

TECHNOLOGY AND COUNTER-TERRORISM:

Mapping the impact of biometric surveillance
and social media platforms on civic space

CASE STUDY TÜRKİYE

This case study was researched and written by TÜSEV, with ECNL's contribution being only editorial input and summarising for the purposes of the report. The Third Sector Foundation of Turkey (TÜSEV) was established in 1993 with the objective of strengthening the legal, fiscal, and operational infrastructure of civil society organizations. For over two decades, TÜSEV has been working to create a more enabling environment for civil society and providing solutions to common and emerging problems of CSOs with the support of its members.

Notable uses of biometric technology

Fingerprints, hand vein maps, iris, face, and voice recognition technologies are widely used by Turkish public authorities.¹ Under the control of the Police Department, biometric data is collected for investigation and prosecution purposes, in prisons, and for driver's license registration.² Biometric photographs and fingerprint records are also used in identity and passport transactions.³

The Ministry of Interior has been working on a Biometric Data Management System (APFIS, Automated Palm and Fingerprint Identification System – National Biometric Database of the Republic of Turkey) since 2019.⁴ The first phase of the project was completed in May 2021 and software produced in Turkey by Biyoteksan began to be used for fingerprint recognition.⁵ Biyoteksan⁶ is a software company that develops nationwide biometric identification software solutions. The company is a subsidiary of Polsan, the Turkish Police Pension Fund, and Havelsan, a defence technology company affiliated with the Turkish Armed Forces Foundation). The Ministry of Interior announced that other biometric

- 1 Kama, O. (2019, November). Biometrics in Turkey. Norton Rose Fulbright <https://www.nortonrosefulbright.com/en/knowledge/publications/e401cec7/biometrics-in-turkey>
- 2 Law No. 6698 on the Protection of Data Protection, Chapter 7, Exemptions, Article 28. (2016, April 7). <https://www.kvkk.gov.tr/Icerik/6649/Personal-Data-Protection-Law>
- 3 See multiple sources: Daily Sabah (2022, May 10). Turkey unveils new locally made, modernized passports. <https://www.dailysabah.com/turkey/turkey-unveils-new-locally-made-modernized-passports/news>; Lee, J. (2016, October 31). Turkey issues new biometric passports as part of EU visa agreement. Biometric Update.com. <https://www.biometricupdate.com/201610/turkey-issues-new-biometric-passports-as-part-of-eu-visa-agreement>; Bulur, S. (2016, October 31). Turkish Biometric Passports Available on November 1. Anadolu Agency <https://www.aa.com.tr/en/life/turkish-biometric-passports-available-on-november-1/675632>; Hurriyet Daily News. (2016, March 23). Distribution of biometric Turkish ID cards begins. <https://www.hurriyetdailynews.com/distribution-of-biometric-turkish-id-cards-begins-96822>; Karabat, C. (2016, May 3-5). Slides from International Biometric Performance Testing Conference 2016. The Scientific and Technological Research Council of Turkey. Biometrics and Border Security Challenges. https://www.nist.gov/system/files/documents/2020/09/15/13_border_security_biometrics_ck_v0.1.pdf
- 4 General Directorate of Information Technologies. (n.d). BVS - Biometric Data System, Republic of Turkey Ministry of Interior Website. <https://www.icisleri.gov.tr/bilgiteknolojileri/bvs-biyometrik-veri-sistemi-projesi>
- 5 Hersey, F. (2022, January 13). Turkey's Domestically Developed Biometric Data System Becomes Operational. Biometric Update.com. <https://www.biometricupdate.com/202201/turkeys-domestically-developed-biometric-data-system-becomes-operational>
- 6 Biyoteksan: <https://www.biyoteksan.com.tr/>

technologies, such as face recognition and iris recognition, will be put into use at other stages of the project.⁷

In October 2021, the Ministry of Interior also announced that the National Biometric Fingerprint System would be integrated with the Immigration Registration System.⁸ As a result, the data of 5.5 million foreigners, mostly Syrian refugees, was transferred to the system. The Ministry stated that all demographic information, photographs, and previously existing information and records of the persons questioned in the system could be accessed in 2.5 seconds, and the processing of people who enter illegally from the border could be carried out quickly via the system.⁹

According to news publisher Nordic Monitor, the Turkish government has been using biometric analysis software to identify people caught in photographs taken at multiple protests dating back at least seven years.¹⁰ Aside from this report, there is inadequate public information available on whether biometric data is used against civil society, human rights defenders, and vulnerable groups. While our research was not able to affirmatively identify any further cases, they cannot be excluded.

