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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

LAW¹

**ON REGULATION OF PUBLICATIONS ON THE INTERNET
AND
COMBATING CRIMES
COMMITTED BY MEANS OF SUCH PUBLICATIONS**

OF TURKEY

AND

**AMENDMENTS
of 27 March 2015**

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Law
on regulation of Publications on the Internet
and combating Crimes committed by means of such Publications

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Aim and scope

ARTICLE 1- (1) The subject, aim and scope of this Law is to regulate the responsibilities and liabilities of content providers, hosting providers, access providers and public use providers, and the principles and practices applicable to efforts to combat, through the agency of content, hosting and access providers, certain offences committed in the internet environment.

Definitions

ARTICLE 2- (1) In the enforcement of this Law, the following terms shall refer to the corresponding meanings:

- a) The Ministry: The Ministry of Transport[, Maritime Affairs and Communications],
- b) The Presidency: The Presidency of Telecommunication and Communication of the Telecommunications Authority.
- c) President: The President of the Telecommunication Communication Presidency,
- ç) Information: Data which is in a form invested with meaning,
- d) Access: Gaining access for the purpose of use by connection with an internet medium,
- e) Access provider: Real persons or legal entities who provide their users with a means of access to an internet medium,
- f) Content provider: Real persons or legal entities who generate, modify and provide all manner of information or data provided to users in the internet medium,
- g) Internet medium: An environment generated over the internet, and made available to the public, not including communication systems and private or corporate computer systems,
- ğ) Publication on the internet: Data provided in the internet medium, the content of which can be accessed by an indefinite number of persons,
- h) Monitoring: Tracking of information and data without affecting the data on the internet,
- i) The Authority: The Telecommunications Authority,

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i) Public use provider: One who provides individuals with the means to use the internet in a certain location for a certain period of time,

j) **(Amended: 26/2/2014-6527/article 15)** Traffic information: Information such as parties' IP address, the start and finish time of service provided, type of service used, quantity of data transferred, and subscriber identification details, if available,

k) Data: All manner of values which can be processed by a computer,

l) Publication: Publication on the internet,

m) Hosting provider: Real persons or legal entities who provide and operate the systems which host services and content,

n) **(Addition: 6/2/2014-6518/article 85)** The Union: The Union of Access Providers,

o) **(Addition: 6/2/2014-6518/article 85)** Blocking access: Blocking access by denying access via the domain name, denying access via the IP address, denying access to the content (URL) and similar methods,

ö **(Addition: 6/2/2014-6518/article 85)** Removal of content from publication: Removal of content from servers or hosted content by the content provider or hosting provider,

p) **(Addition: 6/2/2014-6518/article 85)** URL address: The full internet address at which the content in question is located on the internet,

r) **(Addition: 6/2/2014-6518/article 85)** Warning method: The method of notification to be used by persons who assert that their rights have been violated by content published in the internet environment for removal of that content, such notification being made firstly to the content provider, and, if no result is obtained within a reasonable period, to the hosting provider via their contact addresses.

The obligation to provide notification

ARTICLE 3- (1) Content, hosting and access providers are required to present their contact details in a manner which enables users in an internet medium to access them, within the framework of principles and practices determined by regulation, and must keep such details updated.

(2) An administrative fine of from two thousand to fifty thousand New Turkish Lira shall be imposed by the Presidency on any content, hosting or access provider who fails to comply with the requirement set forth in the above paragraph, ⁽¹⁾

(3) **(Addition: 6/2/2014-6518/article 86)** Notification may be made from within Turkey or from abroad by means of email or other methods of communication to persons who carry out activities covered by this Statute, on the basis of information obtained from internet pages, the domain name, the IP address, or similar sources.

(4) **(Addition: 26/2/2014-6527/article 1; Amended: 10/9/2014-6552/article 126; Cancellation: By Constitutional Court judgment number E: 2014/149, K: 2014/151 of 2/10/2014.)** ⁽²⁾

The obligations of the content provider

ARTICLE 4- (1) The content provider shall be liable in respect of all of the content it provides in an internet medium.

(2) The content provider shall not be liable in respect of others' content to which it provides a link. However, if it is clear from the nature of the presentation that it endorses the content to which it provides a link, and that it intended that the user should access the said content, they shall be liable on the basis of general provisions.

(3) **(Addition: 6/2/2014-6518/article 87)** The content provider shall furnish the Presidency with such information as it may demand, within the scope of the performance by the Presidency of functions delegated to it by this Law and other legislation, and shall take such measures as may be directed by the Presidency.

Obligations of hosting providers

ARTICLE 5- (1) The hosting provider shall not be responsible for checking the content which it is hosting, or investigating whether or not it constitutes an unlawful activity.

(2) **(Amended: 6/2/2014-6518/article 88)** The hosting provider must remove hosted content which is unlawful when notified in accordance with articles 8 and 9 of this Law.

(3) **(Addition: 6/2/2014-6518/article 88)** The hosting provider shall be responsible for retaining traffic information concerning services it provides, as shall be specified by a regulation, for a period of at least one year and not more than two years, and shall be responsible for ensuring the accuracy, integrity and confidentiality of that information.

