

16/07/2018

T.C.
İSTANBUL
6. SULH CEZA HÂKİMLİĞİ
2018/3996 D.İş

Konu: İnternet Erişimi Engelleme

ERİŞİM SAĞLAYICILARI BİRLİĞİ
Koru Mah. Ahmet Taner Kışlalı Cad. North Star Plaza No:4
Kat:8 Çankaya/ANKARA

Aşağıdaki hakimlik kararı gereğince;

<https://syrianfreepress.wordpress.com/2016/08/30/erdogan-war-criminal/>
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Adres : İSTANBUL 6. SULH CEZA HÂKİMLİĞİ

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URL internet sayfalarının İnternet Erişimine Engellenmesine karar verilmiştir.
Karar gereğinin ifası ile sonuçtan hakimliğimize bilgi verilmesi hususunda gereği rica olunur.

Berker KUBAT
Katip
204449

Ekrem ER
Hakim
165588

EK : İnternet İçeriğinin Engellenmesi (5651 Sayılı Yasaya Göre) Kararı

T.C.
İSTANBUL
6. SULH CEZA HÂKİMLİĞİ

TÜRK MİLLETİ ADINA
DEĞİŞİK İŞ KARAR

DEĞİŞİK İŞ NO : 2018/3996 D.İş
HAKİM : Ekrem ER 165588
KATİP : Berker KUBAT 204449
TALEP EDEN : RECEP TAYYİP ERDOĞAN
VEKİLİ : Av. AHMET ÖZEL
TALEP : Erişimin Engellenmesi

Talepte bulunan vekili Av. Ahmet Özel'in erişimin engellenmesi hususunda verdiği dilekçe ve eki belgeleri hakimliğimize tevzi edilmekle incelendi:

GEREĞİ DÜŞÜNÜLDÜ:

Yukarıda belirtilen dilekçe ile; URL adreslerindeki içeriklerin talep edenin kişilik haklarına saldırı mahiyetinde olduğundan bahisle bahse konu URL adreslerine internet erişiminin engellenmesi talebinde bulunulduğu anlaşılmış olmakla, dilekçe ve ekleri incelendi.

Anayasanın 25. maddesinde herkesin düşünce ve kanaat hürriyetine sahip olduğu, 26. maddesinde ise herkesin düşünce ve kanaatlerini söz, yazı, resim veya başka yollarla tek başına veya toplu olarak açıklama ve yayma hakkına sahip olduğu, bu hürriyet resmi makamların müdahalesi olmaksızın haber veya fikir alma ya da verme serbestliğini kapsadığı, söz konusu hürriyetin kullanılması milli güvenlik, kamu düzeni, kamu güvenliği, cumhuriyetin temel nitelikleri ve devletin ülkesi ve milletiyle bölünmez bütünlüğünün korunması, suçların önlenmesi, suçluların cezalandırılması, devlet sırrı olarak usulünce belirtilmiş bilgilerin açıklanmaması, başkalarının şöhret veya haklarının özel ve aile hayatının veya kanunun öngördüğü meslek sırlarının korunması veya yargılama görevinin gereğine uygun olarak yerine getirilmesi amacıyla sınırlandırılabilirliği açık ve net olarak düzenlenmiştir.

Avrupa İnsan Hakları Sözleşmesi'nin 10. maddesinde ifade özgürlüğü başlığı altında herkesin görüşlerini açıklamak ve anlatım özgürlüğüne sahip olduğu, bu hak ve kanaat özgürlüğü ile kamu otoritelerinin müdahalesi ve ülke sınırları söz konusu olmaksızın haber veya fikir alma ve verme özgürlüğünü içerdiği, kullanılması görev ve sorumluluk yükleyen bu özgürlükler demokratik bir toplumda zorunlu tedbirler niteliğinde olarak ulusal güvenliğin, toprak bütünlüğünün veya kamu emniyetinin korunması, kamu düzeninin sağlanması ve suç işlenmesinin önlenmesi, sağlığın veya ahlakın başkalarının şöhret ve haklarının korunması veya yargı gücünün otorite ve tarafsızlığının sağlanması için yasa ile öngörülen bazı biçim koşullarına, sınırlamalara ve yaptırımlara bağlanabileceği düzenlenmiştir.

5651 Sayılı kanunun internet ortamında yapılan yayınların düzenlenmesi ve bu yayınlar yoluyla işlenen suçlarla mücadele edilmesi hakkında kanunun 9. Maddesindeki düzenleme doğrultusunda erişimi engellenmesi istenen linkler incelendiğinde; basın ve ifade özgürlüğünü aşacak şekilde hakaret içeren ifadeler bulunduğu, bu ifadelerin kişilik haklarına saldırı teşkil ettiği kanaatine varıldığından talebin kabulüne, linklere erişimin engellenmesine dair aşağıdaki şekilde hüküm kurulmuştur.

HÜKÜM: Yukarıda açıklanan gerekçelerle:

1- Söz konusu **TALEBİN KABULÜ ile,**

- <https://syrianfreepress.wordpress.com/2016/08/30/erdogan-war-criminal/>
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2- Kararın 5651 Sayılı Yasanın 9/5 maddesi gereğince, doğrudan Erişim Sağlayıcı Birliğine gönderilmesine,

3- Kararın 5651 Sayılı Yasanın 9/8 maddesi gereğince derhal en geç 4 saat içerisinde erişim sağlayıcı tarafından yerine getirilmesine,

4- Kararın talepte bulunan vekiline tebliğine,

Dair kararın tebliğinden itibaren 7 gün içerisinde hakimliğimize verilecek bir dilekçe veya beyanen zabıt katibine tutanak tutturulmak sureti ile İstanbul 7. Sulh Ceza Hakimliği nezdinde itiraz yolu açık olmak üzere karar verildi. 16.07.2018

Katip 204449

e-imzalıdır

Hakim 165588

e-imzalıdır

BU BELGE 5070 SAYILI ELEKTRONİK İMZA KANUNU KAPSAMINDA E-İMZA İLE İMZALANMIŞTIR