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Freedom House

Turkey

	2014	2015
Internet Freedom Status	Partly Free	Partly Free
Obstacles to Access (0-25)	14	13
Limits on Content (0-35)	18	20
Violations of User Rights (0-40)	23	25
TOTAL* (0-100)	**55**	**58**

* 0=most free, 100=least free

Population:	**77.2 million**
Internet Penetration 2014:	**51 percent**
Social Media/ICT Apps Blocked:	**Yes**
Political/Social Content Blocked:	**Yes**
Bloggers/ICT Users Arrested:	**Yes**
Press Freedom 2015 Status:	**Not Free**

Key Developments: June 2014 – May 2015

- Law No. 5651 on Regulating the Internet was amended in September 2014, broadening the scope of administrative blocking and allowing the authorities to access user data without a warrant. While the Constitutional Court overturned these provisions a month later, they were once again passed in March 2015 following the retirement of the court's chief judge. As a result, Turkey's regulator may ban content to secure the protection of life and private property, protection of national security and public order, prevention of crimes, and protection of public health without a prior court order (see **Blocking and Filtering**).
- Twitter, Facebook, and YouTube were temporarily banned in April 2015 until they complied with requests to restrict access to sensitive content, including material related to the abduction and killing of a public prosecutor. In the first half of 2015, 92 percent of all court orders to remove content received by Twitter worldwide originated in Turkey (see **Blocking and Filtering** and **Content Removal**).
- Dozens of Turkish users faced charges for criticizing the government or public officials, particularly on Twitter. Recep Tayyip Erdoğan has filed criminal complaints against more than 67 people for allegedly insulting him online since he moved from the premiership to the presidency in August 2014 (see **Prosecutions and Detentions**).
- Following corruption scandals and leaks of the telephone conversations of top government officials, senior staff at Turkey's telecommunications regulator were arrested for conducting illegal wiretaps. In a separate incident, leaked emails revealed that Turkey's civilian police force had contracted with the Italian company Hacking Team to spy on Turkish citizens from 2011 to 2014. Meanwhile, the Homeland Security Act, passed in March 2015, increased the amount of time for which investigators may conduct wiretaps and other signals intelligence operations without a court order from 24 to 48 hours (see **Surveillance, Privacy, and Anonymity**).

Introduction

Elections, protests, and scandals marked the online sphere in Turkey over the past year. As the political and social significance of social media has grown, so have legal restrictions on their use. Social media were reportedly listed as one of the main threats to national security in the National Security Council's National Security Policy Document,[1] and President Recep Tayyip Erdoğan was quoted as saying "I am increasingly against the internet every day" during a meeting with a press freedom delegation.[2] Erdoğan won Turkey's first direct presidential election in August 2014.[3] That same month, former foreign minister Ahmet Davutoğlu replaced Erdoğan as prime minister and chairman of the ruling Justice and Development Party (AKP).

During the highly publicized "Occupy Gezi" protests in May and June 2013, the number of Turkish Twitter users rose from 2 to 8 million.[4] The role of social media in weakening the ruling party's control over the flow of information has led to new laws to censor content. Amendments to Law No. 5651 on Regulating the Internet were passed in February 2014, September 2014, and March 2015, broadening the scope of regulators' powers to block content without a court order, increasing burdens on intermediaries, and eroding the privacy of users' personal data. In total, some 80,000 websites were reportedly blocked in the country as of May 2015.[5]

The Constitutional Court has served as a crucial check on executive authorities in the fight for internet freedom, ruling in early 2014 that the wholesale blocking of Twitter and YouTube was unconstitutional. Access to the platforms was eventually restored, but they were temporarily blocked again in April in order to force the companies to restrict access to certain content for Turkish users. Blocking orders tend to coincide with important political events, such as an election, intelligence leak, hostage crisis, or corruption scandal. The Constitutional Court also overturned some of the most problematic aspects of the amendments to Law No. 5651 that were passed in September 2014.[6] However, the AKP reintroduced the provisions as part of an omnibus bill in January, and they were passed in March 2015, thereby expanding Law No. 5651 to allow for the blocking of content on matters concerning the protection of life and private property, protection of national security and public order, prevention of crimes, and protection of public health.[7]

Dozens of Turkish users were detained and prosecuted for their online activities over the past year, often arbitrarily singled out for content that was satirical in nature. The most common charge was "insulting" public officials, namely President Erdoğan, who has filed criminal complaints against more

1 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 Erdogan updates top secret national security 'book,'" *Hurriyet Daily News*, April 30, 2015, http://bit.ly/1UVBcCM.

2 Commitee to Protect Journalists, "Turkey's leaders defend press freedom record but agree to address delegation's concerns," press release, October 3, 2014, http://bit.ly/1sR1wFP; and "Turkish President Erdoğan increasingly against Internet every day: CPJ," *Hurriyet Daily News*, October 3, 2014, http://bit.ly/1pNamfZ.

3 Umut Uras, "Erdogan wins Turkey's presidential election," Al-Jazeera, August 11, 2014, http://bit.ly/1rh70Eg.

4 Mustafa Akgul, Ihsan Dogramaci, and Melih Kirlidog, "Internet Censorship in Turkey," *Internet Policy Review* 4, no. 2 (June 3, 2015) http://bit.ly/1QNZ3Cl.

5 Engelli Web is a website that documents information about blocked websites from Turkey. Engelli Web, "Kurum Bazinda Istatistikler," accessed June 21, 2015, http://bit.ly/1g87pGE.

6 Heini Jarvinen, "Turkey: Constitutional Court overturns Internet law amendment," European Digital Rights, October 8, 2014, http://bit.ly/ZRTGiM.

7 "Turkish Constitutional Court strips Internet authority of right to close websites," *Hurriyet Daily News*, October 2, 2014, http://bit.ly/1NHl6hz.

than 67 people for their online activities since he was elected in August 2014.[8] While most receive suspended sentences that will not place them in jail unless they reoffend, the aggressive prosecutions have had a significant chilling effect on ordinary social media users and well-known activists alike. The abuse of government surveillance, the bulk retention of user data, and measures to undermine encryption and anonymity also remain serious concerns, particularly after the passage of the Homeland Security Act in March 2015 and the leak of documents showing the use of malware tools by a Turkish civilian police force. Overall, internet freedom is highly imperiled in Turkey.

Obstacles to Access

Penetration rates have continued to increase over the last few years, but obstacles to internet access in Turkey remain. Investment is still needed to improve the infrastructure. The regulatory agency responsible for information and communication technologies (ICTs) is well staffed and has a dedicated budget. However, the fact that its board members are government appointees is a potential threat to its independence, and its decision-making process is not transparent.

