



Online Content Moderation and Data Localization: the case of Turkey

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<https://www.mbkaya.com/hukuk/content-moderation-law-turkey.pdf>

ENACTMENT

Law on Regulation of Broadcasts via Internet and Combating Crimes Committed by Means of Such Publications entered into force in 2007

ENTRY INTO
FORCE

2007

FIRST MAJOR AMENDMENT

Improvements for the protection of personal rights over Internet and introduction of the legal basis for "URL" restriction method.

2014

REVISION

TECHNICAL UPGRADE

In order to implement URL restriction method, a country-wide DPI technology has been implemented at the infrastructure.

DPI

2014

SOCIAL MEDIA LAW

A new player: "Social network provider"

2020

REVISION

01

The regulation of content, hosting, access, mass use provider

02

Combatting certain crimes by using restricting access method

03

Protection of personal rights and privacy

04

Monitoring, filtering and surveillance of Internet network

ACCESS PROVIDER

real or legal persons who produce, modify, and provide any kind of information or data presented to the users over the internet

providing people the possibility to use the internet in a specific place and for a certain time period

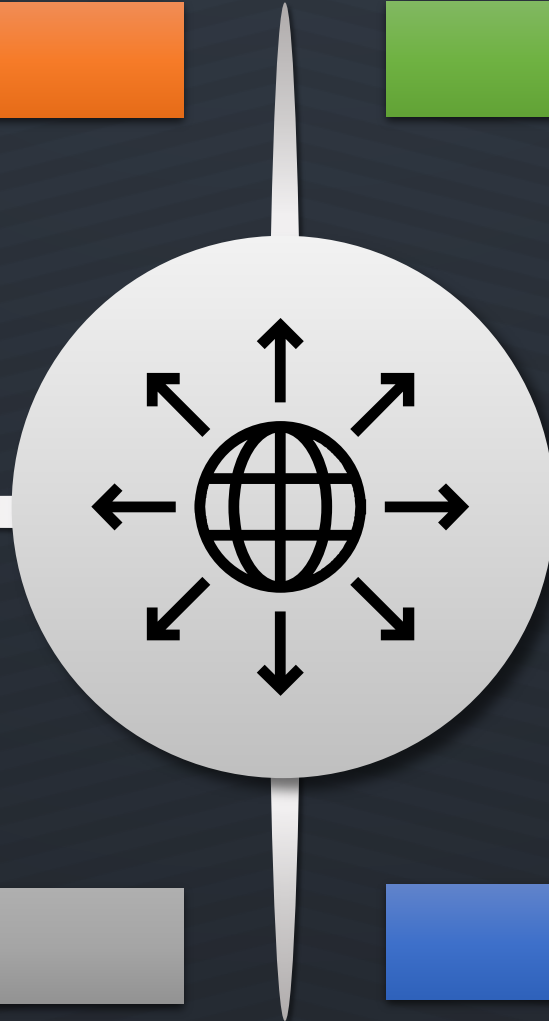
MASS USE PROVIDER

CONTENT PROVIDER

real persons or legal entities that create, amend or provide all kinds of information or data presented to users on the Internet

real persons or legal entities that provide or operate systems that host services and content

HOSTING PROVIDER



“

Social network provider: Those natural or legal persons that provide opportunities for users to create, view or share textual, visual, audio, or location data, etc. for the purpose of **social interaction**

”

Foreign social network providers with over one million daily visits from Turkey:



Local Representative

30 days (or) 10 M TL (Admin) > 30 days (or) 30 M TL (Admin) > Advertisement Ban (Legal) > 30 days (or) Bandwidth throttling (Court)



Data Localization

Take all necessary measures to store data belonging to users in Turkey inside Turkey



Respond User Requests

Respond user complaints for content within 48 hours. Reject with justification. 10 M TL



Combatting Crime

Removal of content and/or blocking access for combatting crimes; non-delayable cases; protection of personal rights; protection of privacy > 50.000 days judicial fine



Publish Reports

Publish statistical and categorical information regarding the implementation of decisions to remove and/or block content.



Joint Liability

Once a social network provider has been notified that its content has been deemed unlawful by a judge or court order, the social network provider will be liable for any damages arising from failure to remove or block said content.

01

Vagueness

Vagueness of the definition and legal framework.

02

Abuse of law

Possible abuse through strategic lawsuits against public participation (SLAPP) or abusive and vexatious litigation against social media sites.

03

Private censorship

The risk of hidden censorship as per obligation to take effective measures to limit the dissemination of illegal content.

04

Chilling effect

Disproportionate sanctions are likely to lead to the restriction of lawful content and to have a chilling effect on the right to freedom of expression.

05

Prior restraints

As per case-law of ECHR, news was a perishable commodity and to delay its publication, even for a short period, might well deprive it of all its value and interest.

06

Data Subjects' Autonomy

Problems emanating from limiting data subject's autonomy and their right to decide for the destiny of their data, e.g. giving explicit consent for international transfer.

THANK YOU!