Notable uses of online content moderation and social media surveillance

Anti-government content is restricted for many reasons, including on the grounds of “propagandising for a terrorist organization.” According to the statement made in March 2020 by the Ministry, within a week, a total of 1,748 accounts were investigated for allegedly posting propaganda for a terrorist organisation; inciting the public to hatred, fear, and panic; publishing false documents; and sharing provocative content on coronavirus on social media.¹¹ Since terrorism is vaguely defined and data is not transparently shared, it is not known how many of these accounts are related to terrorist activity and how many belong to human rights activists. Our research was not able to identify this either.

- 7 Kivrak, S. (2022, May 24). National fingerprint recognition system from BİYOTEKSAN. Defence Turk.net <https://www.defenceturk.net/biyoteksandan-milli-parmak-izi-tanima-sistemi>; Anonymous (2021, May 6). Minister Süleyman Soylu Attended the Biometric Data Management System Introductory Meeting in Ankara. Republic of Turkey Ministry of Interior Website <https://www.icisleri.gov.tr/bakanimiz-sn-suleyman-soylu-ankarada-biyometrik-veri-yonetimi-sistemi-tanitim-toplantisina-katildi>
- 8 Hersey, F. (2021, October 29). Biometrics use in Turkey expands from migration system to ATMs. Biometric Update.com. <https://www.icisleri.gov.tr/55-milyon-parmak-izi-milli-sistemde>, <https://www.biometricupdate.com/202110/biometrics-use-in-turkey-expands-from-migration-system-to-atms>
- 9 Anonymous (2021, October 11). 5.5 Million Fingerprints in the National System. Republic of Turkey Ministry of Interior Website. <https://www.icisleri.gov.tr/55-milyon-parmak-izi-milli-sistemde>
- 10 Nash, J. (2021, September 28). Turkey scans photos for the faces of disloyal citizens. Biometric Update.com. <https://www.biometricupdate.com/202109/turkey-scans-photos-for-the-faces-of-disloyal-citizens>
- 11 Anonymous (2020, March 23). 1748 Accounts That Make Unfounded Coronavirus Posts and Terrorist Propaganda on Social Media Have Been Identified. Republic of Turkey Ministry of Interior Website, <https://www.icisleri.gov.tr/sosyal-medya-da-asilsiz-koronavirus-paylasimlari-ve-teror-propagandasi-yapan-1748-hesap-tespit-edildi>

According to the latest data published by Twitter (Jul-Dec 2021), 78 accounts of verified journalists and media were subject to removal requests from Turkey (second highest requester after India).¹² According to the Freedom of Expression Association, as of November 2020, 467,011 websites and 150,000 URLs are inaccessible, including an important number of news portals.¹³ The Media and Law Studies Association (MLSA) published the Free Web Turkey report In June 2022. According to the report's findings, at least 11050 URLs, domain names, and social media posts were blocked between January and December 2021.¹⁴ While 1593 of the blocked URLs contained news articles, a total of 49 news websites were banned during the monitoring period.

Kurdish political movements advocating for fundamental rights for Kurds living in Turkey and LGBTQIA+ groups often seem to be the target of overbroad content moderation.¹⁵ Kurdish and LGBTQIA+ activists have alleged that Facebook has repeatedly removed their posts, even though they do not violate the platforms' standards.

Relevant laws and legal precedents

Biometric data is considered sensitive personal data in accordance with the Data Protection Law (article 6).¹⁶ Biometric data is also considered critical data in accordance with the Presidential Circular titled Information and Communication Security Measures (2019).¹⁷ The Data Protection Board is responsible for protecting the right to personal data. However, exceptions are defined in Article 28 of the Law, which negatively affect the functioning of the law. For instance, in accordance with the law, personal data can be processed within the rather broad scope of preventive, protective and intelligence activities carried out by the government agencies. Personal data may also be processed by judicial authorities or law enforcement authorities in relation to investigation, prosecution, trial, or execution. Unfortunately, pursuant to these exceptions, CSOs do not have the right to take legal action against the collection of biometric data by public sector. In most of the cases, the Board has an exclusive mandate to examine applications related to the collection of biometric data only in the private sector. However, the right to submit an appeal to the Criminal Court of Peace against the decisions of Data Protection Board is secured.