Availability and Ease of Access

Penetration rates have continued to increase over the last few years, but obstacles to internet access in Turkey remain. According to the International Telecommunication Union, internet penetration stood at 51 percent at the end of 2014, up from 36 percent in 2009.[9] The number of internet subscribers in Turkey increased by 7.6 percent in the third quarter of 2014 as compared with the second quarter, according to Turkey's Information and Communications Authority (BTK), the regulator responsible for ICTs. Turkey ranked 68th on the global ICT Development Index (IDI) for 2014, and 38th out of 40 European countries.[10]

Poor infrastructure and a lack of electricity in certain areas, especially in the eastern and southeastern regions, have had a detrimental effect on citizens' ability to connect to the internet, particularly from home.

According to the results of the Turkish Statistical Institute's Household Usage of Information Technologies Survey, the number of households with internet access has risen to 69.5 percent.[11] For individuals aged 16–74, the primary location of access is home (87.1 percent), followed by work (42.5 percent), and the homes of friends and relatives (37.7 percent). Wireless internet access in public places like shopping malls and airports was less frequently used (29.2 percent), followed by internet cafes (10.6 percent).

Mobile phone penetration in Turkey reached 95 percent in 2014, and all operators offer third-generation (3G) data connections.[12] The mobile penetration rate exceeds 100 percent when the youngest

8 Deniz Ayhan, "One person per day was sued on average for offending Erdogan," [in Turkish], *Sözcü,* March 26, 2015, http://bit.ly/1graKTX; Isobel Finkel, "Miss Turkey on Trial for Allegedly Insulting President Erdogan," *Bloomberg Business,* February 24, 2015, http://bloom.bg/1vCv240.

9 International Telecommunication Union, "Statistics," 2015, http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx.

10 International Telecommunication Union, *Measuring the Information Society Report*, 2014, http://bit.ly/1UWBjU5.

11 Turkiye Istatistik Kurumu, "Household Usage of Information Technologies Survey of Turkish Statistical Institute, 2015," [in Turkish] August 18, 2015, accessed October 13, 2015, http://bit.ly/1J2NwOq.

12 International Telecommunication Union, "Mobile-cellular telephone subscriptions," 2013, accessed July 12, 2014, http://bit.ly/1eKDWOQ.

age group (0–9 years) is excluded. In the first three months of 2014, 58 percent of users accessed the internet via their phones. Computer and internet access rates for individuals aged 16–74 were recorded at 53.5 percent for computers and 53.8 percent for internet access in 2014. The rates among male participants were higher, at 62.7 percent and 63.5 percent, than among females, at 44.3 percent and 44.1 percent, respectively. Male users make up 56 percent of internet users in general. The annual growth rate in the total number of internet subscribers reached 22.6 percent in the first quarter of 2015.[13] Total mobile internet usage increased 16 percent, and the number of internet subscribers increased by 3.4 percent, in the second quarter of 2015.[14]

While prices have decreased, they do remain high in comparison with the minimum wage. Turkey does not report or share statistics on technical literacy, but data from the Turkish Statistical Institute (TUIK) hint at a lack of familiarity with ICTs, particularly among older citizens.

Restrictions on Connectivity

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 202,098,723 km of fiber-optic infrastructure, while other operators having a combined total of just 54,730 km. Nearly 124,186 km of this infrastructure is used as backbone, with the remainder dedicated to access distribution.[15]

Turkey does not have Internet Exchange Points (IXPs) that comply with international standards. However, there are two IXP models owned by private companies, both of which are in Istanbul: IST-IX, established by Terramark in 2009, and TNAP, established by seven leading ISPs in 2013. DEC-IX, a German internet exchange company, has announced that it will "open an internet exchange in Istanbul, to provide a neutral interconnection and peering point for internet service providers from Turkey, Iran, the Caucasus region and the Middle East."[16] According to the announcement, DEC-IX Istanbul will become operational within the third quarter of 2015.

On March 31, 2015, Turkey suffered a 10-hour power cut in almost all areas of the country. Authorities, including the prime minister and the energy minister, stated that they were investigating whether the power outage was due to a technical failure or a cyberattack, but a thorough explanation was never provided.[17]

ICT Market

There are 672 operators providing ICT services in the Turkish market, and a total of 1,105 were authorized as of August 2015, according to the BTK.[18] There are around 411 ISPs, though the majority

13 Information and Communication Technologies Authority, "Electronic Communications Market in Turkey – Market Data (2015 Q1)," accessed October 13, 2015, slide 7,http://bit.ly/1hEr6cr.

14 Information and Communication Technologies Authority, "Electronic Communications Market in Turkey – Market Data (2015 Q2)," accessed October 13, 2015, slides 3 and 8, http://bit.ly/1PgAilS.

15 "Electronic Communications Market in Turkey – Market Data (2015 Q2)," slides 13 and 34.

16 "DEC-IX Istanbul," accessed June 21, 2015, https://www.de-cix.net/products-services/de-cix-istanbul/.

17 "Major power outage plunges Turkey into chaos for hours," *Today's Zaman*, March 31, 2015, http://bit.ly/1iwnCKF.

18 "Electronic Communications Market in Turkey – Market Data (2015 Q2)," slide 4.

act as resellers for Türk Telekom. TTNET, founded in 2006 by Türk Telekom, dominates the ISP market with 74.3 percent of subscribers.[19]

Turkcell is the leading mobile phone provider, with 47.1 percent of subscribers, followed by Vodafone and Avea.[20] Although the BTK originally set a May 26 deadline for the auction of 4G spectrum, in April 2015 it was announced that the tender could be canceled due to President Erdoğan's insistence that Turkey jump directly from 3G to 5G.[21] An auction of 4G frequency bands was later held in August, but the BTK dubbed it "4.5G" in what some said was an effort to placate President Erdoğan.[22]

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. Furthermore, implicit obstacles may 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 BTK before they can offer services. Internet cafes are also subject to regulation. Those operating without an activity certificate from a local municipality may face fines of TRY 3,000 to 15,000 (US$1,335 to US$6,680). Mobile phone service providers are subject to licensing through the BTK.

Regulatory Bodies

Policymaking, regulation, and operation functions are separated by 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.[23]

The BTK and the Telecommunication and Communication Presidency (TİB), which it oversees, are well staffed and have a dedicated budget. However, the fact that board members are government appointees is a potential threat to the BTK's independence, and its decision-making process is not transparent. Nonetheless, there have been no reported instances of certificates or licenses being denied. The TİB also oversees the application of the country's website blocking law and is often criticized by advocacy groups for a lack of transparency and its apparent lack of independence from the executive.

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.

Terms for providing landline service were hardened with some procedural changes published in the

19 "Electronic Communications Market in Turkey – Market Data (2015 Q2)," slide 15.

20 "Electronic Communications Market in Turkey – Market Data (2015 Q2)," slide 10.

