

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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TURKEY: AMENDMENTS TO LAW ON SOCIAL MEDIA POSE GRAVE THREAT TO FREEDOM OF EXPRESSION ONLINE

Amnesty International is alarmed that far-reaching amendments to the law regulating social media pose a grave threat to freedom of expression online. The amendments, seen by our organization, exacerbate risks to those who are already ruthlessly targeted by the authorities for expressing dissenting opinions online. Independent offline media have in addition been all but extinguished after years of government-enforced closures of media outlets, unfounded prosecution of journalists and other forms of intimidation.

AMENDMENTS TO THE INTERNET LAW

The government appears to be rushing the amendments through Parliament. While civil society groups had expressed concern about the government's stated plans to introduce further regulation of social media and the lack of civil society consultation regarding any changes, legal provisions were nonetheless submitted to Parliament on 21 July. The ten-article draft law amending the existing Law No. 5651 *Regulation of publications on the internet and suppression of crimes committed by means of such publication*, known as the *Internet Law*, was adopted without any changes by Parliament's Justice Commission on 23 July and is expected to be voted on by Parliament on 28 July.

The amendments require social media companies whose platforms are accessed more than one million times per day in Turkey, to designate legal representatives in-country. Should social media companies fail to comply with this requirement within the foreseen timeframes, they face administrative fines of up to 40 million Turkish Lira (approximately €5,000,000), a ban on advertising on their platforms and the reduction of their internet bandwidth by up to 90% – which would render them unusable.

NEW REQUIREMENTS FOR SOCIAL MEDIA COMPANIES

The amendments would also require social media companies' legal representatives in Turkey to respond to user requests to remove or block content within 48 hours; and provide reasons for any refusal to comply with requests within that same period. Should the companies not respond within the 48 hours, they would face administrative fines of 5 million Turkish Lira (approximately €630,000), increasing to 10 million Turkish Lira if they further fail to respond.

Social media companies are required under existing legislation to respond to court requests to block or remove content within four hours. Under the new provisions, the companies' legal representatives in Turkey would be responsible for "damages" resulting from non-implementation of a court order within 24 hours. Given methods currently used by the Turkish authorities to censor online content, this means that the companies' legal representatives could face significant fines or even criminal sanctions. The provisions also require social media companies to ensure that users' data is stored within Turkey, which would enable the authorities to request this data and identify social media users more effectively, potentially leading to their detention and prosecution.

The government has claimed that the amendments are necessary to protect the rights of others, and public order and national security. While these are all legitimate aims under international human rights law which can justify restrictions to the right to freedom of expression, any limitation also needs to be necessary and proportionate to such aims. Amnesty international however believes that already-existing legislation provides powers for the authorities to achieve such aims, including the protection of individuals from violence and abuse online. If this is the case as we believe, it appears that the amendments target one of the few remaining – albeit increasingly restricted – spaces where people can express their opinions freely.

RISK OF GREATER ONLINE CENSORSHIP

Amnesty International is concerned that, if the amendments are passed, the government will gain additional powers to enforce with far greater effect its censorship of legitimate free expression online: by blocking and removing content online and detaining and prosecuting individuals simply for producing or sharing content online.

States have an obligation to ensure that companies do not abuse the right to freedom of expression, including online, and that violence and abuse online are appropriately addressed. Imposing duties on social media platforms to proactively monitor online content, or imposing intermediary liability regimes, nonetheless, incentivizes overbroad censorship and contravenes the right to freedom of expression. Companies involved in moderating online content must uphold their human rights responsibilities by – inter alia – engaging in human rights due diligence and ensuring greater transparency regarding, and oversight of, content moderation practices and policies to ensure that human rights are respected in practice.

In the past, social media platforms such as Twitter, YouTube and Wikipedia have been blocked in Turkey on the basis of content shared on their platforms. In January 2020, the government unblocked Wikipedia after nearly three years, further to a Constitutional Court ruling which found that the blocking order violated the right to freedom of expression. The order was imposed due to content on the site related to allegations that the Turkish authorities collaborated with various armed groups in Syria.

In addition to blocking or removing tens of thousands of websites and other content online, including requesting the removal of thousands of Twitter accounts every year, the Turkish authorities have on an unprecedented scale sought to impose criminal sanctions on individuals simply for expressing dissenting opinions online. In the context of the COVID-19 pandemic alone, the Cyber Crimes Unit of the Interior Ministry between 11 March and 21 May accused 1,105 social media users of disseminating propaganda for a terrorist organization, including by ‘sharing provocative Corona virus posts’. Of these social media users, 510 were reportedly detained for questioning. In April, Amnesty International made a freedom of information request to the Ministries of Interior and Justice for further details of these detentions, investigations and prosecutions, however the ministries declined to provide the requested information.

THE JUDICIARY AND ONLINE CENSORSHIP

Amnesty International has documented how Turkey’s judiciary has failed to distinguish between legitimate criticism and dissenting views, which should be respected and protected, and defamation or advocacy of hatred, which should be prohibited. Criminal Courts of Peace have commonly provided a rubber stamp for authorities’ requests for content removal or blocking, and courts routinely issue pre-trial detention orders, prosecutions and convictions, including custodial sentences, against those who have simply expressed their views or ideas online. The Constitutional Court, by failing to rule on or by issuing severely delayed rulings on violations to the right to freedom of expression, has not been an effective remedy.

WHY THE AMENDMENTS SHOULDN’T BE PASSED AND FURTHER RECOMMENDATIONS

If passed, these amendments would significantly increase the government’s powers to force social media companies to censor content online, violating the right to freedom of expression online and contravening international human rights law and standards. Furthermore, the amendments would compel social media platforms to reveal the identity of individuals who share content online, putting them at risk of unfair and abusive detentions, prosecutions and convictions.

The Turkish authorities should instead effectively implement existing legislation to protect those who experience violence and abuse online. In particular, Turkish authorities must implement the rulings of the European Court of Human Rights that have found Turkey in violation of the right to freedom of expression. The Turkish authorities should amend the *Internet Law* and overly vague and broad anti-terrorism and defamation laws, which are frequently used to violate the right to freedom of expression online. Moreover, the Turkish authorities should invest in capacity building and training of law enforcement agencies on relevant legislation, gender equality, the harms of online violence and abuse, and best practices to support those who have experienced online violence and abuse.^[1]

Restricting expression and relying on blanket prohibitions, in isolation, are ineffective means to combat discrimination. Effective protection and social inclusion of groups that are marginalized or that experience violence or abuse online requires broader interventions to counter stereotypes, eradicate discrimination and foster greater equality, including by promoting tolerance, education and dialogue. Such steps would be an important advance in protecting the right to freedom of expression and addressing violence and abuse online, as opposed to increasing the authorities’ powers to censor and monitor online expression.

^[1] For further information on steps to combat abuse online see Amnesty International’s report *Toxic Twitter* available at <https://www.amnesty.org/en/latest/research/2018/03/online-violence-against-women-chapter-1/>