12 Anonymous (n.d.). Twitter Transparency Report. Transparency Twitter Website. <https://transparency.twitter.com/tr/reports/removal-requests.html#2021-jul-dec>

13 Anonymous (n.d.). Engelliweb Report. Freedom of Expression Association <https://ifade.org.tr/en/>

14 Erdogan, I. (2021). Free Web Turkey Annual Report 2021. Medica and Law Studies Association and Free Web Turkey. https://www.freewebturkey.com/wp-content/uploads/2022/06/freeweb2021-ingilizce-son_compressed.pdf

15 Spary, S. (2016, April 8). Facebook is Embroiled In A Row With Activists Over "Censorship". BuzzFeed News. <https://www.buzzfeed.com/sarasparry/facebook-in-dispute-with-pro-kurdish-activists-over-deleted>

16 Law No. 6698 on the Protection of Data Protection, Chapter 2, Article 6. (2016, April 7). <https://www.kvkk.gov.tr/lcerik/6649/Personal-Data-Protection-Law>

17 Anonymous (2019, July 6). Information and Communication Security Measures, Circular from the Presidency. Official Gazette. <https://www.resmigazete.gov.tr/eskiler/2019/07/20190706-10.pdf>



In cases of the Public Prosecutor's decisions to block access to websites and/or content, or to remove content, an appeal can also be made to the Criminal Court of Peace.¹⁸ For example, as regards access to a large number of content such as news about allegations of corruption in the previous administration period of the Istanbul Metropolitan Municipality, the news regarding allegations about the government representatives in the books of journalist, or the news about the attorney's fee received by the President's lawyer. Content was blocked on the grounds that it 'violated personal rights'. Human rights lawyers appealed these decisions were appealed to the Criminal Court of Peace by human rights lawyers.¹⁹

Unique aspects of the local surveillance landscape

On 1 August, 2019, the Regulation on Radio, Television and On-Demand Broadcasts on the Internet was issued, requiring all online content providers, including online streaming services, to obtain a license from the government-controlled state television and radio regulator, Radio and Television Supreme Council.²⁰ With this regulation, licensing of press organs that broadcast radio and TV news on the Internet has been made compulsory and penalties have been introduced for those who do not comply with the Regulation. Entertainment-based platforms such as Netflix are also included in this regulation. Civil society is alarmed that that this regulation criminalizes independent television and radio channels, especially those that broadcast commentary and news coverage critical of the Turkish government.²¹

The law amending the Regulation of Publications via Internet and Prevention of Crimes Committed through Such Publications Law also entered into force on 31 July, 2020.²² Under this law, social media companies with more than one million daily users in Turkey are required to designate a local representative in order to legally operate in Turkey.²³ Foreign companies who operate under other national jurisdictions became subjected to local law through their respondents and obliged to evaluate government content removal or

18 Law No. 5651, The Law on the Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts, Article 8 (2021, January 5). <https://www.mbkaya.com/turkish-internet-law/>

19 Alan, S. (2021, January 23). Caution this interview may be blocked from access. Gazete duvar. <https://www.gazeteduvar.com.tr/dikkat-bu-soylesiye-erisim-engeli-gelebilir-haber-1511134>

20 Gürkaynak, G. (2019, August 6). Regulation on Radio, Television and On-Demand Broadcasts on the Internet. Attorneys at Law Elig Gürkaynak. <https://www.gurkaynak.av.tr/docs/ad306-regulation-on-radio-television-and-on-demand-broadcasts-on-the-internet.pdf>

21 Human Rights Watch. (2020, December 15). Turkey: Crackdown on Independent TV Channels. Human Rights Watch. <https://www.hrw.org/news/2020/12/15/turkey-crackdown-independent-tv-channels>

