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PERMANENT MISSION OF TURKEY
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The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the letter of Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, dated 16 December 2015, concerning the study of the responsibilities of the Information and Communication Technologies sector to protect the right to freedom of expression, has the honour to enclose herewith an information note compiled by relevant Turkish authorities.

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 4 February 2016

Encl: As stated



Office of the High Commissioner for Human Rights
Palais des Nations
1211 Geneva 10

TURKEY'S EFFORTS IN INFORMATION AND COMMUNICATION TECHNOLOGIES (ICT) AND PROTECTION OF THE RIGHT TO FREEDOM OF EXPRESSION

Recent global developments, as well as other factors such as the rapid expansion of the Internet, its opportunities gradually becoming open for abuse, and the inadequacy of existing national legislation encouraged Turkey, like other States, to establish a comprehensive legal framework concerning the virtual environment.

In this context, in Turkey, the Law no. 5651 "On Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications" came into force on May 2007 to protect mainly children and families from the illegal contents on the Internet.

In Law no 5651 and its regulations, Internet actors and their responsibilities are defined. This law combats with a number of specific cybercrimes which are also defined in the Turkish Criminal Code. Moreover, Internet users can report a website if they think one of the catalog crimes is committed via that website. The most common subject of reports is the crime related to sexual abuse of children and pornographic content, easily accessible by children.

The scope of the Law no: 5651 is regulated within the context of a limited number of crimes, in the aim of upholding the freedom of expression. With this understanding, the main actors and categories of the ICT sector are defined on the perspective of their rights, responsibilities and obligations. Those actors and categories are enumerated as follows:

-Official institutions

- * Ministry of Transport, Maritime Affairs and Communications of the Republic of Turkey
- * Telecommunications and Communication Presidency
- * Telecommunications Institution
- * Access Providers Union (*added as part of an amendment in 2014*)

-Commercial actors

- * Access providers
- * Content providers
- * Hosting providers
- * Public usage providers

For the implementation of the Law No. 5651, “Notice and takedown” (NTD) is adopted as the principle methodology in order to correct the problematic content limited to the catalog crimes, without the necessity of blocking the websites with a view to ensure proportionality.

Subsequently, amendments to the Law No. 5651 have been enacted in 2014 with the Law No. 6518 and the Law No. 6527. With those amendments, violations of personal rights via Internet (especially the right to privacy) are resolved within a very short period by moderate measures. Furthermore, with these amendments;

-As a priority, if and when a decision has been made to block the access of a particular content, it will be exclusively URL-based, instead of blocking the whole website.

-Studies on ensuring the safe and conscious use of the internet are determined.

As a final note, it should be underlined that the implementation of the Internet regulation in Turkey is compatible with the ITU Child Online Protection Initiative and the EU norms as prescribed in the “European Strategy for a Better Internet for Children”, adopted in 2012.