

Advertising Bans on Social Network Providers in Turkey and Next Steps

The new provisions concerning social network providers which were brought by the Law Amending the Law No. 5651 on the Regulation of Internet Broadcasts and Prevention of Crimes Committed through Such Broadcasts, as also referred to as the Social Media Law in Turkey, entered into force on October 01, 2020.

The new obligations and sanctions introduced for social network providers have remained a hot topic since the latest amendments to the Law No. 5651. Most recently, on January 19, 2021, the Information and Communication Technologies Authority (ICTA) decided to issue advertisement bans on social network providers Pinterest Inc., Twitter Inc., and Periscope which were previously imposed two separate administrative fines; but still failed to appoint and notify a representative within the deadline. Relevant decisions of ICTA were also published in the Official Gazette. Facebook and Instagram which announced their decision to appoint a representative in Turkey on January 18, 2021 were not included in the scope of the advertisement bans.

Within the framework of the advertisement bans imposed on Pinterest Inc., Twitter Inc., and Periscope, real or legal persons who are resident and taxpayer in Turkey have been banned from giving advertisement to these social network providers. In this context, it has been stated that a new contract cannot be established for the purpose of giving advertisement to the relevant social network providers and money transfer cannot be made in this regard. In light of these developments, it is observed that relevant stakeholders in Turkey hesitate to engage in business partnerships with the social network providers for new projects and they have questions about the validity of their current agreements, and about which actions they should take in the future.

In its decisions, ICTA also decided that the responsible public institutions and organizations should follow up this issue in order to ensure the implementation of the advertisement ban and to take necessary actions in case of non-compliance with the decisions.

Now it is wondered whether the internet traffic bandwidth of these social network providers will be reduced by 50% to 90% by applying to the Criminal Court of Peace in case they do not comply with the obligation to appoint and notify a representative within 3 months following the ICTA decisions. It is clear that such a possible sanction will cause difficulties in accessing such platforms which are used by individuals as a means of information and communication; and thus it will obviously constitute a violation of individual rights and become controversial due to its restricting effect on the right to communication and freedom of expression, which are constitutional and universal rights that a democratic society is based on.