(4) **(Addition: 6/2/2014-6518/article 88)** Hosting providers may be classified on the basis of principles and procedures which shall be defined by regulation, according to the nature of their business, and may be differentiated in terms of their rights and obligations.

(1) The phrase "from two thousand New Turkish Lira to ten thousand New Turkish Lira" was amended to "from two thousand New Turkish Lira to fifty thousand New Turkish Lira" by article 126 of Statute 6552 dated 10/9/2014.

(2) The Judgment for Cancellation was published in Official Gazette number 29223 of 1/1/2015.

(5) **(Addition: 6/2/2014-6518/article 88)** The hosting provider must surrender to the Presidency such information as it may demand, in such form as it may be demanded, and must implement such measures as may be directed by the Presidency.

(6) **(Addition: 6/2/2014-6518/article 88)** Any hosting provider who fails to carry out hosting provider status notification or fails to carry out the obligations imposed by this Law, shall be subject to a civil penalty of between ten thousand Turkish Lira and one hundred thousand Turkish Lira

Obligations of access providers

ARTICLE 6- (1) The Access Provider shall be responsible for:

a) Blocking access to unlawful content published by any of its users, provided that they are notified pursuant to the provisions of this Law (...),⁽¹⁾

b) Retaining traffic information concerning the services it provides, as specified by regulations, for a period of not less than six months and not more than two years, as shall be determined by regulation, and ensuring the accuracy, integrity and confidentiality of that information.

c) For surrendering to the Authority, on the basis of the principles and procedures set forth in the regulation, records of traffic information, their content providers, and their customers at least three months prior to terminating their activities,

ç) **(Addition: 6/2/2014-6518/article 89)** Taking measures to prevent alternative methods of access to publications concerning which there has been a decision to block access,

d) **(Addition: 6/2/2014-6518/article 89)** Surrendering to the Presidency such information as it may demand, in such form as may be demanded, and implementing such measures as may be directed by the Presidency.

(2) The access provider shall not be responsible for checking whether or not the content accessed through it constitutes an unlawful activity or entails a civil liability.

(3) An administrative fine of from ten thousand to fifty thousand New Turkish Lira shall be imposed by the Presidency on any access provider which fails to fulfill any of its obligations under sections (b), (c), (d) and (e) of the first paragraph.⁽²⁾

The Union of Access Providers

ARTICLE 6/A - (Addition: 6/2/2014-6518/article 90)

(1) The Union of Access Providers was established for the purpose of implementing decisions to block access outside the scope of article 8 of this Statute.

(2) The Union is a legal entity under civil law. Its headquarters is located in Ankara.

(3) The Union shall determine the principles and practices of its operation in the form of a Charter which shall be approved by the Authority. Amendments of the Charter shall be subject to approval by the Authority.

(4) The Union shall commence operations once the Charter has been examined and approved by the Authority.

(5) The Union is a coordinating organisation comprising the membership of all internet service providers and all other operators who provide internet access services authorised under the scope of the Electronic Communications Law, Statute 5809, dated 5/11/2008.

(1) The phrase “and insofar as it has the technical capability to block [access]” in this section was removed by article 89 of Statute 6518.

(2) The phrase “(b) and (c)” in this section was amended to “(b), (c), (d) and (e)” by article 89 of Statute 6518.

(6) Decisions to block access outside the scope of article 8 of this Statute shall be implemented by internet access providers. All manner of hardware and software necessary for the implementation of decisions shall be provided by the access providers themselves.

(7) Decisions to block access outside the scope of article 8 of this Statute shall be sent to the Union for action. For the purposes referred to here, a communication made to the Union shall be deemed to have been made to access providers.

(8) The Union may object to decisions sent to it which it considers are not in conformity with legislation.

(9) The revenue of the Union shall be provided by fees paid by the members. The fees chargeable shall be set at a level which meets the costs of the Union. The fee paid by a member shall be determined by the proportion of net sales of that member within the total net sales of all members. The payment periods for members, the time from which new members shall commence payment, and other provisions concerning payment shall be specified in the Union Charter. Fees not paid in a timely fashion shall be collected by the Union, together with legal interest.

(10) Internet service providers which are not members of the Union may not operate.

Obligations of public use providers

ARTICLE 7- (1) Public use providers operating for commercial purposes must obtain a permit document from the senior local civil administrative officer. The details of the permit shall be notified to the Authority within thirty days by the senior local civil administrative officer. Verification of those details shall be performed by the senior local civil administrative officer. A regulation shall be issued setting forth the principles and procedures concerning verification and issuing of the permit.

(2) **(Amended: 6/2/2014-6518/article 91)** All public use providers, irrespective of whether or not they are operating commercially, must implement the measures specified in regulations concerning blocking access to unlawful content and maintaining access records.

(3) **(Amended: 6/2/2014-6518/article 91)** Public use providers operating for commercial purposes must implementing the precautionary measures, principles and procedures specified in the regulation with regard to protection of the family and children, the prevention of crime, and the identification of perpetrators.

