[TR] Regulation of Crimes Committed via the Internet

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On 4 May 2007, the Turkish Parliament adopted the Turkish Code 5651, which regulates Internet contents and stipulates crimes committed via the Internet (see IRIS 2007-5: 19).

The first part of the Code regulates criminal law matters, whereas the second part concerns civil law aspects.

According to the Code, access to a website shall be banned, if there is sufficient suspicion that certain crimes are being committed via that Internet website. Those crimes are: (i) the encouraging of people to commit suicide, (ii) the sexual abuse of children, (iii) the facilitation of the abuse of drugs, (iv) the provision of dangerous substances for health care, (v) obscenity, (vi) prostitution, (vii) gambling as well as (viii) crimes that are regulated in the Turkish Code 5816 which stipulates crimes against Ataturk.

Upon receiving a complaint or as a result of his/her own observations a prosecuting attorney can file an application for a ban on access to the related website to be issued by a judge within 24 hours. In an urgent situation prosecuting attorneys can themselves impose a ban, which then needs to be approved by a judge within 24 hours (the judge's decision has therefore to follow within a period of 24 hours). A given ban has to be applied as soon as possible and the block must be carried out by the Internet service provider within 24 hours following the judicial order. If the judge does not approve the block, then the prosecuting attorney must restore all access to the relevant website.

If the prosecuting attorney comes to the decision that the relevant Internet content does not contain any criminal substance or if it is judged by the court that the content does not constitute a crime, the ban will be removed and access to the website will be restored.

If the Internet service provider or the hosting provider does not block all access to the relevant website, the responsible staff may be punished with a penalty ranging from six months to up to two years imprisonment.

Additionally, the Telecommunication and Transmission Presidency, which is established by this Code to work under the Turkish Telecommunication Council, is entitled to impose a ban without a judge's approval, if (i) a website contains the

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above mentioned crimes and its content and hosting providers reside outside of Turkey, or (ii) if a website includes content with sexual abuse of children or obscenity and its content and hosting providers reside in Turkey. This ban must then be applied by the Internet service provider. Whenever a perpetrator and his/her residence are identified, the Presidency has to inform the prosecuting attorney in order to start the criminal procedure.

If an individual is of the opinion that a website violates his or her personal rights, he or she can request that the Internet service provider or hosting provider remove this content, and also publish a response within a seven day period covering an area as broad as the original presentation, and in the same place where the offensive content was presented before. Internet service providers or the hosting provider shall comply with the request within two days. If this period is exceeded, the request is deemed to be rejected. In this case, the demand can be filed at the local Criminal Peace Court within 15 days. The Court then has to take a decision within three days without a trial. The Court's decision can be appealed at higher courts. Upon the Court's approval, the Internet service provider or the hosting provider have to remove the content and are obliged to publish a reply from the claimant within two days. If the internet service provider or the hosting provider does not obey the Court's decision, their responsible staff may be punished with a penalty ranging from six months to up to two years imprisonment.

İnternet Ortaminda Yapilan Yayinlarin Düzenlenmesi ve Bu Yayinlar Yoluyla İşlenen Suçlarla Mücadele Edilmesi Hakkinda Kanun

http://mevzuat.basbakanlik.gov.tr/mevzuat/metinx.asp?mevzuatkod=1.5.5651&sourceXmlSearch=

Turkish Code 5651

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