “Why Turkey’s terror law is the ‘Achilles heel’ of the EU-Turkey visa deal,” *France 24*, May 13, 2016, <http://www.france24.com/en/20160513-why-turkeys-terror-law-achilles-heel-eu-turkey-migrant-deal>

stores of Apple and Google, until it was removed by the developer.⁸⁷ Turkish officials claim that the app was designed by a senior member of the Gülen movement. Experts believe that Turkey's National Intelligence Organization (MİT) hacked a ByLock server located in Lithuania, which listed its hundreds of thousands of users in an unencrypted form. Despite a lack of evidence, and the arbitrary nature of the blanket arrests, numerous users have been deemed guilty by association for simply downloading the app. In the month of October 2016 alone, arrest warrants were issued for 404 individuals for allegedly using ByLock, including members of the police and judiciary.⁸⁸

The ByLock controversy has also ensnared members of the human rights community. Taner Kılıç, the Turkey chair of Amnesty International, was detained in June 2017, and the only known evidence in his case was the allegation that he had used ByLock, which he has denied.

One month later, police arrested 10 human rights activists taking part in a digital security training in Istanbul. Turkish citizens İdil Eser, Günel Kurşun, Özlem Dalkıran, Veli Acı, İlknur Üstün, and Nalan Erkem were placed in pretrial detention, as were their trainers, German citizen Peter Steudtner and Swedish citizen Ali Gharavi. Şeyhmus Özbekli and Nejat Taştan were arrested and released on bail. They all face prison sentences of up to 15 years for membership in a terrorist organization.⁸⁹

Arrests and prosecutions for social media posts have increased in recent years, and in some cases, individuals have been imprisoned. Over the past year, hundreds of Twitter users faced charges of insulting government officials, defaming President Erdoğan, or sharing propaganda in support of terrorist organizations.

According to the Committee to Protect Journalists, a total of 81 journalists were imprisoned in Turkey as of December 2016.⁹⁰ Several journalists were charged for their social media activities, including but not limited to the following individuals:

- Journalist Hayri Tunç, who works for the news site Jiyan, was sentenced to two years in prison in June 2016 for "terrorism propaganda," "abetting criminal acts," and "glorifying criminal acts." He was targeted for tweets, Facebook posts, and YouTube videos that mainly covered fighting between the security services and Kurdish militants.⁹¹ He appealed the decision shortly after his sentencing.⁹²
- Ahmet Şık, a leading investigative journalist with the opposition outlet *Cumhuriyet*, was arrested for his social media activity in December 2016. He was accused of "spreading

87 Owen Bowcott, "Turks detained for using encrypted app 'had human rights breached,'" *The Guardian*, September 11, 2017, <https://www.theguardian.com/world/2017/sep/11/turks-detained-encrypted-bylock-messaging-app-human-rights-breached>

88 Umar Farooq, "In Turkey, you can be arrested for having this app on your phone," *LA Times*, October 19, 2016, <http://www.latimes.com/world/europe/la-fg-turkey-purge-crackdown-snap-story.html>

89 "Eyes of the world on Turkey as show trial of human rights activists begins," Amnesty International, October 25, 2017, <https://www.amnesty.org/en/latest/news/2017/10/eyes-of-the-world-on-turkey-as-show-trial-of-human-rights-activists-begins/>

90 "2016 prison census: 259 journalists jailed worldwide," Committee to Protect Journalists, 2017, <https://cpj.org/imprisoned/2016.php>

91 Efe Kerem Sozeri, "Kurdish Reporter Faces Jail Time in Turkey for Twitter and Facebook Posts," *Global Voices*, March 9, 2016, <https://globalvoices.org/2016/03/09/kurdish-reporter-faces-jail-time-in-turkey-for-twitter-and-facebook-posts/>

92 "Gazeteci Hayri Tunç'a 2 yıl hapis cezası," *Birgun*, June 7, 2016, <http://www.birgun.net/haber-detay/gazeteci-hayri-tunc-a-2-yil-hapis-cezasi-115140.html>

terrorist propaganda” and “denigrating the Turkish Republic.”⁹³ He claimed he was denied drinking water for three days while in custody.⁹⁴