(4) **(Addition: 6/2/2014-6518/article 91)** The senior local administrative officer is authorised to decide the sanction which is to be imposed, subject to principles and procedures which shall be specified by regulation, upon public use providers which are in breach of the obligations

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specified in this article, namely a warning, a civil penalty of between one thousand Turkish Lira and fifteen thousand Turkish Lira, or a suspension of their commercial activities for up to three days, depending on the gravity of the violation.

The decision to deny access, and implementation thereof

ARTICLE 8- (1) A decision to block access to internet publications shall be issued if there are adequate grounds for suspicion that the content constitutes:

a) Any of the following offences under the Turkish Criminal Code, Statute 5237, dated 26/9/2004,

- 1) Incitement to commit suicide (article 84),
- 2) Sexual exploitation of children (article 103, first paragraph),
- 3) Facilitating the use of narcotic or stimulant substances (article 190),
- 4) Supply of substances which are dangerous to health (article 194),
- 5) Obscenity (article 226),
- 6) Prostitution (article 227),
- 7) Providing premises or facilities for gambling (article 228).

b) Any of the offences under the Law on Offences against Atatürk, Statute 5816, dated 25/7/1951.

(2) A decision to block access may be issued at the investigation stage by a judge, and at the prosecution stage by a court. A decision to block access may also be taken at the investigation stage by a public prosecutor in circumstances where a delay would present a risk. In such circumstances, the public prosecutor shall submit his/her decision for approval by a judge within 24 hours and the judge shall give his/her decision within a maximum of twenty-four hours. If the decision is not approved within this period, the measure shall be immediately lifted by the public prosecutor. **(Additional sentence: 6/2/2014-6518/article 92)** A decision to block access may also be issued for a specified limited period if it is considered that this will serve the intended purpose. An objection to such a decision implemented as a precautionary measure may be made under the Criminal Procedure Code, Statute 5271 dated 4/12/2004.

(3) A copy of the decision to block access issued by the judge, court or public prosecutor shall be sent to the Presidency so that the necessary measures can be implemented.

(4) The decision to block access shall be issued *ex officio* by the Presidency if the content or hosting provider of the publications with content which constitutes offences as specified in the first paragraph is located outside the country, and also in the case of publications with content which constitutes offences mentioned in subsections (2) and (5) and (6) of section (a) of the first paragraph, even if the content or hosting provider is located within the country. The access provider shall be notified of this decision and shall be requested to take the necessary action.⁽¹⁾

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(5) The measures necessary to implement a decision to block access shall be carried out immediately, within a maximum of four hours as from the notification of the decision.⁽²⁾

(6) If the identity of the persons who created the publication subject to the Presidency's decision to block access is identified, an official complaint shall be made by the Presidency to the Office of the Chief Public Prosecutor.

(7) If, subsequent to investigation, a decision not to prosecute is issued, the decision to block access shall automatically become invalidated. In this case, the public prosecutor shall send a copy of the decision not to prosecute to the Presidency.

(8) If the prosecution results in an acquittal, the decision to block access shall automatically become invalidated. In this case, the court shall send a copy of the acquittal verdict to the Presidency.

(9) If content which constitutes the offences listed in the first paragraph is removed from publication, the decision to block access shall be lifted by the public prosecutor in the investigation stage, and by the court in the prosecution stage.

(10) Responsible officers of hosting or access providers who fail to take the action necessary to implement the decision to block access as a precautionary measure shall, unless the act constitutes an offence which incurs a heavier penalty, be punished by a judicial fine equivalent to from five hundred to three thousand days.⁽³⁾

(11) If the decision to deny access issued as an administrative precaution is not implemented, an administrative fine of from ten thousand to one hundred thousand New Turkish Lira shall be imposed by the Presidency on the access provider. If the decision is not implemented within 24 hours as from the moment that the administrative fine is imposed, a decision may be made by the Authority, at the request of the Presidency, for the authorisation to be cancelled.

(1) The phrase "(2) and (5)" in this subsection was amended to "(2), (5), and (6)" by article 92 of Statute 6518.

(2) The phrase "24 hours" was amended to "four hours" by article 127 of Statute 6552 dated 10/9/2014.

(3) The phrase "imprisonment for a period of from six months to two years" in this paragraph was amended to "a criminal fine equivalent to from five hundred days to three thousand days."

(12) Appeals against administrative fines imposed by the Presidency or the Authority for offences specified by this Law may be made in accordance with the provisions of the Administrative Procedure Code, Statute 2577 of 6/1/1982.

(13) **(Addition: 5/11/2008-5809/article 67)** Objection may be made to decisions of judges and courts sent to the Presidency on the basis of the provisions of the Criminal Procedure Code, Statute 5271 dated 4/12/2004.

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(14) **(Addition: 12/7/2013-6495/article 47)** Institutions and organisations specified in section (d) of the first paragraph of article 3 of the Law Regulating Taxes, Fund Contributions and Royalties collected from the Proceeds of Games of Chance, Statute 5602 dated 14/3/2007 may, if it is identified that offences within their area of responsibility have been committed in the internet medium, issue a decision to block access in respect of such publications. Decisions to block access shall be communicated to the Presidency of Telecommunication and Communication for implementation.