21 Ece Toksabay, "Turkey minister says might cancel 4G tender, switch to 5G: newspaper," Reuters, April 28, 2015, http://reut.rs/1GBtvwO.

22 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-idUSKCN0QV1XI20150826.

23 Information and Communication Technologies Authority, "Establishment," accessed October 11, 2015, http://bit.ly/1QsTRoE.

Turkish government gazette on December 30, 2014. Also included in the announcement was the fact that licenses would be invalidated for service providers that failed to integrate the new procedures.[24]

Limits on Content

Limits on content continued to increase in Turkey over the past year, with new amendments to the problematic Law No. 5651. Entire web platforms, including Facebook, Twitter, YouTube, and WordPress, were temporarily blocked and remain under intense pressure to promptly remove content when asked by Turkish authorities. Journalists, scholars, and public figures who are critical of the government faced coordinated harassment on Twitter. Despite these negative trends, users increasingly rely on online publications as a primary source of news, and a number of tools for citizen journalism and government accountability are gaining prominence.

Blocking and Filtering

Blocking continues to increase steadily in Turkey. According to the reports of the independent organization Engelli Web, as of May 2015 over 80,000 websites were banned based on civil code–related complaints and intellectual-property rights violations. The number of blocked websites has risen from 43,785 to 81,525 in two years.[25] This figure includes numerous sites that were blocked for political or social reasons, such as news outlets or online communities that report on LGBTI (lesbian, gay, bisexual, transgender, and intersex) issues, ethnic minorities, anti-Muslim content, or social unrest.

A number of platforms were blocked during the coverage period, frequently for refusing to restrict Turkish users' access to specific pages or posts. In some cases, companies were not informed of the order or were not given sufficient time to comply. For example, on March 19, 2015, a Turkish court banned access to a single post on the blog-hosting service WordPress. As the site employs HTTPS, a connection method that makes blocking a single page technically very difficult, a second order called for the blocking of the entire WordPress.com domain.[26] Access was later reinstated, but a similar incident occurred in July 2015 over five WordPress-hosted sites on Kurdish politics. In a blog post on its transparency page, WordPress's parent company, Automattic, explained that one of the sites targeted by the TIB for allegedly supporting terrorism actually featured content that was critical of 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.[27]

Facebook, Twitter, and YouTube were briefly blocked in April 2015 after two members of the left-wing terrorist organization Revolutionary People's Liberation Party–Front (DHKP/C) took a public prosecutor hostage in his office in Istanbul on March 31. Prosecutor Mehmet Selim Kiraz was held for several hours before a failed rescue effort by Turkish security forces ended in the death of both the hostage and the perpetrators. After a photo showing one of the terrorists pressing his gun against Kiraz's head went viral, the government issued an immediate gag order on all news of the incident. The Istanbul 1st Criminal Court of Peace banned access to 166 URLs that published the photo,

24 The amendment was published in the *Official Gazette* on December 30, 2014. A copy of the amendment can be found at: Elektronik Haberlesme "Sektorune Ilishkin Yetekilendirme,"[Authorization for Electronic Communications Sector] Amendment No. 27 241, *Official Gazette*, December 30, 2014, No. 29221, http://bit.ly/1RbayFj.

25 Engelli Web, "Kurum Bazinda Istatistikler."

26 Efe Kerem Sozeri, "Ban against a single blog post leads Turkish ISPs to censor all of WordPress," *The Daily Dot*, April 1, 2015, http://bit.ly/1LkEJWM.

27 Kevin Koehler, "Trouble in Turkey," *WordPress Transparency Report, Automattic* (blog), July 31, 2015, http://bit.ly/1joCg7a.

as well as news and videos on Kiraz. The order included 78 news items, 54 Twitter statuses, 10 Twitter accounts, 16 YouTube videos, and 4 Facebook photos.[28]

Twitter responded to the court order within five hours by sending emails to at least 60 users, stating that "in order to avoid being completely banned in Turkey, we have withheld your status / your account." Users reported that Facebook and YouTube were also temporarily inaccessible in Turkey. However, Facebook and Google, which owns YouTube, complied with the court order quickly enough to avoid a significant service outage.[29] Similarly, Facebook, YouTube, and Twitter were blocked briefly on July 22, 2015, until they complied with court orders to remove images and videos related to the deadly bombing of a pro-Kurdish protest in the southeastern city of Suruç.[30]

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."[31] It was initially established 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 founding father of modern Turkey.[32] 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.

One of the main legal developments over the past year in Turkey was the passage of amendments to Law No. 5651 that broadened the scope for censorship, increasing rather than addressing the law's problems in the wake of public criticism.[33] A set of amendments enacted in March 2015 authorized cabinet ministers to order the TiB to block content when necessary to "defend the right to live, 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 TiB, 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.[34] A similar bill passed in September 2014 had been overturned by the Constitutional Court in October of that year.

Separate amendments to the law had been enacted earlier in 2014. 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

28 Efe Kerem Sozeri, "Turkey censors Facebook, Youtube, Twitter, news sites over terrorist photo," *The Daily Dot,* April 6, 2015, http://bit.ly/1YcOvn2.

29 "Turkey Twitter block lifted after image removed," BBC, April 6, 2015, http://bbc.in/1aBTf1g; and Pen International,"Turkey: Facebook, Twitter and YouTube temporarily blocked as censorship grows," April 7, 2015, http://bit.ly/1RIaSMB.

30 Efe Kerem Sozeri, "Turkey respond to deadly bombing by censoring social media, news sites," *The Daily Dot,* July 22, 2015, http://bit.ly/1VSm6DS.

31 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 Iletisim Baskanligi (TIB), "Information about the regulations of the content of the Internet," in "Frequently Asked Questions," http://bit.ly/1PtuhBN.

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

33 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.

34 "Approved article gives Turkish gov't power to shut down websites in four hours," *Hurriyet Daily News*, March 20, 2015, http://bit.ly/1C3iuA8.