- In September 2015, journalist and writer Aytekin Gezici received a combined prison sentence of five years and nine months, in addition to a judicial fine equivalent to 21 months in prison, for “insulting” President Erdoğan, former deputy prime minister Bülent Arınç, and former justice minister Bekir Bozdağ on Twitter.⁹⁵ He was acquitted of similar charges against two other public officials. Gezici had been detained in October 2014 in Adana after a police raid on his home.⁹⁶ Although he was not immediately imprisoned (likely due to an appeal), he was again detained in July 2016 for alleged links to the failed coup.⁹⁷
- Hüsnü Mahalli was arrested in December 2016 on charges of insulting the president and defaming public officials after he criticized Turkish media’s coverage of the Syrian conflict. Mahalli, a journalist and political analyst, was born in Syria but acquired Turkish citizenship in 2011.⁹⁸
- Beatriz Yubero, a Spanish journalist who had been performing research on IS at Ankara University, was taken into custody over tweets she posted about President Erdoğan. She was deported on August 6, 2016.⁹⁹
- Atilla Taş, an eccentric singer and *Meydan* columnist, was arrested in September 2016 on suspicion of membership of a terrorist organization.¹⁰⁰ The evidence used in his case included a tweet in which he stated, “Edison wouldn’t have invented the ‘light bulb’ if he saw these days!” in a reference to the AKP’s “light bulb” logo. He was released in March, only to be detained once again by another judge.¹⁰¹

Authorities have also targeted ordinary citizens and university students for their social media activity. Gizem Yerik, a 23-year-old fine arts student, was sentenced to a combined four years and eight months in prison for allegedly insulting the president and spreading terrorist propaganda on Twitter. Her sentence was confirmed by the Supreme Court of Appeals in May 2017.¹⁰² In April, police arrested Ali Gul, a 22-year-old university student, for sharing a popular video calling on Turkish

93 “Turkish journalist Ahmet Sik held ‘over tweet,’” BBC, December 29, 2016, <http://www.bbc.com/news/world-europe-38457798>

94 “Imprisoned Turkish journalist denied drinking water for three days,” PEN America, January 6, 2017, <https://pen.org/press-release/imprisoned-turkish-journalist-denied-water-for-three-days/>

95 “Gazeteci Aytekin Gezici’ye Erdoğan’a hakareten 6 yıl hapis,” *Birgün*, September 17, 2015, <http://bit.ly/1Lb26UR>

96 “Turkey’s journalists challenged by growing judicial, political pressure,” *Today’s Zaman*, May 28, 2015, <http://bit.ly/1iPzx61>

97 Gündem Haber, “Aytekin Gezici tutuklandı, Yüksel Evsen Adli Kontrolle serbest...,” Ajans Adana, July 25, 2016, <http://ajansadana.com/haber-8406-aytekin-gezici-tutuklandi...yuksel-evsen-adli-kontrolle-serbest...html>

98 Efe Kerem Sozeri, “Turkey ramps up war on free speech with latest arrest of a journalist,” *Daily Dot*, December 16, 2016, <https://www.dailydot.com/layer8/turkey-arrest-husnu-mahalli/>

99 “Spanish journalist ‘deported over tweets,’” *Hurriyet Daily News*, August 8, 2016, <http://www.hurriyetdailynews.com/Default.aspx?pageID=238&nID=102627&NewsCatID=341>

100 “Singer and Columnist Atilla Taş: ‘I was arrested by a judge like you,’” *Washington Hattı*, December 27, 2016, <http://washingtonhatti.com/2017/03/31/singer-and-columnist-atilla-tas-i-was-arrested-by-a-judge-like-you/>

101 Safak Pavey, “Inside Erdoğan’s Prisons,” *New York Times*, July 14, 2017, <https://www.nytimes.com/2017/07/14/opinion/turkey-Erdoğan-prison.html>