(15) **(Addition: 26/2/2014-6527/article 17)** The decision of a judge given at the investigation stage on the basis of this article, and the decision of a judge given according to articles 9 and 9/A shall, in locations where there is more than one criminal court, be issued by the criminal court specified by the High Council of Judges and Prosecutors

(16) **(Addition: 10/9/2014-6552/article 127; Cancellation: By Constitutional Court judgment number E: 2014/149, K: 2014/151 of 2/10/2014.)** ⁽¹⁾

Removal of content from publication, and blocking of access⁽²⁾

ARTICLE 9- (Amended: 6/2/2014-6518/article 93)

(1) Real persons, legal entities and institutions and organisations may, if they assert that their rights have been violated as a consequence of content published in the internet environment, apply for removal of publication of that content by means of a warning to the content provider or, if the content provider cannot be contacted, to the hosting provider, or they may also apply directly to a magistrate to request denial of access to the content.

(2) A response shall be provided within a maximum of 24 hours by the content and/or hosting provider to requests made by real persons, legal entities and institutions or organisations who assert that their rights have been violated as a consequence of content published in the internet environment.

(3) A judge may order blocking of access within the scope of this article in accordance with the demands of those whose personal rights have been violated by content published in the internet medium.

(4) The judge shall primarily issue decisions to block access within the scope of this article by means of blocking of access to the particular publication, part or section of the content (in the form of URL etc) which is alleged to have occasioned the violation. No decision shall be given to block access to the whole of the content of an internet site other than where this is unavoidable. However, if the judge is convinced that the violation cannot be halted by blocking access by specifying the URL address, s/he may rule that all access to everything published on the internet site in question must be blocked, on condition that s/he specifies the grounds for such a ruling.

(5) Decisions given by the judge to deny access within the scope of this article shall be sent directly to the Union.

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(6) The judge shall make a decision on an application made under the scope of this article within a maximum period of 24 hours without holding a hearing. An objection to such a decision may be made on the basis of the Criminal Procedure Code, Statute 5271 dated 4/12/2004.

(7) If the blocked content is removed from publication, the judge's decision automatically becomes invalidated.

(1) The Judgment for Cancellation was published in Official Gazette number 29223 of 1/1/2015.

(2) While the title of this article was "Removal of content from publication and the right to reply" but the text was changed as indicated in article 93 of Statute 6518.

(8) A decision to block access sent by the Union to the access provider shall be implemented by the internet access provider immediately, within a maximum of four hours.

(9) If the publication subject to a decision by a judge for blocking of access due to violation of personal rights within the scope of this article, or a publication of the same character, is also published in other internet sites, the existing decision shall also be applied to those other addresses if an application is made by the person concerned to the Union.

(10) A responsible person who fails to comply in a proper and timely fashion with the decision of the magistrate, as specified in the terms of this article, shall be punished by a criminal fine equivalent to from five hundred days to three thousand days.

Blocking access to content on grounds of the confidentiality of private life

ARTICLE 9/A- (Addition: 6/2/2014-6518/article 94)

(1) Persons who assert that the confidentiality of their private life has been violated by a publication in the internet environment may, by applying directly to the Presidency, request that access to that content be blocked.

(2) Such a request shall specify the full address (URL) of the publication which is the cause of the violation of the right, shall explain the nature of the violation, and shall provide details verifying the identity of the applicant. Any application which does not contain these details shall not be processed.

(3) The Presidency shall immediately inform the Union in order to ensure that this request is implemented, and access providers shall carry out the request immediately, within a maximum of four hours.

(4) Denial of access shall be accomplished by blocking access to the video, picture, part, section, or publication (in the form of the URL etc) which is violating the confidentiality of private life.

(5) Persons who demand blocking of access shall submit their demand for prevention of access on the grounds that the publication content presented in the internet environment is a violation of the confidentiality of their private life to a magistrate within twenty four hours of the demand for blocking of access. The judge shall assess whether or not the confidentiality of their

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private life has been violated by publication of the content presented in the internet environment, shall announce his/her decision within a maximum of forty-eight hours, and shall send the decision directly to the Presidency. Otherwise, the measures for denial of access shall automatically be lifted.

(6) An objection to such a decision may be made by the Presidency on the basis of Statute 5271.

(7) If the content which is the subject of the denial of access is removed from publication, the judge's decision shall automatically become invalidated.

(8) In circumstances where it is considered that delay may present a risk of violation of the confidentiality of private life, the denial of access shall be carried out by the Presidency upon the direct instructions of the President. **(Repealed sentence: 26/2/2014-6527/article 18)**

(9) **(Addition: 26/2/2014-6527/article 18)** A decision to block access issued by the President under the terms of the eighth paragraph of this article shall be submitted by the Presidency for approval by a magistrate within 24 hours. The magistrate shall announce his/her decision within 48 hours.

Administrative structure and functions

ARTICLE 10- (1) The functions under this Law shall be carried out by the Presidency which is part of the Authority.

