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Freedom on the Net 2018 - Turkey

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Status: Not Free
Total Score: 66/100 (0 = Best, 100 = Worst)
Population: 80.7 million
Internet Penetration: 65%
Social Media/ICT Apps Blocked: Yes
Political/Social Content Blocked: Yes
Bloggers/ICT Users Arrested: Yes
Freedom in the World Status: Not Free

Key Developments, June 1, 2017 – May 31, 2018

- This year saw fewer instances of network shutdowns, which had denied internet access to large swathes of the population during security operations in the southeast (see Restrictions on Connectivity).
- Several news and citizen journalism websites were blocked, and Wikipedia remained inaccessible (see Blocking and Filtering).
- Turkey ranked among the countries with the highest number of content removal requests sent to Twitter and Facebook, as reported in the companies' transparency reports (see Content Removal).
- Ongoing punishments for online speech and the government's arbitrary and disproportionate purge against supposed critics has led to increasing self-censorship (see Media, Diversity, and Content Manipulation; and Prosecutions and Detentions for Online Activities).

Introduction:

Internet freedom in Turkey remained highly restricted in the past year, which was characterized by increased self-censorship, a growing list of blocked news sites, and sweeping arrests for criticizing military operations or the president.

During the coverage period, Turkey remained under a state of emergency enacted in the wake of the July 2016 coup attempt. Without meaningful checks on executive power, President Erdoğan and his cabinet have enacted numerous decrees to arrest tens of thousands of people allegedly

linked to the 2016 coup attempt, suspend or dismiss individuals from their jobs, block websites, shut down communication networks, and close civil society organizations and news outlets.

The state of emergency was lifted in July 2018, but the government's actions since the coup attempt will have lasting damage on internet freedom. Numerous news and citizen journalism websites were blocked in the past year, particularly those whose editorial policies conflicted with the populist media narrative of the government.

Authorities continued to arrest tens of thousands of journalists and other individuals for online commentary. In January 2018, a wave of arrests came in response to criticism of Operation Olive Branch, a military operation in Afrin, Syria. The Turkish police associated nonviolent opinions against the operation with terrorism. The state also prosecuted or sought to prosecute those deemed to insult President Erdoğan using social media, an offense punishable by up to four years in prison. According to statistics released by the interior ministry, security forces initiated investigations on almost 50,000 social media accounts during the coverage period for sharing what was deemed to be "terrorist" content online, resulting in over 20,000 "legal actions" taken.^[1]

Over 50,000 Turkish citizens were arbitrarily detained for their alleged use of the encrypted communications app ByLock after the 2016 coup attempt, while many others were fired from government, military, and private sector jobs in a massive purge. Courts ruled in September 2017 that possession of the app was legal grounds for linking individuals to the Gülen movement, which has been held responsible for the coup attempt. Subsequent forensics analyses demonstrated that several other popular applications used IP addresses and servers shared by ByLock. As a result, prosecutors stated in December 2017 that over 11,000 individuals had been incorrectly linked with using the app, resulting in their release from prison or their reinstatement to jobs from which they were fired.

The ByLock controversy also ensnared members of the human rights community. Taner Kılıç, the Turkey chair of Amnesty International, was detained in June 2017. The only known evidence in his case was the allegation that he had used ByLock, which he has denied. He was finally released in August 2018 after 14 months in prison. Separately, police arrested 10 human rights activists in July 2017 for taking part in a digital security training in Istanbul.

Obstacles to Access:

There were fewer disruptions to network connectivity in the past year. Internet penetration continued to grow, particularly through mobile broadband. The Information and Communication Technologies Authority (BTK) is run by government appointees, raising questions about its independence.

Availability and Ease of Access

Internet penetration continues to increase. According to the International Telecommunications Union, it stood at nearly 65 percent in 2017.^[2] There were 56.9 million mobile broadband subscribers as of the last quarter of 2017, while the number of fixed broadband subscribers stood at 11.9 million.^[3] Regular mobile subscriptions reached 96 percent of the population.