102 “Üniversite öğrencisi Gizem Yerik’e hapis cezası,” *HaberTurk*, May 13, 2016, <http://www.haberturk.com/gundem/haber/1238957-universite-ogrencisi-gizem-yerike-hapis-cezasi>

citizens to vote “No” in the constitutional referendum. He received a two-year suspended sentence and was released in May.¹⁰³

President Erdoğan has reportedly filed criminal complaints against more than 250 people for “insulting” him online and more than 2,000 people for “insulting” him by any means from 2014 to 2016.¹⁰⁴ Speaking on July 30, 2016, after the failed coup, Erdoğan announced that he would withdraw all pending insult complaints.¹⁰⁵ Nevertheless, Article 125(3) and Article 299 of the penal code remained in place, and new cases continued to be filed during the co-erage period.

Surveillance, Privacy, and Anonymity

Government surveillance, the bulk retention of user data, and limitations on encryption and anonymity are all concerns in Turkey. Leaked emails revealed a contract between the Italian surveillance software company Hacking Team and the General Directorate of Security (GDS), a civilian police force, for the use of Hacking Team’s “Remote Control System” from June 2011 to November 2014.¹⁰⁶ Under Turkish law, the interception of electronic communications had fallen under the purview of the TİB (now the BTK), and questions remain over the legality of the GDS using software that can infiltrate targets’ computers. The prominence of alleged Gülenists in the police and judiciary had been a major point of discussion in the country in recent years, particularly after Gülenists were widely blamed for leaked wiretaps that led to various government corruption scandals in 2013 and 2014. Further scandals prompted high-level dismissals and reshuffling within the police and judiciary, apparently aimed at removing suspected Gülenist officials.¹⁰⁷ The 2016 coup attempt prompted a new wave of surveillance as part of the broader purge of individuals with alleged links to banned groups. Almost 70,000 social media accounts have been put under surveillance since July 2016, according to figures reported in January 2017.¹⁰⁸

According to Article 22 of the constitution, “everyone has the right to freedom of communication, and secrecy of communication is fundamental.” This right can only be violated under a court order in cases of “national security, public order, prevention of the commission of crimes, protection of public health and public morals, or protection of the rights and freedoms of others, or unless there exists a written order of an agency authorized by law in cases where delay is prejudicial.”¹⁰⁹ For the most part, any action that could 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. Before the passage of the Homeland Security Act in March 2015, the law allowed Turkish security forces to conduct intelligence wiretapping for 24 hours without a judge’s permission in urgent situations. However, under the new law the time limit was increased

103 Can Dunder, “The high price of saying ‘no’ in Turkey’s referendum”, *Washington Post*, April 13, 2017, https://www.washingtonpost.com/news/democracy-post/wp/2017/04/13/the-high-price-of-saying-no-in-turkeys-referendum/?utm_term=.05c26d2b1742

104 Finkel, “Miss Turkey on Trial for Allegedly Insulting President Erdoğan.” and “Cumhurbaşkanına Hakaret Davalarında Patlama” in Turkish, *Aktif Haber*, November 22, 2015, <http://www.aktifhaber.com/cumhurbaskanina-hakaret-davalarinda-patlama-1263244h.htm>

105 “President Erdoğan withdrawing lawsuits filed for insult” *Hurriyet Daily News*, July 30, 2016, <http://www.hurriyetdailynews.com/president-Erdogan-withdrawing-lawsuits-filed-for-insult.aspx?pageID=238&nlID=102278&NewsCatID=338>

106 Efe Kerem Sözeri, “Turkey paid Hacking Team \$600k to spy on civilians,” *The Daily Dot*, July 7, 2015, <http://www.dailydot.com/politics/hacking-team-turkey/>

107 “Turkish court accepts indictment of TİB over illegal spying,” *TRT World*, June 2, 2015, <http://bit.ly/1FgTtyZ>

108 “Over 68K social media accounts under police surveillance in Turkey,” *Birgun*, January 17, 2017, <http://www.birgun.net/haber-detay/over-68k-social-media-accounts-under-police-surveillance-in-turkey-143122.html>