(2) The posts created for service in the Presidency, and which appeared in the list annexed to this Law have been appended to List (II) annexed to Statute 2813 dated 5/4/1983 . The provisions with regard to financial and employment entitlements and assistance applicable to Telecommunications Specialists working at the Authority shall apply to communications specialists within the Presidency. Without prejudice to the employment rights of personnel appointed as Communications Specialist to the Presidency, the career system shall be set forth in a regulation which shall be issued within six months of the date upon which this Law enters into force.

(3) All manner of procurements of goods and services in respect of the functions allocated to the Presidency by Law shall be met from the Authority budget, and shall not be subject to the provisions of the Public Competitive Tender Law, Statute 4734 dated 4/1/2002 and the Public Competitive Tender Procedure Contracts Law, Statute 4735 dated 5/1/2002, other than with regard to the procedures concerning penalties and exclusions from competitive tender procedures.

(4) Without prejudice to other powers and functions allocated by Laws, the functions and powers of the Presidency under this law shall be as follows:

a) To carry out coordination between the Ministry, the police, relevant public institutions and organisations, content, hosting and access providers, and relevant civil society organisations, to carry out work to prevent internet activities which constitute offences and to block publications with unlawful content covered by the scope of this Law, to ensure the safe use of the internet, and to develop information technology awareness, to develop for this purpose, where

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necessary, operating rules, all manner of expenditure thereof being met by the Authority within the framework of principles and procedures which will be determined by regulation.⁽¹⁾

b) To monitor the content of publications made in the internet medium, and, if it is determined that offences covered by this Law are being committed, to take the precautionary measures provided for in this Law for the blocking of access to such publications.

c) To determine the level, timing and form of monitoring of content of publications on the internet.

ç) To determine the principles and procedures for systems and arrangements for filtering and blocking, for authorisation of operators by the Authority, and for the permit documents to be issued to public use providers by senior local civil administrative officers.

d) To establish, or to arrange for others to establish, all manner of technical infrastructure required for monitoring publications in the internet medium in order to prevent the commission of the offences listed in the first paragraph of article 8 of this Law, including the setting up of a monitoring and information reporting centre, and to operate such an infrastructure, or to arrange for it to be operated by others.

e) To specify the minimum criteria for the production of hardware or software on the basis of filtering, screening and monitoring that will be publicly available in the internet.

f) To ensure cooperation and coordination with international institutions and organisations in the information processing and internet field.

(1) By article 95 of Statute 6518, the phrase “to ensure the safe use of the internet and to develop information technology awareness” was added after the phrase “to block publications.”

g) To ensure coordination and provide all manner of assistance required within the available technical capability to police and investigative authorities who are authorised and tasked with preventing the processing of all manner of representative images, written texts or sounds which constitute the offences listed in the first paragraph of article 8 of this Law, and to prevent their promotion, their introduction into the country, their possession, their hire or sale.

(5) (Amended: 6/2/2014-6518/article 95) The Presidency shall make all manner of decisions and implement all manner of precautions necessary in connection with recommendations which may be made concerning the development and expansion of the internet and its widespread and safe use by the Internet Development Council developed within the structure of the Ministry subsequent to the provisions of the Legislative Decree concerning the Organisation and Functions of the Ministry of Transport, Maritime Affairs and Communication, Statute 655 dated 26/9/2011.

(6) (Addition: 6/2/2014-6518/article 95) The Presidency, within the scope of its national cyber security activities, shall ensure coordination with content providers, hosting providers, access providers and other relevant institutions and organisations for the identification and prevention of cyber attacks, shall manage such activities as may be required in order to apply

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the necessary safeguards, and shall carry out such activities as are necessary to achieve the foregoing.

(7) **(Addition: 6/2/2014-6518/article 95)** The Ministry may establish research and development centres in order to carry out the functions allocated to it by laws.

Regulations

ARTICLE 11- (1) The principles and procedures concerning the implementation of this Law shall be set forth in regulations issued by the Office of the Prime Minister in consultation with the Ministry of Justice, the Interior Ministry and the Ministry of Transport[, Maritime Affairs and Communications]. These regulations shall be issued within four months of the date upon which this Law enters into force.

(2) The principles and procedures concerning the obligations of persons wishing to undertake activities as hosting or access providers, and of hosting, access, and public use providers, irrespective of whether or not they are holders of an authorisation document for communication by telecommunications, shall be set forth in a regulation which shall be issued by the Authority. This regulation shall be issued within five months of the date upon which this Law enters into force.⁽¹⁾

Changes in relevant laws

ARTICLE 12- (1) **(Those relating to the Telegraph and Telephone Law, Statute 406 dated 4/2/1924 have been duly entered.)**

(2) (Those relating to the Law on the Powers and Duties of the Police, Statute 2559 dated 4/7/1934 have been duly entered.)

(3) (Those relating to the Wireless Law, Statute 2813 dated 5/4/1983 have been duly entered.)

(4) (Those relating to the Law on State Intelligence Services and the National Intelligence Agency, Statute 2937 dated 1/11/1983 have been duly entered.)