22 Anonymous (2021, July). The Online Regulation Series. Tech against Terrorism. <https://www.techagainstterrorism.org/wp-content/uploads/2021/07/Tech-Against-Terrorism-%E2%80%93-The-Online-Regulation-Series-%E2%80%93-The-Handbook-2021.pdf>; Anonymous (2021, January 5). Law No. 5651, The Law on the Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts <https://www.mbkaya.com/turkish-internet-law/>

23 Law No. 5651, The Law on the Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts, Article 4 (1), (2021, January 5). <https://www.mbkaya.com/turkish-internet-law/>

blocking requests.²⁴ The Law had previously been amended to the detriment of freedom on the net. In April 2015, “the Internet Law” introduced a new access-blocking procedure on a number of grounds, including the protection of national security and public order. In 2014, another amendment allowed blocking access to websites on the grounds of “violation of personal rights.” Lastly, another very comprehensive law on media has recently been enacted in the parliament.²⁵ The bill envisages adding the definition of disinformation and spreading fake news to the Turkish Penal Code.²⁶ With the proposal of the law, spreading false information “that creates fear and panic in the society” or “contains hate speech” on social media will be regulated as a crime. The new article added to the Penal Code defines the crime of “publicly disseminating misleading information to the public.” With the new regulation, social media platforms are now required to open a Turkey office and a representative must reside in Turkey and be a Turkish citizen.²⁷ Moreover, when a court order is issued to remove content with a complaint of infringement of personality rights, the content must be removed from every site and platform.²⁸ While the laws restrict the freedom of the internet and the media, news websites face access-blocking decisions. In addition to foreign-based news sites²⁹ such as Independent Turkce³⁰ and Deutsche Welle³¹ or internet platforms such as Wikipedia (ban lifted in 2020)³², a significant number of left-wing and Kurdish news sites have been shut down.³³

24 Law No. 5651, The Law on the Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts Article 4 (3) and (4) (2021, January 5). <https://www.mbkaya.com/turkish-internet-law/>

25 Hubbard, B. & Timur, S. (2022, October 14). Turkey Allows Jail Terms for What It Deems ‘Fake News’. New York Times. <https://www.nytimes.com/2022/10/14/world/europe/turkey-jail-fake-news.html>

26 Penal Code (Law No. 5237) Article 217/A-(1). (2004, September 26). <https://wipolex-res.wipo.int/edocs/lexdocs/laws/en/tr/tr171en.html>

27 Law No. 5651, The Law on the Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts, Article 4 (1), (2021, January 5). <https://www.mbkaya.com/turkish-internet-law/>

28 Anonymoys. (n.d.). DisabledWed – Access Bloacked Websitres, News and Social Medica Accounts and Content. iFade, <https://ifade.org.tr/engelliweb/>

29 ariyuce, I., Ehlinger, M. and Kottasová, I. (2022, July 2). Turkey blocks access to the websites of Voice of America and Deutsche Welle. CNN. <https://edition.cnn.com/2022/07/02/media/turkey-dw-voice-of-america-blocked-intl/index.html>

30 Anonymous. (2020, April 19). Independent Turkish website blocked in Turkey. Avhal News. <https://ahvalnews.com/independent-turkish/independent-turkish-website-blocked-turkey>

31 Anonymous. (2022, July 1). Turkey blocks access to Deutsche Welle. Deutsche Welle. <https://www.dw.com/en/turkey-blocks-deutsche-welle-over-licensing-issues/a-62323124>

32 Anonymous. (2020, January 16). Turkey’s Wikipedia ban ends after almost three years. BBC. <https://www.bbc.com/news/technology-51133804>; European Court of Human Rights. (2022, March 24). Ruling on an application by the Wikimedia Foundation concerning a blocking order against its website, the Turkish Constitutional Court acknowledged the violation of Article 10 of the Convention and afforded appropriate redress. [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22003-7293454-9940966%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22003-7293454-9940966%22]})

33 Ciyan, D. (2018, April 16). Turkey’s opposition media crackdown. Deutsche Welle. <https://www.dw.com/en/turkey-targets-left-wing-news-agency-in-press-crackdown/a-43412287>



European Center for
Not-for-Profit Law

European Center for Not-for-Profit Law Stichting
5 Riviervismarkt
2513 AM, The Hague
Netherlands

www.ecnl.org
[@enablingNGOlaw](https://twitter.com/enablingNGOlaw)