109 The Constitution of the Republic of Turkey.

to 48 hours, with a new requirement that wiretapping officials notify their superiors. In addition, only the Ankara High Criminal Court is authorized to decide whether the wiretapping is legitimate. Despite constitutional guarantees, most forms of telecommunication continue to be tapped and intercepted.¹¹⁰

Furthermore, the MIT received expanded powers to conduct surveillance in April 2014. Law No. 6532 on Amending the Law on State Intelligence Services and the National Intelligence Organization grants intelligence agents unfettered access to communications data without a court order. The law forces public and private bodies—including but not limited to banks, archives, private companies, and professional organizations such as bar associations—to provide the MIT with any requested data, documents, or information regarding certain crimes, such as crimes against the security of the state, national security, state secrets, and espionage. Failure to comply can be punished with imprisonment. In a clause related to the MIT's ability to intercept and store private data on "external intelligence, national defense, terrorism, international crimes, and cyber-security passing through telecommunication channels," no requirement to procure a court order is mentioned.¹¹¹ The law also limits MIT agents' accountability for wrongdoing. Courts must obtain 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. Some observers have argued that the bid to shield the MIT from judicial investigations was intended to provide legal cover for the agency's negotiations at the time with the PKK, which is officially recognized as a terrorist organization; it also facilitated the crackdown on government opponents such as the Gülenists.¹¹²

The anonymous purchase of mobile phones is not allowed; buyers must provide official identification. According to a Council of Ministers decision dated 2000, Turkish citizens may only import one mobile phone every two years. Imported devices can be registered at mobile phone operators' subscription centers and an e-government website, for a fee of TRY 149.20 (US\$40). Devices that are not registered within 60 days are shut off from telecommunications networks. In 2011, the BTK imposed regulations on the use of encryption hardware and software. Suppliers are 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.

Under Law No. 5651, hosting and access providers must retain all traffic information for one year and maintain the accuracy, integrity, and confidentiality of such data. In addition, access providers must file the data together with a time stamp and provide assistance and support to the TİB (now the BTK) in monitoring internet traffic. On December 8, 2015, the Constitutional Court nullified a set of amendments passed in February 2014, including a requirement that hosting providers must store data for up to two years.¹¹³ The decision entered into force in December 2016.

Public-use internet providers hold different responsibilities depending on their status as either

110 For a history of interception of communications, see Faruk Bildirici, *Gizli Kulaklar Ülkesi* [The Country of Hidden Ears] (Istanbul: İletişim, 1999); Enis Coskun, *Kuresel Gözetim: Elektronik Gizli Dinleme ve Görüntüleme* [Global Custody: Electronic Interception of Communications and Surveillance] (Ankara: Umit Yayıncılık, 2000).

111 Human Rights Watch, "Turkey: Internet Freedom, Rights in Sharp Decline," September 2, 2014, <http://bit.ly/1r1kJOE>

112 See Sebnem Arsu, "Turkish Leader Signs Bill Expanding Spy Agency's Power," *New York Times*, dated April 25, 2014, <http://nyti.ms/1McuXsn>

; and Fehim Taştekin, "Is Turkey reverting to a 'muhaberat' state?" *Al-Monitor*, April 17, 2014, <http://bit.ly/1NDF1h7>

113 Burçak Unsal, "The Constitutional Court's decision on internet law," *Hürriyet Daily News*, December 14, 2015 <http://www.hurriyetdailynews.com/the-constitutional-courts-decision-on-internet-law.aspx?pageID=238&nlID=92470&NewsCatID=396>

commercial or noncommercial. Commercial providers are defined as entities that provide internet service for a certain payment, such as internet cafés. Noncommercial public-use internet providers are defined as entities that provide internet service at a certain venue for a certain period of time, such as in hotels and restaurants. While all public-use internet providers are expected to take measures to prevent access to criminal content and store internal IP distribution logs, commercial providers must also receive permission from the local administration, use a content-filtering service approved by the BTK, and keep accurate daily records of internal IP distribution logs using software supplied by the BTK, which must be stored for a period of one year. In addition, these commercial providers are required to install a video surveillance system so as to identify users, and retain such records for seven days. All data must be made available to the BTK upon request—and without the need for a court order—under penalty of TRY 10,000 to 100,000 (US\$2,600 to US\$26,000) in fines¹¹⁴