SUPPLEMENTARY ARTICLE 1- (Addition: 5/11/2008-5809/article 67)

(1) The basic and ongoing tasks and services made necessary by the functions allocated to the Presidency of Telecommunication and Communication shall be performed by professional and other personnel comprising senior communications specialists, communications specialists, technical specialists, administrative specialists and assistant communications, technical and administrative specialists. Personnel at the Presidency, including the president, office presidents, consultants and professional personnel must be persons who are graduates of electronic, electrical and electronic, electronic or communications engineering, industrial engineering, physics, mathematics, computing, telecommunications or business engineering faculties or departments, or in the social sciences field, social sciences, economic and administrative sciences, economics, law, management, and communications faculties or departments, or from foreign higher education institutions which are recognised by authorised

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(1) *The phrase in this paragraph which stated “concerning the issuing of a certificate of authorisation for hosting or access providers so that they can carry out their activities” was amended to “concerning the obligations of hosting, access, and public use providers.”*

bodies as the equivalent of such faculties and departments, and if they have not graduated from the departments indicated, they shall have completed master's degrees or doctorates in the aforementioned faculties and departments. Those working with the title of specialist shall have graduated after at least four years in such a faculty, while others shall be at least a graduate of high school or equivalent thereof.

Graduates of Security Sciences Faculties may also be appointed as office president personnel. **(Additional sentence: 24/10/2011-Legislative Decree-661/article 80)** The President of the Telecommunication Communication Presidency shall be appointed by joint decree. Within the Presidency personnel, the office presidents shall be appointed by the Authority at the recommendation of the President of the Telecommunication Communication Presidency, subject to the advice of the President of the Board, while other personnel shall be appointed by the President of the Board, at the recommendation of the President of the Telecommunication Communication Presidency.

(2) In order to be appointed to the post of assistant specialist, candidates must be graduates of the faculties or departments listed in the above paragraph, must have participated in a central competitive examination, must be able to speak at least one of the specified foreign languages to the required level, must not have reached the age of thirty on the first day of January in the year in which the Authority examination is held, and must have passed that examination.

(3) Those appointed to the post of assistant specialist shall be appointed as communications specialists, technical specialists or administrative specialists, depending upon their area of specialism, provided that they have worked for at least three years and have a positive professional record, and provided that their thesis is accepted, and that they pass the qualifying examination. A promotion of one grade shall be applied on one occasion only to such employees. Those who are fail in defending their thesis and in the qualifying examination on two occasions shall forfeit their title of assistant specialist and shall be appointed to posts appropriate to their qualifications.

(4) The principles and procedures applicable to specialist and assistant specialist entry and qualifying examinations shall be established by a regulation issued by the Authority.

(5) (Addition: 6/2/2014-6518/article 97) Employees in public institutions and organisations, as listed in article 2 of Legislative Decree Number 217 Concerning the Foundation and Functions of the State Personnel Presidency, dated 8/6/1984, may, subject to the consent of such institutions and, in the case of judges and prosecutors, subject to their own consent also, be appointed temporarily at the disposal of the Presidency of Telecommunication and Communication, provided that their monthly salary, allowance, and all manner of payment increases and compensation and other financial and social employment benefits and assistance are paid by the institutions in question. The number of personnel appointed under this provision shall not exceed 20% of the total numbers of Authority personnel. Such personnel shall be deemed to be on leave from their institutions. Their employment rights associated with their status as civil servants shall continue throughout such periods of leave, and these periods shall

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be included for the purposes of calculations with regard to their promotion and their retirement pensions. Their promotions shall be implemented on time without requirement for any other procedures.

(6) (Addition: 6/2/2014-6518/article 97) While Presidency personnel are carrying out their functions under the terms of relevant laws, the conduct of any criminal investigation concerning any offences they are alleged to have committed arising from their functions or in the course of the performance of their functions shall be subject to the consent of, in the case of the President of the Telecommunications and Communications Presidency, the relevant Ministry, and in the case of other personnel, the consent of the President of the Authority.

(7) The posts to be established for service within the Presidency of Telecommunication and Communication appearing in Table (V) annexed to this Law have been appended to List (I) annexed to Statute 5651.⁽¹⁾

(1) Subsequent to article 97 of Statute 6518, sections (5) and (6) have been added for insertion after the fourth paragraph of this article, the subsequent sections to follow respectively thereafter.

SUPPLEMENTARY ARTICLE 2- (Addition: 6/2/2014-6518/article 99)

Contracted personnel may be employed to perform functions allocated to the Presidency at the Ministry on matters where their special knowledge or qualifications are required without, in this case, application of provisions concerning employment of contracted personnel contained in the State Civil Servants Law, Statute 657 of 14/7/1965, and other legislation. The title, number, term of service, salary and other matters with respect to those employed on such a basis shall be determined by the terms of a service contract which shall be approved by the Council of Ministers. The salaries payable to such persons shall not exceed a multiple of five times the contract salary ceiling applied to those employed under section (B) of article 4 of Statute 657. The total number of contracted personnel may not exceed seventy-five persons, and no salary other than that specified in this article may be paid.

