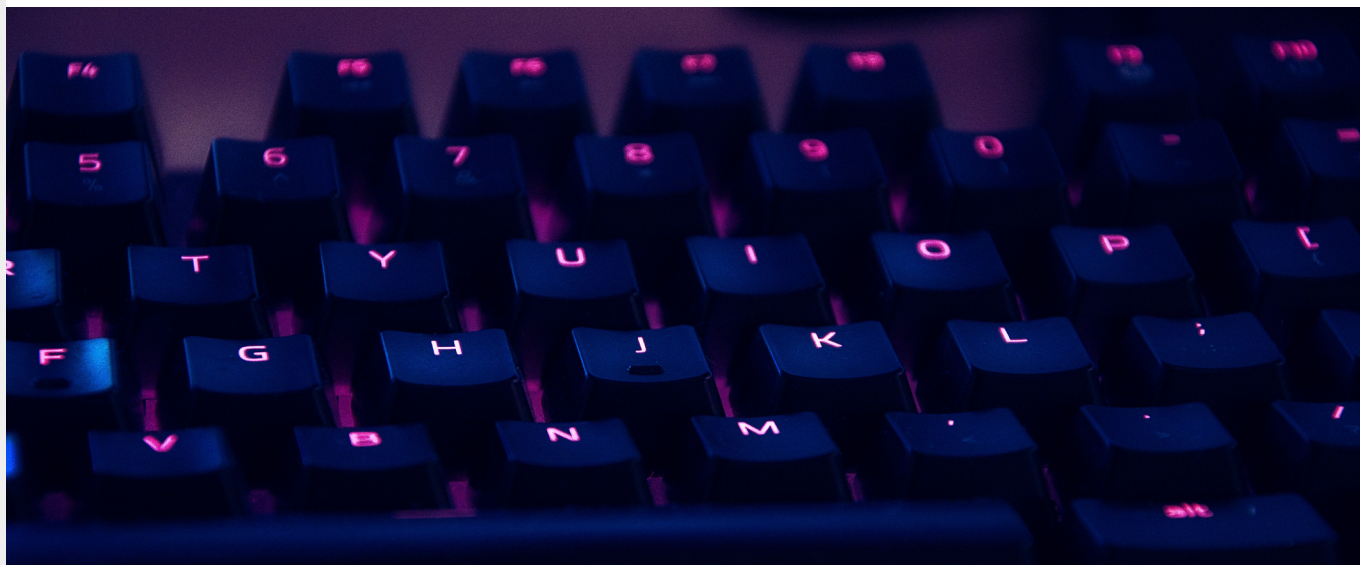


Proposed amendments to Turkish Internet Law would affect both foreign and domestic social network providers

April 2020



Dear Clients, Colleagues and Friends,

On 9 April 2020, a draft law entitled Omnibus Bill on Amendments to Various Laws (the “**Bill**”), consisting of additional measures to fight the Covid-19 pandemic, was shared by Turkish newspapers and other digital media. Among a series of significant legal reforms, this draft contained important amendments to Law No. 5651 on the Regulation of Broadcasts over the Internet and the Prevention of Crimes Committed through such Broadcasts (the “**Internet Law**”), introducing in particular new obligations for social network service providers located outside Turkey, as well as data localisation requirements.

The proposed amendments to the Internet Law triggered a public debate and were not eventually included in Law No. 7244 to Mitigate the Effects of the New Coronavirus Outbreak on Economic and Social Life and Amend Various Laws, which was approved by the Grand National Assembly of Turkey on 16 April 2020. The proposed amendments to the Internet Law must however be closely monitored, as they are likely to come back to the parliamentary agenda in the near future.

Details of the proposed amendments to the Internet Law introduced by the Bill are as follows:

- **Social network provider.** The Bill introduces the concept of “social network provider”, which is defined as a natural or legal person that enables users to create, view or share data, such as text, images, sound or location, on the internet for social interaction purposes.
- **Obligation to appoint a representative.** Foreign-based social network providers with more than one million daily accesses from Turkey have the obligation to appoint at least one person as their representative in Turkey, in order to address any notices, notifications and requests from the Information and Communication Technologies Authority (the “**ICTA**”), the Access Providers’ Union, and judicial and administrative authorities, and to respond to the applications of individuals. The appointed representatives must be notified to the ICTA, and the social network providers must provide the contact information of such representative on their websites, in an easily accessible place.

If the social network provider fails to comply with its obligation to appoint a representative and notify the ICTA despite notifications to that effect, the ICTA has the authority to request from the courts to reduce the internet traffic bandwidth of the social network provider by 50%. If the social network provider does not comply with the court’s ruling, the ICTA may then request from the courts to reduce the provider’s internet traffic bandwidth by 95%. The decision of the court must be executed immediately and within no more than four hours of its notification to the access providers.

- **Content removal request.** Foreign and domestic social network providers with more than one million daily accesses from Turkey have the obligation to respond to individual applications regarding the contents broadcasted on the Internet within the scope of Article 9 (content removal due to the violation of personal rights) and Article 9/A (access ban to ensure the protection of private life) of the Internet Law within no more than 72 hours. The purpose of this amendment is to ensure that social network providers promptly respond to individuals' content removal requests. Social network providers may be subject to an administrative fine in the amount of TRY 100,000 to TRY 1,000,000 (approx. EUR 13,300 to EUR 133,000) if they fail to comply with this obligation.
- **Data localisation.** Foreign and domestic social network providers with more than one million daily accesses from Turkey must store the data of their users located in Turkey, within Turkey. The failure to comply with this obligation may result in an administrative fine in the amount of TRY 1,000,000 to TRY 5,000,000 (approx. EUR 133,000 to EUR 675,000) for the social network provider.
- **Liability.** A social network provider which fails to remove content or prevent access to content within 24 hours of a court decision that determined said content to be illegal, shall be responsible for the compensation of any damages incurred.
- **Reporting.** Once every three months, foreign or domestic social network providers with more than one million daily accesses from Turkey must submit reports that include information on the implementation of court decisions regarding the removal of illegal content, and statistical and categorical information on individuals' applications for content removal, to the ICTA. The failure to comply with this obligation may result in an administrative fine in the amount of TRY 1,000,000 to TRY 5,000,000 (approx. EUR 133,000 to EUR 675,000) for the social network provider.
- **Audit.** A new provision regarding the supervisory powers of the ICTA is introduced in Article 5 of the Internet Law, which addresses the obligations of hosting services providers. According to the amendment, the ICTA may conduct on-site inspections and audits, or procure on-site inspections and supervision, if it deems it necessary for the supervision of hosting services providers. Administrative chiefs, enforcement officers, and chiefs and officers of other public authorities and institutions are obliged to assist the ICTA in these supervision activities by all means necessary. As a special category of hosting services providers, social network providers will also be subject to the supervision of the ICTA according to this article.

Please do not hesitate to contact us for any further information on this briefing.

Contact Us



Stéphanie Beghe Sönmez

Partner

sbeghe@paksoy.av.tr



Neslihan Kasap

Associate

nkasap@paksoy.av.tr

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