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 such as Facebook, Twitter, and YouTube. Access to Bitly, Imgur, and Tumblr was also temporarily blocked during the coverage period. TİB authorities later restored access to Bitly and explained that the site had been banned due to a technical error.[35]

The February 2014 amendments to Law No. 5651 also shield TİB staff if they commit crimes during the exercise of their duties. Criminal investigations can only be initiated through an authorization from the TİB director for TİB staff, and from the relevant minister for the TİB director. This process casts serious doubt on the functioning and accountability of the TİB. ISPs are required to set up a new Association for Access Providers, membership in which is compulsory in order to obtain an "activity certificate" to legally operate in the country. ISPs must also comply with blocking orders from the TİB within four hours or face a penalty of up to TRY 300,000 (US$103,000). 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$22,000).[36]

Currently, access to a number of well-known sites and services is blocked, including Metacafe. SoundCloud was blocked in January 2014 following the dissemination of audio leaks allegedly implicating Erdoğan and his inner circle in corruption.[37] An article by columnist Ezgi Başaran—in which she criticized the rector of Istanbul Technical University for ordering the removal of trees that were planted in memory of citizens who died during the Gezi Park protests in 2013, increasing the number of security guards on campus, and failing to open the social sciences faculty—was blocked on October 1, 2014, without notice to either Başaran or the article's publisher, Radikal.com.[38]

The courts have indefinitely blocked access to the websites of several alternative news sources that report news on southeastern Turkey and Kurdish issues, such as *Atilim*, *Özgür Gündem*, *Azadiya Welat*, *Keditör*, *Günlük Gazetesi*, and Firat News Agency. Within the list of hundreds of blocked domains and internet protocol (IP) addresses, there are also examples of websites that were targeted for unclear reasons, such as todocolleccion.net, a Spanish auction website; various foreign e-commerce websites featuring lingerie and bikinis; and roncalli.org, the website of a Catholic high school.[39] The minister of family and social policy has also stated that the highly popular game *Minecraft* should be investigated and banned for encouraging children to commit violence.[40]

Despite the fact that it is not illegal, sexually explicit content is often blocked by the authorities under the pretext of protecting minors, including 5Posta, a Turkish-language website that features writings of a sexual nature, and the *Playboy* website. 5Posta is blocked under two different decisions, and an appeal is ongoing.[41] An individual petition was separately lodged with the Constitutional

35 "Turkey Bans Bitly, Turns Out to be By Accident," *BIAnet*, April 19, 2015, http://bit.ly/1Mcikxb.

36 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.

37 Marc Hogan, "Has Turkey Banned SoundCloud?" *Spin*, January 27, 2014, http://bit.ly/1MAN4du.

38 "Access To Radikal article blocked by internet watchdog," *Hurriyet Daily News*, October 2, 2014, http://bit.ly/1KS7XkX.

39 Emre Kizilkaya, "Why is Turkey Censoring Lingerie, Antique Books?" *Al-Monitor*, January 29, 2015, http://bit.ly/1r1kJ0F.

40 Imad Khan, "Turkey thinks Minecraft is dangerous for kids," *The Daily Dot*, March 12, 2015, http://bit.ly/1LyuKNj.

41 Ankara 8th Administrative Court Decision No 2010/3103, dated 18 October 2012; Ankara 6th Criminal Court of Peace

Court by the owner of 5Posta in November 2013. Similarly, university professors Yaman Akdeniz and Kerem Altıparmak lodged an appeal at the Council of State against the *Playboy* blocking in early 2014. The two professors had also appealed to unblock Scribd, which is now accessible. Grindr, a mobile application that uses location data to connect gay, bisexual, and bicurious men, became the first app to be rendered inaccessible from Turkey in August 2013. The Istanbul 14th Criminal Court of Peace blocked it as a "protection measure." The ban also covers the application's website. Grindr had over 125,000 monthly active users at the time.[42]

Furthermore, Turkey has censored atheist and anti-Muslim websites deemed defamatory, according to a court order dated February 27, 2015.[43] The latest bans came after the government appealed to a local court, citing blasphemy provisions in the criminal code. The Ankara Golbasi Criminal Court of Peace issued an order to ban 49 URLs, including atheist and anti-Muslim websites; the French satirical magazine *Charlie Hebdo* and its corresponding Wikipedia entry; and Turkish and foreign news articles about a controversial *Charlie Hebdo* cover that caricatured the Muslim prophet Muhammad.[44] However, websites that support radical Islamist groups such as the Islamic State and Al-Qaeda have not been subject to blocking through court orders. For example, takvahaber.net, enfalmedya.com, and mustaqim.net, which call on Muslims to join these illegal organizations and openly disseminate their propaganda, are not blocked in Turkey.[45]

The vast majority (93.4 percent) of blocking orders are issued by the TİB,[46] rather than court orders.[47] The procedures surrounding decisions are nontransparent in both cases, creating significant challenges for those seeking to appeal. Judges can issue blocking orders during preliminary investigations as well as during trials. The reasoning behind court decisions is not provided in blocking notices, and the relevant rulings are not easily accessible. As a result, it is often difficult for site owners to determine why their site has been blocked and which court has issued the order. The TİB's mandate includes executing judicial blocking orders, but it can also issue administrative orders for foreign websites, content involving sexual harassment 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.[48] The BTK tried to mandate filtering for all users in 2011,[49] but withdrew the proposal following a legal

Decision No 2011/94 dated 24 January 2011.

42 Rakesh Ramchurn, "Gay hook-up app Grindr fights back against Turkish ban with threat of legal action," *Independent*, September 20, 2013, http://ind.pn/1Qi2xh7.

43 Golbasi Criminal Court of Peace Decision No 2015/191 D.Is, dated February 27 2015.

44 Efe Kerem Sözeri, "Turkey quietly escalating online censorship of atheism," *The Daily Dot*, March 4, 2015, http://bit.ly/1M9kZpa.

45 Tim Arango, "Islamist Websites in Turkey Manage to Evade Strict Internet Censorship," *New York Times*, March 13, 2015, http://nyti.ms/1McfcS5.

46 Engelli Web, "Kurum Bazinda Istatistikler," accessed March 8, 2015, http://engelliweb.com/istatistikler/.

47 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.

48 Reporters Without Borders, "New Internet Filtering System Condemned as Backdoor Censorship," December 2, 2011, http://bit.ly/1W3FNp7.

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

challenge.[50] 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,[51] even as some anti-evolution websites remain accessible.[52] The filtering database is maintained by the government without clear criteria. A "Child 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.

Internet access is filtered at primary education institutions and public bodies. The Ministry of Education received public criticism for blocking access to a number of minority news websites in January 2012. In response to questions from lawmakers, the ministry acknowledged that it uses Fortiguard web filtering software at primary education institutions. In a separate written response to parliament member İbrahim Binici dated February 27, 2012, the administrators of the Turkish parliament stated that internet access within parliament was filtered and that access to gambling, pornographic, gaming, and terrorist websites was blocked.[53] In December 2012, they rejected claims that access to websites pertaining to the Alevi Muslim minority was among the blocked content. However, the Alevi Culture Association's website, alevikulturdernekleri.com, was filtered in the parliament in December 2014. Sezgin Tanrıkulu of the opposition Republican People's Party (CHP) asked the government about the filtering via a parliamentary question, and the assembly's deputy chairman, Sadık Yakut, responded that the site was blocked due to an error of misclassification.[54]

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 for fear of being banned. Twitter responded to a court order about the attack on Prosecutor Kiraz within five hours, and all online news sources deleted their tweets together with their articles about the incident at once. Popular Turkish websites are also subject to content removal orders. Courts issued several orders pertaining to user-generated content websites such as Eksi Sozluk (Sour Dictionary), Inci Sozluk (Pearl Dictionary), and ITU Sozluk (Istanbul Technical University Dictionary).

