

Social Network Providers Targeted by New Wave of Regulations in Turkey

Proposed Legislation Increasing Oversight of Online Platforms Gathers Momentum

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A draft law targeting social network providers (SNPs) has continued to gain traction after being submitted last month to The Grand National Assembly of Turkey (Parliament) by Halil Öztürk, an MP from the Nationalist Movement Party (MHP). MHP has been supportive of President Erdoğan and established an electoral alliance (People's Alliance) with the ruling Justice and Development Party (AKP) in 2018. To pass into law, the draft will need the majority support of members present for its reading (AKP and MHP currently hold 291 and 49 of the 600 seats respectively). While no date has yet been published for the reading, the forthcoming regulation represents another significant push for greater State oversight of the digital media space in Turkey.

The new law proposes important changes to Law No. 5651 (Law on Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts) which will bring **serious repercussions for social network providers in Turkey**. These include the requirement to establish a legal entity and appoint a local representative in the country to address concerns raised by authorities over the content on their platforms, as well as to ensure the registration of all Turkish users with their national ID (see below for a summary of these and other main proposed measures).

Back in April, an omnibus bill on economic measures aimed at alleviating the impact of the COVID-19 crisis initially contained similar articles recommending significant legal restrictions on SNPs. However, these articles were withdrawn from the omnibus law prior to its adoption, partly (some claimed) to ensure the smooth passage of that law through Parliament.



This was followed in May this year by the publication of Turkey's official Guide on the Use of Social Media, overseen by Mr. Fahrettin Altun, the director of communications at the Presidential Administration. In a recent Twitter post calling for greater digital awareness, Mr. Altun stated that the Guide could be used to protect Turkish citizens from foreign interference and opinions.

The new draft builds on this agenda further, reprising some of the key restrictions dropped in April and adding new requirements. Whatever the timing and final form of the Bill, therefore, it seems clear that AKP will continue to push for tighter and more centralized oversight of Turkey's digital media via ever stricter regulation, some of which may drastically impact SNPs' operations in Turkey.

While the proposed new legislation does not define exactly what a "social network provider" is, a definition had already been included in the previous (withdrawn) draft law, namely any legal entity enabling users to create, share or view content, information or data such as text, images, sound, location with the purpose of social interaction on the Internet. If the new regulation is to be enacted, this explicit definition of SNPs is likely to be used once again.

Given that two very similar proposals regarding SNPs were tabled so closely together, the Government's intent and determination in this area seem clear. All SNPs therefore will need to follow this Bill closely and be ready to take quick action if the law draft passes in Parliament. Opportunities for engagement with key stakeholders around the regulation may be limited, however, given the apparent sensitivity of the issue right now (see below).

The most significant implications of the draft law on SNPs, as it is currently drafted, are as follows:

- **Representative Entity and Local Point of Contact:** The proposal obligates SNPs (local or foreign), receiving more than 500,000 daily accesses from Turkey to establish a local entity and appoint at least one local representative in Turkey. That person must be able to receive notifications from and meet the requests of the administrative or legislative authorities, respond to the applications made by users and entities, and comply with all matters defined in the secondary legislation to be issued by the Information and Communications Technologies Authority (ICTA). SNPs will have to notify the ICTA with information regarding the representative appointed within twenty



days: failure to do so may result in a 50% restriction on internet bandwidth while a persistent refusal to register may result in a site being blocked completely.

- **National ID Number Registration: the proposal requires all SNPs to request Turkish identity** numbers from users. Furthermore, SNPs will be forbidden from hosting accounts that are not matched with an identity number, in a move designed to eliminate fake accounts. Those accounts already in use, but not matched with an identity number, will have to be terminated as of the effective date of the Law.

Administrative fines between TL 500,000 (c. USD 73,000) and TL 5,000,000 (c. USD 730,000) can be imposed on SNPs failing to comply with this obligation.

- **Responding to Individual Requests and Enforcement of Court Orders:** SNPs that establish a representative entity and appoint representative official(s) in Turkey will be required to respond to requests received from individuals regarding content removal within 48 hours.

SNPs failing to comply with this obligation may be fined between TL 150,000 (c. USD 22,000) and TL 1,500,000 (c. USD 220,000).

SNPs will be liable for the damages arising from the failure to remove or block access to content which is deemed unlawful upon a judge or court order, within 16 hours.

Those failing to comply can face administrative fines of between TL 150,000 (c. USD 22,000) and TL 1,500,000 (c. USD 220,000).

- **Reporting Obligations:** SNPs will need to provide quarterly reports on statistical information regarding content removal or access ban verdicts, transactions on such verdicts, individual requests and the action taken in return, and other categorical information requested by the ICTA.

SNPs failing to comply may face administrative fines of between TL 200,000 (c. USD 29,000) and TL 2,000,000 (c. USD 290,000).

A significant requirement among the withdrawn articles from the April omnibus law focused on the localization of user data in Turkey. This clause is not contained in the latest proposal submitted to the Parliament, although it seems the ID registration requirement (new in this draft) may be a substitute attempt at ensuring the localization of all user information.



As the Bill, which official sources claim targets fake accounts, waits at Parliament, Twitter on June 12th announced that it had suspended over 7,000 accounts from Turkey (as well as others in China and Russia) which it says were State-linked fake accounts in support of President Erdogan. An official statement made in response by the aforementioned Mr. Fahrettin Altun is worth reading carefully (Mr. Altun is one of the most prominent and trusted figures around the President, and highly influential on all media and social media matters):

"The company's decision to take this measure, which was intended to compile a number of unrelated social media accounts under a single category and its attempt to smear the Government of Turkey and a popular political movement are unacceptable.

This arbitrary act, hidden behind the smokescreen of transparency and freedom of expression, has demonstrated yet again that Twitter is no mere social media company, but a propaganda machine with certain political and ideological inclinations, which does not refrain from smearing users and stakeholders that it deems to be incompatible with those views."

Unsurprisingly, despite the huge potential impact of the proposed Bill on the industry, major SNPs have not yet been vocal on the subject, at least not publicly. While the industry awaits confirmation of the Bill's reading date, rumours persist that the final regulation may include a raft of new measures not yet published. At a minimum, however, it is looking increasingly as if major SNPs will need to establish a legal entity that complies with all forthcoming requirements, or risk being locked out of Turkey. On the other hand, if they do continue to operate, they will have to accommodate ever-tightening regulation, dealing with threatened access blocking, account closure and content removal.

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For further information on this draft law, for advice on how to accommodate and engage with the relevant authorities around the subject of this memo, please contact:

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