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 80.7 percent in 2017.^[4] Prices remain high in comparison with the minimum wage.

Restrictions on Connectivity

Restrictions on connectivity were less frequent during the coverage period of this report compared to previous years.

Past disruptions targeted the restive southeastern region, where ethnic Kurds comprise a majority, and which has seen the implementation of a state of emergency and frequent security operations as part of a crackdown by Turkish security forces on the militant Kurdistan Workers' Party (PKK).^[5] 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 came as 28 Kurdish mayors were being removed from their posts.^[6] A 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. That 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.^[7] Shutdowns have also been frequently imposed during military operations in the region. Separately, connectivity is negatively 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 256,000 km of fiber-optic infrastructure, with around half of it serving as backbone infrastructure. Other operators have a combined total of 68,000 km of fiber length.^[8]

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."^[9]

ICT Market

There were 451 operators providing information and communications technology (ICT) services in the Turkish market in the last quarter of 2017, the majority of which act as resellers for Türk Telekom.^[10] TTNET, founded in 2006 by Türk Telekom, is the dominant player, with a market share of around 54 percent.^[11] In recent years, regulators have sought to shut down inactive ISPs existing in name only.^[12]

Turkcell is the leading mobile phone provider, with 43.7 percent of the market, followed by Vodafone and Avea (which currently operates under the brand Türk Telekom).^[13] 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.^[14]

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. Informal 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, the BTK asked all ISPs to submit weekly progress reports on the status of new restrictions on virtual private networks (VPNs).^[15]

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.^[16]

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, and all of its responsibilities were transferred to the BTK.^[17] 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." (Authorities have declared the movement of exiled Islamic preacher Fethullah Gülen a terrorist organization, and have blamed it for the 2016 coup attempt.)^[18]

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.

In March 2018, the parliament approved a bill granting the Radio and Television Supreme Council (RTÜK) authority to regulate online content, including but not limited to commercial streaming services such as Netflix, as well as foreign-based online media platforms such as Arti TV and Deutsche Welle, both of which are based in Germany.^[19] Under the new rules, streaming platforms are expected to get licenses to broadcast in Turkey. Along with the licensing requirement, the RTÜK may demand the removal of content or the restriction of access to these platforms.^[20]

Limits on Content:

The number of blocked websites continued to climb over the past year. Journalists, scholars, and public figures who are critical of the government face coordinated harassment by progovernment trolls on Twitter. Meanwhile, self-censorship has increased as individuals fear the social and legal consequences of being associated with banned groups if they criticize government policies.

Blocking and Filtering

Blocking of online content increased in the past year, particularly of news and citizen journalism websites.

In November 2017, access to news stories in several Turkish outlets suggesting that Prime Minister Binali Yıldırım's sons had stashed assets in tax haven countries were blocked; the stories were based on the Panama Papers, a trove of documents leaked from a Panama-based law firm and unveiled by media organizations in April 2016.^[21] The BTK and Turkish courts have blocked access to news and citizen journalism sites, including *Ahval News*, *Liveleak*, *Yarına Bakış*, *Yeni Hayat Gazetesi*, *Can Erzincan TV*, *Gazeteport*, *Haberdar*,^[22] *Karşı Gazete*, and the relaunched website of the left-leaning news outlet *Jiyan*.^[23] In 2016, a judge closed the pro-Kurdish daily *Ozgur Gundem* and news agency *DIHA* due to their alleged publication of "terrorist organization propaganda."^[24] The website and social media accounts of İMC TV were blocked the same year,

after its license was revoked by decree.^[25] A news website operated by prominent journalist Can Dundar, Ozguruz.org, was blocked in January 2017, before it had even published any news.^[26]

In addition, Liveleak.com was blocked by the Bandirma Judgeship for a short period of time in March 2018; that block reportedly came after video of an attack on Turkish soldiers had been posted to the site.^[27]

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.^[28] The image-sharing site Imgur has been blocked since 2015.^[29] In November 2016, the BTK order ISPs to ban more than 10 VPN services,^[30] as well as the circumvention tool Tor.^[31]