In January 2015, Turkish officials threatened to shut down Twitter unless the company took down the account of *Birgün*, a left-wing newspaper, which had circulated documents about a military police raid on National Intelligence Organization (MİT) trucks that were traveling to Syria and allegedly carrying weaponry.[55] The Adana Criminal Court of Peace issued an order stating that publication of the information about the trucks violated national security and interfered with a continuing investigation, and that the blocking was necessary for the purpose of "preventing the violation of the personal

50 On September 27, 2011, the Council of State rejected the "stay of execution" request by BIAnet referring to the annulment of the February 22, 2011.

51 Dorian Jones, "Turkey Blocks Web Pages Touting Darwin's Evolution Theory," Voice of America, December 23, 2011, http://bit.ly/1Lh9DmR.

52 Sara Reardon, "Controversial Turkish Internet Censorship Program Targets Evolution Sites," *Science Magazine*, December 9, 2011, http://bit.ly/1OfyitJ; Haber Merkezi, "Agos'u Biz Değil Sistem Engelledi," [Agos was filtered through the Ministry of Education filter], *BIAnet*, January 23, 2012, http://bit.ly/1jzOWr4.

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

54 "Meclis'te Alevi Sitesine Yanlışlıkla Sansür," *BIAnet*, December 8, 2014, http://bit.ly/1FNfbzb.

55 Sebnem Arsu, "Turkey Threatens to Block Social Media over Released Documents," *New York Times,* January 16, 2015, http://nyti.ms/14YMrXT.

rights of MİT as a legal entity by publishing such information."[56] Twitter and Facebook complied with the court order accordingly. Twitter removed the content and suspended accounts that shared the information about the trucks. However, several Twitter users, *Birgün* in particular, continued to challenge the ban by posting screenshots of their deleted tweets and leaked legal documents. While Twitter took steps to comply with the court decision, it refused to suspend *Birgün*'s account.

According to Twitter's latest Transparency Report,[57] requests by the Turkish authorities to remove content have increased dramatically since Twitter started publishing data in 2012. The total number of removal requests—by courts as well as government agencies and the police—rose from 2 in the period of July to December 2013 to 186 in the six months afterward, during the height of the corruption allegations and intelligence leaks. The figure continued to grow, reaching 477 in the second half of 2014 and 718 in early 2015. Incredibly, 92 percent of all court orders and 55 percent of administrative requests that Twitter received around the world over the past six months originated in Turkey alone.[58] Twitter reported that some content was duly withheld in 34 percent of cases.

Of 376 court orders seeking the removal of content, 328 came from Turkey in the period July 1 to December 31, 2014. Another 149 requests came from Turkish government, police, and other institutions in the same period, out of the global total of 420 from such entities. A total of 2,642 Turkish accounts were identified in the official requests, of a global total of 3,236. In response to the Turkish requests, Twitter withheld 62 accounts and 1,820 tweets. Overall, Twitter withheld 85 accounts and 1,982 tweets from around the world.[59] On January 20, 2015, two weeks before the publication of the late-2014 report, free speech activists and professors Kerem Altıparmak and Yaman Akdeniz sent a formal notice to Twitter,[60] emphasizing the company's obligation to respect human rights.[61]

According to Facebook's Government Requests Report, in the second half of 2014 the company restricted 3,624 pieces of content, on orders from both the BTK and Turkish law enforcement, particularly in compliance with Law No. 5651.[62] In recent years, Facebook has been criticized by pro-Kurdish movements for removing several pages related to the groups, as well as some used by antigovernment activists.[63]

Media, Diversity, and Content Manipulation

The climate of fear created by widespread government prosecution of online activities has led to an increase in self-censorship, particularly when it comes to criticism of the government or public officials. Speech on Islam or the prophet Muhammad can result in death threats and legal battles. Online posts about the "Kurdish problem" and 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.

56 Adana 5th Criminal Court of Peace Decision No. 2015/197 D.Is, dated January 14, 2015.

57 Twitter, "Turkey," *Transparency Report*, 2015, https://transparency.twitter.com/country/tr .

58 Twitter, "Removal Requests," *Transparency Report,* 2015, https://transparency.twitter.com/removal-requests/2015/jan-jun.

59 "Twitter transparency report: Turkey tops censorship list by wide margin," *Today's Zaman*, February 6, 2015, http://bit.ly/1Qi8Sta.

60 Cyber Rights Turkey, "Formal notice for the termination of Twitter's corporate practices that are in violation of human right in Turkey," January 20, 2015, http://bit.ly/1PgE8M3.

61 Sibel Utku Bila, "Is Twitter giving in to Turkish censorship?,"*Al-Monitor*, February 19, 2015, http://bit.ly/1ihxY0e.

62 Facebook, "Turkey," *Government Requests Report*, January to June 2014, accessed June 21, 2015, http://bit.ly/1LyAarr.

63 "Censored on Facebook," *Adbusters* (blog), June 5, 2013, https://www.adbusters.org/blogs/censored-facebook.html.

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

Journalists and scholars who are critical of the government have faced orchestrated harassment on Twitter, often by dozens or even hundreds of users.[64] Reports from Turkish media in September 2013 indicated that the AKP had enlisted some 6,000 volunteers to set the agenda on social media, counter government critics, and drive discussions on important foreign policy issues. The AKP government has also allegedly hired thousands of Twitter users to intimidate antigovernment commentators.[65] CHP İzmir deputy Erdal Aksunger claimed in a parliamentary question in November 2014 that the MiT is subcontracting a group of 150 people known as "Ak Troller" (white trolls) who are believed to work as Twitter trolls for the AKP. Despite its hostile attitude toward online speech, the AKP changed its digital strategy during the 2015 general elections campaign, creating a headquarters called the New Turkey Digital Office. AKP deputy chairman and spokesman Beşir Atalay described the party's new digital office as "an important communication platform that will be useful after the elections, too."[66]

Although a large number of websites are blocked, circumvention tools are widely available, enabling even inexperienced users to avoid filters and blocking mechanisms. Each time a new order is issued and a popular website is blocked, articles are published to instruct users on how to access it. YouTube was the eighth-most-accessed site in Turkey in 2010, at a time when it was officially blocked.[67] However, when internet users employed Google's Domain Name System (DNS) service and OpenDNS to evade blocks on both Twitter and YouTube in 2014,[68] Google announced that it had received several credible reports and confirmed with their own research that Turkish ISPs had intercepted and hijacked the settings.[69]

According to IAB Turkey Internet Audience Measurement, the most visited online news source is milliyet.com.tr, the online edition of the newspaper *Milliyet*. *Hurriyet*, an influential newspaper with a readership of almost 2 million, is the second-most-visited online news source. Nonetheless, new models for citizen journalism and volunteer reporting are also gaining traction, such as 140journos, dokuz8haber (nine eight news), and Otekilerin Postasi (The Others' Post). Independent news sources such as bianet.org, diken.com.tr, and t24.com.tr are also popular. In general, the online environment remains more free and diverse than traditional media. Turkish mainstream media largely failed to report on the Gezi Park protests; instead, YouTube, Facebook, and Twitter arose as some of the few outlets for reliable coverage on the protests, leading Erdoğan to describe social media as "the worst menace to society."[70]

64 Emre Kizilkaya, "AKP's social media wars," *Al Monitor*, November 15, 2013, http://bit.ly/1LhdTCG.

65 "CHP asks if pro-gov't trolls put on AK Party payroll," *Cihan*, September 4, 2014, http://bit.ly/1UWSepJ.