PROVISIONAL ARTICLE 1- (1) The construction of the building which is to serve the Presidency shall be met from the Authority budget but shall not be subject to the Public Competitive Tender Law and the Public Competitive Tender Procedure Contracts Law, other than with regard to the procedures concerning penalties and exclusions from competitive tender procedures.

(2) Public use providers currently carrying out activities for commercial purposes must obtain the permit document required under article 7 within a period of six months as from the date upon which this Law enters into validity.

(3) Persons carrying out hosting or access provider activities for commercial purposes, irrespective of whether they are holders of authorisation document for communication by telecommunications, shall be issued by the Authority with an authorisation document permitting them to carry out activities as hosting or access providers.

PROVISIONAL ARTICLE 2 - (Addition: 5/11/2008-5809/article 67)

(1) Presidency of Telecommunication and Communication personnel who meet the educational requirements in supplementary article 1 who have completed a period of three years in public service, and who receive a score of 60 in the KPDS (Public Servant Foreign Language Level Assessment Examination) or in an examination of equivalent international standing, may, provided that their thesis is accepted, be appointed as communication specialists within five years after the publication of this Law. Personnel who have completed a master's degree or education to doctorate level, and are appointed by taking a competitive examination in accordance with special regulations in other public institutions and organisations, or are appointed to career professional personnel posts by successful submission of their thesis or by passing the qualifying examination may, if their master's degree or doctorate thesis is found, after examination, to be relevant to the areas covered by the Authority or the Presidency, be appointed as communications specialists. Those who have completed education to doctorate level, may be appointed directly, and those who have completed a master's degree, may be appointed provided that they meet the foreign language requirement.

(2) Presidency of Telecommunication and Communication personnel who have graduated after four years of faculty study, who have completed a period of three years in public service, who meet the requirements set forth in a regulation which will be issued at a later date, and also provided that their thesis is accepted, or have completed a master's degree or doctorate with a thesis, may be appointed as technical or administrative specialists, depending on their area of education, within five years subsequent to the publication of this Law.

PROVISIONAL ARTICLE 3 -**(Addition: 6/2/2014-6518/article 100)**

(1) The establishment of the Union shall be completed within a period of three months after the date of publication of this Law.

(2) The Union shall commence operations once the Union Charter, signed by at least one quarter of existing internet service providers and operators providing access services, has been examined and approved by the Authority. Those internet service providers and internet access providers who have not become members within a maximum of one month following the establishment of the Union must complete their membership procedures.

(3) If the establishment of the Union cannot be completed within the specified period, an administrative penalty of one percent of net sales in the previous calendar year shall be imposed by the Authority on internet service providers and internet access providers.

(4) An administrative penalty of one percent of net sales in the previous calendar year shall be imposed by the Authority on internet service providers and other internet access providers who have not become members of the Union within one month of its establishment.

Validity

ARTICLE 13- (1) This Law shall enter into force as follows:

- a) Articles 3 and 8 shall enter into force six months after the date of its publication,
- b) The other articles shall enter into force on the date of publication.

Enforcement

ARTICLE 14- (1) The Council of Ministers shall enforce the provisions of this Law.

POSTS CREATED UNDER LIST (1) ⁽¹⁾**INSTITUTION : THE TELECOMMUNICATIONS AUTHORITY****ORGANISATION : HEADQUARTERS**

TITLE	CLASS	NUMBER OF POSTS:
GRADE 1		
Office President	General Administrative Services	3
Press and Public Relations Officer	General Administrative Services	1
Communications Specialist	General Administrative Services	5
Communications Specialist	Technical Services	8
Technician	Technical Services	2
Engineer	Technical Services	2
GRADE 3		
Communications Specialist	General Administrative Services	4
Communications Specialist	Technical Services	5
Specialist	General Administrative Services	5
Specialist	Technical Services	10
Technician	Technical Services	2
GRADE 5		
Specialist	General Administrative Services	7
Specialist	Technical Services	7
Engineer	Technical Services	2
Secretary	General Administrative Services	1
GRADE 6		
Specialist	General Administrative Services	7
Specialist	Technical Services	8
Engineer	Technical Services	2
Heating and Ventilation Engineer	Auxiliary Services	1
OVERALL TOTAL		82

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(1) Subsequent to the provisions of Provisional Article 9 annexed to Statute 2813 by article 67 of Statute 5809 dated 5/11/2008 which states "The annexed List (II) added to Statute 2813 by article 9 of Statute 5467 of 1/3/2006 and the personnel added to this list by article 10 of Statute 5651 have been removed from the annex to the said Law and added to Statute 5651 as List (I)," the said lists have been adopted as an Annex to this Law.