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 keywords relating to sex or sexuality in the domain; this has resulted resulting in the collateral blocking of several websites related to LGBTI (lesbian, gay, bisexual, transgender, and intersex) issues.^[32] Websites are also blocked if they are deemed defamatory to Islam, including websites that promote atheism.^[33] 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 blocking and removal of online content (see Content Removal) 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."^[34] It was initially enacted in 2007 to protect children and prevent access to illegal and harmful 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.^[35] The responsibilities of content providers, hosting companies, public access providers, and ISPs are delineated in this law. Domestically hosted websites with proscribed content can be taken down, while websites based abroad can be blocked and filtered through ISPs. The law has been found to be in contravention of the European Convention on Human Rights. Law No. 5651 has been amended in recent years to broaden the circumstances in which censorship is legally permissible.^[36]

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).^[37]

The vast majority of blocking orders have been issued by the TİB and its successor, the BTK,^[38] rather than by the courts.^[39] According to the Minister of Transportation and Communication, almost all blocked websites are blocked due to sexual exploitation of children, obscenity, or prostitution, or because they are gambling sites.^[40] The procedures surrounding blocking decisions are opaque, 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.

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.^[41] 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.^[42] Internet access is filtered at primary education institutions and public bodies, resulting in the blocking of a number of minority news sites.^[43]

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 promptly in order to avoid blocking and, more recently, throttling. Like international social media platforms, popular Turkish websites are subject to content removal orders.

Several well-known news outlets and/or their Twitter accounts have been taken over or shut down by the authorities. Most of the withheld accounts on Twitter are connected to pro-Kurdish movements, or are Gülen-linked accounts closed on antiterrorism grounds.^[44] The Gülen-linked newspapers *Zaman* and *Today's Zaman*, as well as the Cihan News Agency, were seized in March 2017, and new progovernment editorial boards were established by court order.^[45] The online archives of each paper were deleted, as was *Zaman's* previous Twitter activity.^[46] *Zaman* and some 130 other news companies had been shut down on in July 2016, immediately after the government arrested 89 media workers for alleged ties to the Gülen movement.^[47]

Turkey has consistently ranked among the countries with the highest number of removal requests sent to Twitter, accounting for approximately 65 percent of all global requests reported to the company during its July to December 2017 transparency reporting period.^[48] The company removed at least some content in 3 percent of the nearly 4,300 removal requests in the second half of 2017.^[49] Earlier, in March 2017, the company noted that "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."^[50]

Facebook also received a large number of content restriction requests from Turkey, according to its July to December 2017 transparency report. While the company did not indicate the total number of requests received, it reported having restricted access "to 657 items in response to requests from the Information and Communication Technologies Authority (ICTA), Turkish courts, the Ministry of Health, the Ministry of Customs and Trade, and the Access Providers Union. Content was restricted pursuant to the Internet Act (Law No. 5651), which covers a range of offenses including personal rights violations, personal privacy, defamation of Atatürk, and the unauthorized sale of regulated goods."^[51] Facebook also reported restricting 3,175 items stemming from private requests related to defamation.

Media, Diversity, and Content Manipulation

Digital media are inhibited by heightened 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. Recent reports have shown that users have a high degree of distrust of news shared on social media, and that fewer people are indicating that they follow Facebook and Twitter for the purpose of obtaining news. However, people are increasingly consuming news via messaging services like WhatsApp and Telegram.^[52]

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.^[53]

As of mid-2017, the progovernment newspaper *Sabah* was the most visited news site in the country, followed by *Haber7* and *Ensonhaber*.^[54] Platforms for citizen journalism and volunteer reporting have recently gained traction; examples include *140journos*, *dokuz8haber*, and *Ötekilerin Postası*. Media coverage regarding the Kurdish-populated southeastern region is heavily influenced by the government. Censorship of prominent local news sites make information gathering even more difficult in that area.