66 "Turkey's ruling AKP fields new 'digital army,'" *Hurriyet Daily News,* May 14, 2015, http://bit.ly/1QGwTe7.

67 Alexa, "Turkey," in "Top Sites," accessed August 26, 2010, http://www.alexa.com/topsites/countries/TR.

68 Emre Peker, Joe Parkinson, and Sam Schechner, "Google, Others Blast Turkey," *Wall Street Journal*, March 31, 2014, http://on.wsj.com/1KgtnVD.

69 "Google says Turkey intercepting its Web domain," *Hurriyet Daily News*, April 31, 2014, http://bit.ly/1iPtvlX.

70 Constanze Letsch, "Social media and opposition to blame for protests, says Turkish PM," *Guardian*, June 3, 2013, http://bit.ly/1KScML2.

Digital Activism

After the highly popular Occupy Gezi protests in 2013, environmentalist demonstrations were mounted against government moves to construct a mosque in Istanbul's protected area of Validebağ Grove,[71] and against the felling of 6,000 olive trees for the construction of a power plant in the village of Yirca in late 2014.[72] Hashtags such as #validebag, #yirca, and #sendeanlat (tell your story)[73] were popular during the coverage period, with the third attracting over 500,000 tweets within two days to spread awareness of violence against women after the brutal rape and killing of 20-year-old university student Özgecan Aslan.[74] Thousands of women posted pictures of themselves laughing after Deputy Prime Minister Bülent Arinç stated in July 2014 that women should not laugh out loud in public.[75]

Before important elections in 2014 and 2015, a number of initiatives were established to monitor ballot boxes and prevent election fraud. Among these was Oy ve Ötesi (Vote and Beyond), the first civic election-monitoring initiative, which managed to enlist more than 55,000 active volunteers from all walks of society via social media outreach. Most recently, the initiative monitored 128,620 of 174,400 ballot boxes in 46 provinces and 173 counties during the general elections in June 2015.[76]

Violations of User Rights

As social media have gained prominence as a tool for activism and criticism of the government, legal cases against Facebook and Twitter users have skyrocketed. Prison sentences are rare, but the constant legal intimidation has a chilling effect on free speech online. Surveillance remains a key issue amid the fallout from high-level corruption scandals and intelligence leaks in 2013 and 2014, and leaks from mid-2015 revealed that a civilian police directorate possessed malware products from the Italian company Hacking Team. On a positive note, there were fewer instances of physical attacks against citizen journalists covering protests, although online harassment has persisted.

Legal Environment

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."[77] 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

71 Avni Kantan, "Citizens protest against Mosque construction at Validebag Grove," *Demotix*, November 2, 2014, http://bit.ly/1k58pk8.

72 Tulin Daloglu, "Destruction of olive trees in Turkey triggers protests," *Al-Monitor,* November 10, 2014, http://bit.ly/1X41ea2.

73 For an interview with the creator of the hashtag, see Efe Kerem Sözeri, "#sendeanlat Tag Starter Speaks Up," *BIAnet*, February 17, 2015, http://bit.ly/1Knmv5Q.

74 Helen Davidson, "Rape and murder of young woman sparks mass Twitter protest in Turkey," *Guardian*, February 16, 2015, http://bit.ly/17KbXSY.

75 Haurt Sassounian, "Turkish Deputy Prime Minister Tells Women Not to Laugh in Public," *Huffington* Post, August 8, 2014, http://huff.to/1YcUFDx; "The women having a laugh in Turkey," BBC, July 29, 2014, http://bbc.in/1uGqCb2.

76 Oy ve Ötesi Derneği, "55.000'İN ÜZERİNDE OY VE ÖTESİ GÖNÜLLÜSÜ 7 HAZİRAN'DA SANDIKLARA SAHİP ÇIKTI!" [in Turkish], news release, June 10, 2015, http://bit.ly/1cLxZ9q.

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

is highly prevalent. 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.

One notable development from the coverage period was the passage of the Homeland Security Act on March 27, 2015. Although the final version of the bill did not contain some of the most exorbitant restrictions, civil society and free speech advocates still expressed fears that the law would be used to suppress online news sources, particularly ahead of important parliamentary elections.[78]

Prosecutions and Detentions for Online Activities Turkish users face widespread legal prosecution and detention for their online activities, though long prison sentences are less common. Over the past year, dozens of Twitter users, some with only hundreds of followers, were subject to prosecution, mostly on charges of insulting government officials. Erdoğan has filed criminal complaints against at least 67 people for "insulting" him online since he was elected president in August 2014.[79] In addition to journalists, students have increasingly been prosecuted for defamation.

There were many ongoing investigations or trials during the coverage period, including the following:

- Journalist and anchorwoman Sedef Kabaş was detained and police raided her home after one of her tweets in December 2014 alluded to a cover-up of a governmental corruption scandal. She faced up to five years in jail for tweeting, "Do not forget the name of the prosecutor who dismissed the Dec. 17 case."[80] Kabaş was released pending trial and eventually acquitted in October 2015 of "targeting individuals involved in the fight against terrorism."[81]
- Journalist and writer Aytekin Gezici was detained in October 2014 in Adana after a police raid on his home. His recent tweets had criticized Erdoğan, Arinç, and former justice minister Bekir Bozdağ on Twitter.[82] In September 2015, he received a prison sentence of five years and nine months, as well as a judicial fine equivalent to one year and nine months in prison, for "insulting" the three public figures.[83]
- Kamil Maman, a reporter for *Bugün* newspaper, faces 25 separate investigations for critical tweets published in the past six months about the government, particularly Davutoğlu and Erdoğan. Maman could receive a combined total of 130 years in prison.[84]
- Ten journalists were being prosecuted in mid-2015 for tweets that the government considered "propaganda in support of terrorist organizations" in connection with the attack on

78 Reuters and Agence France-Presse, "Turkey approves tough new security law," Deutsche Welle, March 27, 2015, http://bit.ly/1NHsSIn.

