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Court Delivers Brave Decision in Access Blocking Case

The Internet is one of the most important technological developments of the 1990s. However, this rich resource can be misused for illegal purposes.

Following years of debate about how the Internet should be regulated, in 2007 the Law on the Regulation of Online Publications and the Combat of Crimes Committed by Online Publications (5651) was published in the *Official Journal*. Its aim was defined in Article 1 as:

“the determination of the undertakings and responsibilities of content providers, host providers, access providers and multiple user providers and the determination of principles and procedures for fighting against the crimes determined in the law committed on the Internet by content, host and access providers.”

Although the law provided a solid legal basis for regulating the Internet, the provision regarding the blocking of internet access sparked a number of discussions. The main criticism was that blocking internet access is a heavy penalty, which in some cases may be considered to contravene the right to freedom of speech. There is concern that judicial or administrative practitioners may apply this provision incorrectly or indiscriminately.

It is widely accepted that in cases of breach or suspected breach of the criminal law provisions contained in the law, blocking internet access is a necessity. However, instead of isolating the infringing webpage from the rest of the website, practitioners prefer to ban access to the whole website. In most cases, when the crime relates to issues of significant public interest (eg, crimes against Atatürk or crimes of terror), this indiscriminate application of the law goes unnoticed. However, in cases of crimes committed through smaller websites, it should be taken into account that while the page bearing the illegal content is in breach of the criminal law provisions, the other pages of the website may be in conformity with the law.

The intense criticism of the practice of shutting down entire websites through the exaggerated application of the blocking access provision seems to have had an effect. Recently, in a case requesting the blocking of an entire website, a Turkish court ordered that only the relevant pages of the website be blocked. This decision is important because the case was against the owner of a website who was accused of sexually abusing two girls aged 10 and 11 years old and publishing photographs of them as his students on his website. Given the public reaction to the matter, the court was expected to order the blocking of the entire website. However, fully aware of the aim of the blocking access provision, the court insisted on the limited application of the provision on the grounds that the rest of the website contained no further illegal material