Numerous reports have revealed that an "army of trolls"^[55] numbering around 6,000 individuals has been enlisted by the ruling AKP to manipulate online discussions, drive particular agendas, and combat government critics on social media.^[56] Emails leaked in October 2016 provided insight into a coordinated campaign by President Erdoğan's inner circle to counter critical narratives and weaken protest movements on social media.^[57] 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.

Journalists and scholars who are critical of the government have faced orchestrated harassment on Twitter, often by dozens or even hundreds of users, as have civil society groups.^[58] For example, 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.^[59]

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 2016 coup attempt and growing self-censorship.

Turkey Blocks, an organization that tracks censorship in real time, was granted Index on Censorship's 2017 award for digital activism.^[60] 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^[61] – though operations were scaled back for the 2017 constitutional referendum over fears of legal repercussions for their members.^[62] Oy ve Ötesi later published a report about irregularities affecting around 100,000 ballots.^[63] Dogruluk Payi ("Share of Truth") is a political fact-checking website, and a popular source for information.^[64] Teyit.org is another fact-checking initiative focusing on verifying news reports and debunking disinformation and urban legends.

Violations of User Rights:

Prosecutions and detentions of Turkish citizens for their online activities continued during the coverage period. Journalists, public figures, and students were targeted for criticizing military operations or the president online. Surveillance remained a concern.

Legal Environment

The state of emergency enacted in the wake of the July 2016 coup attempt weakens parliamentary and constitutional checks on executive decrees issued by President Erdoğan and his cabinet. Since then, 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.^[65] Decree No. 671, published in August 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 Constitution. The decree also obliges telecommunications providers to enforce government orders within two hours of receiving them.^[66] The state of emergency was finally lifted in July 2018.^[67]

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."^[68] 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 of online activity by security agencies is believed to be widespread.^[69] 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 activity.

Defamation is a criminal offense punishable by a fine and up to two years in prison. Defamation charges have frequently been used to prosecute government critics. 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 of the criminal code. Several courts deemed Article 299 unconstitutional in the first half of 2016, but the Constitutional Court upheld the provision that December.^[70] 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.^[71]

Prosecutions and Detentions for Online Activities

Prosecutions and detentions of Turkish citizens for their online activities continued during the coverage period. Many journalists, activists, and ordinary citizens were ensnared in the general crackdown in connection with independent reporting of the war in Syria, expressions of Kurdish identity, and nonviolent criticism of the government. According to the Committee to Protect Journalists, a total of 73 journalists were imprisoned in Turkey as of December 2017.^[72]

In June 2017, İsmail Eskin, a journalist and former reporter for *Dihaber*, was jailed for his tweets reporting on human rights violations committed during curfews in Diyarbakır and Iraq, as well as during attacks in Syria carried out by the Islamic State (IS) militant group. He was accused of spreading terrorist propaganda and sentenced to more than three years in prison.^[73]

In January 2018, a wave of arrests came in response to critiques of Operation Olive Branch, a Turkish military operation in Afrin, Syria.^[74] The Turkish police force has associated criticism of the operation with terrorism, relating it to association with the militant Kurdistan Workers' Party (PKK).^[75] Furthermore, Turkey has asked social media sites including Facebook and Twitter to take down posts that criticize Operation Olive Branch (see Content Removal).^[76]

- As part of the crackdown, journalists Hayri Demir and Sibel Hürtaş were detained for comments on social media that critiqued Turkey's military role in Afrin, and provided alternative information about the conflict from that put forth by the Turkish government.^[77] They were detained for "inciting the people to violence" and convicted of "terrorist propaganda via media."^[78] Although they were released on bail after four days, at the end of this report's coverage period, Demir, Hürtaş and ten other defendants faced up to 10 years and 6 months in prison.^[79] In May 2018, Demir was handed a separate suspended sentence of one year, six months, and 22 days on spreading terrorist propaganda online.^[80]
- Author and activist Nurcan Baysal was also arrested in January 2018 for her tweets criticizing rights abuses that took place during the Turkish military incursion in Afrin, and advocating for peace in Syria.^[81] Baysal has explained her arrest by stating that "In Turkey, it is a crime to call for peace."^[82] She was released after four days in detention, and her case was ongoing at the end of the coverage period.^[83]