In a largely positive development, a new Data Protection Law entered into force on April 7, 2016, aligning the country's legislation with European Union standards.¹¹⁵

Intimidation and Violence

Since January 2016, the International Press Institute (IPI) has collected at least 760 instances of abusive behavior against journalists online and 176 threats of violence.¹¹⁶ A Twitter account (@ustakiloyunlari) “with over 100,000 followers has regularly smeared journalists and threatened to release personal information about them. Speech on Islam or the prophet Muhammad, posts about the “Kurdish problem,” and even mild criticism of the president, government, or ruling party can result in death threats and legal battles. Citizen journalists and reporters for online news outlets operate in an environment in which media workers have often been physically assaulted for their reporting, and in some cases, killed.¹¹⁷

Technical Attacks

News sites have frequently come under technical attack at politically sensitive moments or after publishing controversial information. The arts-and-culture news website Sanataatak.com suffered technical attacks after publishing a letter supporting Turkish actress Füsün Demirel, who declared that she “wanted to be to be a [Kurdish] guerrilla” in her youth. The website was inaccessible for about 48 hours in March 2016 due to distributed denial-of-service (DDoS) attacks.¹¹⁸ The HDP's website was attacked two days before the June 2015 elections and could not be accessed for over 24 hours. Popular news organizations such as *Zaman*, *Today's Zaman*, Cihan News Agency, *Rotahaber*,

114 For further information on this section, see Representative on Freedom of the Media, “Briefing on Proposed Amendments to Law No. 5651,” Organization for Security and Co-operation in Europe, January 2014, <http://www.osce.org/fom/110823?download=true>; Center for Internet and Society, Stanford Law School, “WILMAP: Turkey,” accessed November 6, 2014, <http://stanford.io/1YcN8EX>

115 Naz Degirmenci, “Turkey's First Comprehensive Data Protection Law Comes Into Force,” Inside Privacy, April 8, 2016, <https://www.insideprivacy.com/data-security/turkeys-first-comprehensive-data-protection-law-comes-into-force/>

116 The OnTheLine Database Tracking Online Harassment of Journalists, <http://onthelinedb.ipi.media>

117 “25 journalists killed in Turkey,” Reporters Without Borders, accessed October 2017, <https://cpj.org/killed/europe/turkey/>, and “Hurriyet columnist Ahmet Hakan injured in ‘organized assault,’” *Hurriyet Daily News*, October 1, 2015, <http://www.hurriyetdailynews.com/hurriyet-columnist-ahmet-hakan-injured-in-organized-assault.aspx?pageID=238&nID=89212&NewsCatID=509>

118 “In Turkey, technical attacks imperil digital media survival,” International Press Institute, April 12, 2016, <http://www.freemedia.at/in-turkey-technical-attacks-compromise-digital-media-sustainability/>

Radikal, *Sözcü*, and *Taraf* reported cyberattacks against their websites during the November 2015 elections.

While opposition news sites and Twitter accounts are frequently targeted by progovernment hackers, government ministers have also been affected. RedHack's penetration of the personal email account of Berat Albayrak yielded more than 57,000 messages from 2000 to 2016, including many that covered state affairs. The material was uploaded to Dropbox, OneDrive, GitHub, and Google Drive in October 2016. In January 2017, the BTK announced that the government would set up an army of "white-hat hackers" to defend Turkey in cyberspace.¹¹⁹

119 Baris Simsek, "'White hat' hackers team to defend Turkey," Daily Sabah, January 14, 2017, <https://www.dailysabah.com/turkey/2017/01/14/white-hat-hackers-team-to-defend-turkey>