79 Finkel, "Miss Turkey on Trial for Allegedly Insulting President Erdogan."

80 "Twitter Transparency Report: Turkey Tops Censorship List by Margin," *Today's Zaman,* February 6, 2015, http://bit.ly/1Qi8Sta.

81 "Journalist Sedef Kabaş acquitted in trial over critical tweet by İstanbul court," *Today's Zaman,* October 6, 2015, http://bit.ly/1joEtPW.

82 "Turkey's journalists challenged by growing judicial, political pressure," *Today's Zaman,* May 28, 2015, http://bit.ly/1iPzx61.

83 "Gazeteci Aytekin Gezici'ye Erdogan'a hakareteen 6 yil hapis," *Birgün,* September 17, 2015,http://bit.ly/1Lb26UR.

84 Yakup Cetin, "Journalist faces 25 investigations for insulting president on Twitter," *Today's Zaman*, May 15, 2015, http://bit.ly/1LyHFyI .

Prosecutor Kiraz by two militants. The journalists faced up to five years in prison if found guilty.[85]

- Yaşar Elma, a journalist from a local daily newspaper, received a suspended prison sentence in April 2015 for "liking" a Facebook post that was critical of Erdoğan and deemed "insulting" by the court.[86]
- Mehmet Baransu, a journalist linked with the Islamist movement of Fethullah Gülen, which has become an opponent of the AKP government, was subjected to a criminal case in late 2014 for "insulting and blackmailing" Erdoğan on Twitter. He faces up to seven years in prison if found guilty.[87]
- Prime Minister Davutoğlu sued U.S.-based analyst Cenk Sidar, a writer for the online news source diken.com.tr, over an opinion piece accusing Davutoğlu of hypocrisy for joining a freedom of expression march in Paris following the terrorist attack on *Charlie Hebdo* in January 2015.[88]
- On February 27, 2015, a 13-year-old student in western Turkey was taken from his classroom to be questioned on suspicion that he "insulted" Erdoğan on Facebook. The prosecutor had yet to decide whether he would file a criminal case.[89]
- Also in February, 19-year-old university student Arif Buğra Aydoğan was arrested for tweeting "thief, murderer Erdoğan." Two others, Kadir Yavaş and Şafak Kurt, were later arrested on similar charges while protesting against Aydoğan's arrest.[90]
- In April, 20-year-old university student Meral Tutcalı received a suspended sentence of one year in prison for "insulting a public official" over a satirical tweet. Tutcalı quoted a satirical news article in the tweet, which referred to the governor of Adana as more important than the president.[91]
- Former Miss Turkey Merve Büyüksaraç was put on trial in 2015 for using her Instagram account to share a satirical poem about Erdoğan's corruption scandal that had originally appeared in the Turkish comic *Uykusuz*.[92] The model faces up to two years in prison.
- Turkish singer Atilla Taş was questioned for "insulting" Davutoğlu on Twitter on March 6, 2015.[93]

While the number of court cases against users is staggering, the majority of cases do not result in

85 "Growing pressure on journalists in Turkey before the elections," Journalists Union of Turkey, June 2, 2015, http://bit.ly/1UX16M0.

86 "Journalist receives jail sentence for 'liking Erdoğan insult,'" *Hurriyet Daily News*, April 4, 2015, http://bit.ly/1OfQX8X.

87 "Journalist Baransu faces 7 years for insulting Erdoğan on Twitter," *Facts on* Turkey, November 13, 2014, http://bit.ly/1McsUo4.

88 "PM Davutoğlu sues US-based analyst Sidar for critical article," *Today's Zaman*, March 17, 2015, http://bit.ly/1KSfiky.

89 "13-year-old boy testifies for 'insulting' Erdoğan on Facebook," *Hurriyet Daily News*, March 2, 2015, http://bit.ly/1F2T2Cl.

90 Ismail Saymaz, "Cumhurbaşkanı'na hakaretten bir tutuklama daha: Suçun işlendiği ortama göre...," *Radikal,* February 16, 2015, http://bit.ly/1KnoYgw.

91 Robert Mackey, "Turkish College Student Convicted for Tweeting Satirical News Story," *New York Times*, April 23, 2015, http://nyti.ms/1PtwfSD.

92 Adam Taylor, "How a single Instagram post could end up sending a former Miss Turkey to jail," *Washington Post*, February 25, 2015, http://wapo.st/1LyEfMm.

93 "Dissident pop singer Atilla Taş briefly detained over tweets criticizing PM," *Today's Zaman*, March 6, 2015, http://bit.ly/1BWqc4h.

jail time. For example, 29 individuals faced up to three years in prison for tweets that called on users to join the Gezi protests in 2013, often by simply providing the location of the protests.[94] In the last hearing on September 22, 2014, 27 of the accused were acquitted of all crimes, one defendant was fined TRY 8,000 (US$2,750) for "insulting the prime minister," and another's file was set aside for a future date.[95]

Nonetheless, journalists and government critics do face prison time in Turkey, often on trumped-up charges related to their offline activities. One such case centers on Sevan Nişanyan, an ethnic Armenian writer and public intellectual who criticized the government's attempts to prohibit criticism of the prophet Muhammad. Nişanyan has been in prison since January 2014 based on an earlier conviction for violating the Code of Protection of Cultural and National Properties by undertaking construction on his own property;[96] he is currently the only person imprisoned in Turkey for violating the code.[97] He faces further time behind bars in several pending cases on charges such as "disrespecting the religious belief of a group," under Article 216 of the criminal code. Other charges stem from posts on his personal blog about the Armenian genocide, and about Atatürk, whom the writer described as a "fascist dictator."

Surveillance, Privacy, and Anonymity

The abuse of government surveillance, the bulk retention of user data, and measures to prevent 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 falls under the purview of the TİB, and questions remain over the legality of the GDS using software that can infiltrate targets' computers. The prominence of so-called Gülenists in the police and judiciary has been a major point of discussion in the country in recent years, particularly after leaked wiretaps widely attributed to such officials led to the government corruption scandals of 2013 and 2014.

The scandals have prompted high-level sackings and reshuffling within the police and judiciary, apparently aimed at removing suspected Gülenist officials. On January 20, 2015, a public prosecutor's office issued arrest warrants for 28 officials both from the TİB and the Scientific and Technological Research Council of Turkey (TÜBİTAK), including the former deputy chairman of TİB, Osman Nihat Şen, and former TÜBİTAK vice president Hasan Palaz. The officials were accused of "spying," "destroying the union of the state," and "unauthorized listening of cryptographic and ordinary phones,"[99] as well as "being a member of armed terrorist organization, procurement of state secrets with aim of political and military espionage, attempting to remove the government of Republic of Turkey or preventing it from performing its duties, violation of the privacy of communications, and damaging, destruction of, or making inaccessible a system of data processing."[100] President Erdoğan, Minister

94 Kevin Collier, "Turkey takes 29 dissidents to trial for protest tweets," *The Daily Dot*, April 17, 2014, http://bit.ly/1kJpegC.