INSTITUTION : THE TELECOMMUNICATIONS AUTHORITY

ORGANISATION : HEADQUARTERS

PERSONNEL POSTS CREATED

CLASS	POST TITLE	NUMBER OF POSTS
GRADE 1		
General Administrative Services	Office President	1
General Administrative Services	Legal Consultant	1
General Administrative Services	Communications Specialist	5
Technical Services	Communications Specialist	5
GRADE 3		
General Administrative Services	Communications Specialist	10
Technical Services	Communications Specialist	10
GRADE 5		
General Administrative Services	Communications Specialist	8
Legal Representation Services	Lawyer	3
Technical Services	Communications Specialist	8
General Administrative Services	Translator	1
Technical Services	Technician	2
General Administrative Services	Secretary	2
GRADE 6		
General Administrative Services	Specialist	15
Technical Services	Specialist	5
Legal Representation Services	Lawyer	2
General Administrative Services	Translator	2
General Administrative Services	Computer Operator	10
Technical Services	Engineer	2
General Administrative Services	Secretary	1
TOTAL	93	

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(Addition: 5/11/2008-5809/article 67)**PERSONNEL POSTS CREATED**

INSTITUTION : INFORMATION AND COMMUNICATION TECHNOLOGIES AUTHORITY
 ORGANISATION : HEADQUARTERS

CLASS	TITLE	GRADE	NUMBER
GAS	Assistant Communications Specialist	8	25
TOTAL		25	

(Addition: 6/2/2014-6518/article 98)**LIST NUMBER (2)**

INSTITUTION : INFORMATION AND COMMUNICATION TECHNOLOGIES AUTHORITY

ORGANISATION: HEADQUARTERS

PERSONNEL POSTS CREATED

CLASS	TITLE	GRADE	NAME
General Administrative Services	Office President	1	4
General Administrative Services	Legal Consultant	3	6
Technical Services	Engineer	3	10
Technical Services	Engineer	6	10
General Administrative Services	Computer Operator	9	10
General Administrative Services	Officer	9	5
TOTAL			45

LIST SHOWING THE DATES OF ENTRY INTO FORCE OF LEGISLATION AMENDING OR SUPPLEMENTING LAW 5651, AND PROVISIONS CANCELLED BY THE CONSTITUTIONAL COURT

Number of the Law/Legislative Decree/Constitutional Court Judgment	Articles of Statute 5651 amended or cancelled	Date of Validity
5809	8, Supplementary Article 1 and Provisional Article 2, List Number (I)	10/11/2008
Legislative Decree/661	Supplementary Article 1	2/11/2011
6495	8	2/8/2013
6518	2, 3, 4, 5, 6, 6/A, 7, 8, 9, 9/A, 10, 11, Supplementary Article 1, Supplementary Article 2, List number (I), Provisional Article 3	19/2/2014
6527	2, 3, 8, 9/A	1/3/2014
6552	3, 8	11/9/2014
Constitutional Court judgment number E: 2014/149, K: 2014/14 of 2/10/2014 (Stay of Execution)	3,8	9/10/2014
Constitutional Court judgment number E: 2014/149, K: 2014/151 of 2/10/2014.)	3, 8	1/1/2015

AMENDMENTS

to the Law on regulation of Publications on the Internet and combating Crimes committed by means of such Publications

ARTICLE 17- The following article has been added to the Law on Regulation of Publications on the Internet and Combating Crimes Committed by means of such Publications, Statute 5651 of 4/5/2007 after article 8 thereof:

“Removal of content and/or blocking of access in circumstances where delay would entail risk

ARTICLE 8/A- (1) A decision for the removal of content and/or the blocking of access in the internet environment may be taken by a judge for one or more of the following reasons: in order to protect the right of life or security of life and property, in order to protect national security and public order [*ordre publique*], in order to prevent the commission of a crime, or in order to protect public health, or, in circumstances where a delay would present a risk, by the Presidency, subsequent to a request by the Office of the Prime Minister or a Ministry concerned with the protection of national security and public order [*ordre publique*], the prevention of the commission of crime or the protection of public health. The access providers and the content and hosting providers shall be immediately notified by the Presidency of the decision. Measures necessary for the removal of the content and/or blocking of access shall be implemented immediately, within a maximum of four hours as from the notification of the decision.

(2) Any decision for the removal of the content and/or blocking of access issued by the Presidency at the request of the Office of the Prime Minister or the relevant Ministries shall be submitted by the Presidency for approval by a magistrate within 24 hours. The judge shall announce his/her decision within 48 hours; otherwise the decision shall automatically lapse.

(3) Decisions taken to prevent access under the scope of this article shall be issued in the form of a block imposed on access to the relevant publication, section, or part in which the offence was committed (in the form of the URL etc). However, in circumstances in which, for technical reasons, access to the content relating to the offence cannot be prevented, or where a violation cannot be prevented by means of blocking access to the relevant content, a decision may be given for complete denial of access to the internet site.

(4) A complaint concerning the persons who developed and published the internet content which is the subject of the offence under this article shall be submitted by the Presidency to the Office of the Chief Public Prosecutor. The information necessary to gain access to the perpetrators of these offences shall, upon the decision of a magistrate, be provided to the judicial authorities by the content, hosting and access providers. Responsible officers of any content, hosting and access providers who fail to provide such information shall be punished by a judicial fine equivalent to three thousand to ten thousand days, unless the act constitutes an offence which incurs a heavier penalty.

(5) Access providers and content and hosting providers which fail to comply with a decision for the removal of the content and/or blocking of access under this article shall be subject to a civil penalty of between fifty thousand Turkish Lira and five hundred thousand Turkish Lira.”