There have been several cases in which the state has prosecuted or sought to prosecute those deemed to insult Erdoğan online, an offense punishable by up to four years in prison. These cases among many which have been filed throughout Erdoğan's presidency. After the failed military coup in 2016, Erdoğan dropped around 2,000 of the cases (some filed against high school-age children) as a good faith gesture and to promote national solidarity,^[84] yet people have continued to be arrested or detained for "insulting" Erdoğan on social media.^[85] The government frequently claims such arrests are meant to root out people with links to the PKK or the Islamic State.^[86]

- In January 2018, six people were arrested for criticizing President Erdoğan on social media. These arrests occurred in the context of the upcoming national elections in Turkey, which occurred during the summer of 2018 and resulted in Erdoğan's reelection.^[87] The six detainees were charged with "insulting state elders."
- In February 2018, Helin Nigit, a university student, was arrested for insulting Erdoğan in social media posts from 2014 and 2016. She was placed in pretrial detention, after having testified to a prosecutor, who called for her arrest.^[88]

- In June 2018, Turkish police arrested six people for insulting the president on social media through videos they posted, in which they shouted criticisms of Erdoğan at the camera.
- Earlier, in an unusual case, the Turkish government in the summer of 2017 reportedly issued an arrest warrant for Enes Kanter, a basketball player with the US-based New York Knicks, over his tweets insulting Erdoğan.^[89]
- And in September, beyond the scope of the coverage period, two people (solely identified by their initials, M.Ç. and H.W.) were arrested for insulting Erdoğan and Turkish governmental institutions on social media.^[90] They were first detained with two other people, yet while the others were released on judicial probation, M.Ç. and H.W. will face their charges in court

These arrests and others have led to increasing self-censorship online by many users, who fear that if they speak out against the government they too may face prosecution.^[91]

Over 50,000 Turkish citizens were arbitrarily detained for their alleged use of the encrypted communications app ByLock after the 2016 coup attempt, while many others were fired from government, military, and private sector jobs in a massive purge. Courts ruled in September 2017 that possession of the app was legal grounds for linking individuals to the Gülen movement, which has been held responsible for the coup attempt.^[92] 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 stores of Apple and Google, until it was removed by the developer.^[93] Subsequent forensics analyses have demonstrated that several other popular applications used IP addresses and servers shared by ByLock. In December 2017, prosecutors stated that over 11,000 individuals had been incorrectly linked with using the app, resulting in the release from prison or job reinstatement of thousands.^[94]

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. He was finally released in August 2018 after 14 months in prison.^[95]

In July 2017, police arrested 10 human rights activists taking part in a digital security training in Istanbul. Turkish citizens İdil Eser – the director of the Turkish branch of Amnesty International – and 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, who were arrested and released on bail pending trial. They all faced prison sentences of up to 15 years for membership in a terrorist organization.^[96] Those not bailed were ultimately released in October 2017, though the trumped-up charges they were arrested on, involving allegations they had aided a terrorist group, have apparently not been dropped.^[97]

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.^[98] 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.^[99] 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.^[100]

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."^[101] 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 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.^[102]

Furthermore, the MİT 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 MİT 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 MİT's ability to intercept and store private data on "external intelligence, national defense, terrorism, international crimes, and cybersecurity passing through telecommunication channels," no requirement to procure a court order is mentioned.^[103] The law also limits MİT 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 MİT activities via media channels may be imprisoned for three to nine years. Some observers have argued that the bid to shield the MİT 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.^[104]

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.^[105] The decision entered into force in December 2016.

Public-use internet providers hold different responsibilities depending on their status as either 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 fines.^[106]

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.^[107]

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.^[108] 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.^[109]

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 Sanataak.com suffered technical attacks after publishing a letter supporting Turkish actress Füsün Demirel, who had declared that she had "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.^[110] The website of the opposition Peoples' Democratic Party (HDP) 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*, *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.^[111]

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