95 Binnaz Saktanber, "'Cease and censor' in Turkey's war on social media," *Roar Magazine*, February 20, 2015, http://bit.ly/1z5B0pa.

96 Amnesty International, "The Strange case of Sevan Nişanyan," February 5, 2015, http://bit.ly/1iwM0M0.

97 "Jailed Turkish-Armenian journalist Nişanyan's sentence raised to 11 years," *BGN News,* April 19, 2015, http://bit.ly/1QGH6XT; "Turkish Constitutional Court Rejects Sevan Nisanyan Appeal," *Massis Post*, April 2, 2015, http://bit.ly/1OwN7r6.

98 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/.

99 "Turkey: Former telecommunications deputy chairman detained," *World Bulletin,* January 21, 2015, http://bit.ly/1KnvlAy.

100 "Turkish court accepts indictment of TIB over illegal spying," *TRT World,* June 2, 2015, http://bit.ly/1FgTTyZ.

of Development Cevdet Yılmaz, former justice minister Sadullah Ergin, and former minister of family and social policies Fatma Şahin have been cited in the indictment as the complainants. According to the indictment, the suspects allegedly spied on encrypted phones without a court decision and held the recorded files in order to transfer them to the Gülen movement. Erdoğan had formerly denied the recordings' authenticity. Osman Nihat Şen and other suspects were placed in pretrial detention.

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 crime commitment, 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 urgent situations the law allowed Turkish security forces to conduct intelligence wiretapping for 24 hours without a judge's permission. However, with the new law the time limit increased to 48 hours, though the wiretapping officials are required to 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]

In April 2014, the parliament enacted a law that expanded the powers of the MİT. Law 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 give the MİT 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 is punishable by prison. In a clause related to the MİT'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.[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 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 CHP objected to the MİT law and filed an appeal with the Constitutional Court.

In 2013, the daily newspaper *Taraf* filed a complaint at the Constitutional Court against the MİT for illegally tapping journalists' phones. Lawyers had initially filed a complaint with the Istanbul Public Prosecutor's Office in 2012, but since MİT agents can only be prosecuted with the permission of the

101 The Constitution of the Republic of Turkey.

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

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

104 See Sebnem Arsu, "Turkish Leader Signs Bill Expanding Spy Agency's Power," *New York Times*, dated April 25, 2014, http://nyti.ms/1McuXsn;
Fehim Taştekin, "Is Turkey reverting to a 'muhaberat' state?" *Al-Monitor*, April 17, 2014, http://bit.ly/1NDF1h7.

prime minister, the prosecutor's office decided not to pursue the case.[105] In May 2015 the Constitutional Court ruled that issuing such wiretapping orders was a violation of constitutional rights, particularly the right to privacy.[106]

The constitution states that "secrecy of communication is fundamental," and users are allowed to post anonymously online. However, the anonymous purchase of mobile phones is not allowed; buyers must provide official identification. According to a Council of Ministers decision dated 2000, only one mobile phone import per two years is permitted per person. Imported devices can be registered at mobile phone operators' subscription centers and an e-government website, for a fee of TRY 131.50 (US$45). Devices that are not registered within 60 days are shut off from communications. 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. Mobile phone companies are obliged to keep information on the number and identities of their users, call periods, and traffic data for one year.

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 in monitoring internet traffic. 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 upon a certain payment, such as internet cafes. 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, the commercial providers must also receive permission from the local administration, use a content-filtering service approved by the TİB, and keep accurate daily records of internal IP distribution logs using software supplied by the TİB, 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 TİB upon request—and without the need for a court order—under penalty of TRY 10,000 to 100,000 (US$4,400 to 44,000) in fines.[107]

Turkey has yet to adopt a data-protection law, though September 2010 amendments to the Turkish constitution included data-protection provisions. It was expected that a draft data-protection bill would reach the parliament after the 2015 elections.

Intimidation and Violence

Citizen journalists and reporters for online news outlets did not face physical violence in this coverage period, unlike in previous years, when journalists were harassed or injured while covering pro-

105 "Taraf daily to take MİT's wiretapping to Constitutional Court," *Today's Zaman*, August 25, 2013, http://bit.ly/1KnwFDj.

106 "Top court rules against Turkish intelligence over wiretapping journalists," *BGN News*, May 10, 2015, http://bit.ly/1OfTWhm.

107 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.

tests. However, social media users—particularly public figures, journalists, and intellectuals—faced online harassment. In February 2015, the prime minister's guards attempted to detain Young Civilians founder and academic Turgay Oğur outside a mosque due to his tweets criticizing their entry into the mosque while carrying machine guns as part of an escort for Davutoğlu.[108]

Technical Attacks

Popular news organizations such as *Zaman*, *Today's Zaman*, *Cihan*, *Rotahaber*, *Radikal*, *Sözcü*, and *Taraf* reported cyberattacks against their websites during the 2014 election period, a common occurrence in recent years. Internet access was suspended at the offices of Turkish-language *Zaman* and English-language *Today's Zaman* for several hours.[109] On March 31, 2015, a massive power cut occurred in almost all 81 provinces. Many blamed the cut on a technical failure, while others attributed it to a cyberattack originating in Iran.[110]

In recent years, Turkish government sites have been attacked by hacktivist organizations like Anonymous.[111] During 2012, the leftist Redhack group infiltrated several government websites and leaked confidential information. The group, which has over 675,000 followers on Twitter, hacked into the servers of the Ministry of Foreign Affairs, the Ministry of Finance, and the Turkish Higher Education Authority, among others, during 2012 and early 2013.[112] Under a court order, Twitter made Redhack's main Twitter accounts inaccessible from Turkey in 2014.

108 "PM's guards attempt to detain academic outside mosque for his tweets," *Today's Zaman,* February 27, 2015, http://bit.ly/1UX6e2H.

109 "Cyber attacks on news websites threaten freedom of press, expression," *Today's Zaman*, April 1, 2014, http://bit.ly/1W3YV6g.

110 Micah Halpern, "Iran Flexes Its Power by Transporting Turkey to the Stone Age," *Observer,* April 22, 2015, http://bit.ly/1GjPpaB.

111 "Anonymous Hacked BTK Database," *BIAnet*, February 15, 2012, http://bit.ly/1NxVthd.

112 Redhack, "Council of Higher Education of Turkey hacked and over 60.000 documents leaked," news release, http://bit.ly/1Lhmsh2. See also the Redhack blog *Voice of the Oppressed!* at http://bit.ly/1Qt28cn.