PC.DEL/158/14
24 February 2014

ENGLISH only

STATEMENT BY TURKEY
In response to comments on the Internet Law in Turkey
(984th Meeting of the Permanent Council, 20 February 2014)

Thank you Mr. Chairperson.

I thank the European Union, the United States and Canada for bringing up the matter of the amendments to the Internet Law in Turkey, giving me the opportunity to share some of our views with my colleagues in the Permanent Council.

This issue has stirred a lively debate, both in my country and in various international fora including our Organization. The Representative on Freedom of the Media has made statements concerning the matter. It is therefore important to clarify any misconceptions.

The Internet Law in Turkey was amended with the purpose of protecting personal rights and ensuring the right to privacy. The violation of the right to privacy is a serious offense. When committed online through the Internet, it can lead to irreversible and irreparable grievances.

Surely, then, the right to privacy, which is protected offline in Turkey in the Criminal Code, should also be protected online. This is precisely what the new amendments aim to do. They do not foresee any restrictions on the freedom of communication or social networking. Nor do they foresee any intervention in the daily use of the Internet. They aim to strike a balance between freedom of expression, individuals' rights and the protection of privacy.

There were certain concerns that were voiced with regard to the amendments. It is also worth remembering that President Gül referred to certain parts of the initial amendment package as "problematic" and gave his approval only after it became clear that these "problematic" areas would be swiftly corrected. Indeed, the new changes to ensure such correction are currently under consideration in our Parliament.

Let me now go into a little more detail. A common allegation we have been hearing recently is that the amendments allow the Turkish Internet authority, the Telecommunications and Communications Directorate or TIB, to circumvent the judiciary and block websites without a court decision. This is a misrepresentation of the facts. The facts are these: according to the amendments, a Board of Access Providers will be established in order to ensure better coordination with the TIB. All internet providers and other companies that provide Internet access will participate in this Board, thus ensuring a diverse membership structure. Any individual can inform the TIB that his or her right to privacy has been violated on the Internet. The TIB examines this application immediately and if it ascertains a violation, it takes action via the Board of Access Providers to temporarily block access to the relevant content within a

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maximum of four hours. In order for the restriction to continue, however, a court decision is required. If the relevant court decides for the restriction, access to the content is fully prevented. If the court decides otherwise, access is once again permitted. Thus the TIB may take temporary preventive decisions pending a court decision, and this only in cases of severe violation of the right to privacy where any delay may cause irreversible damage. These amendments actually allow for safer use of the Internet.

Furthermore, the new changes make it obligatory for the TIB to send any blockage decision to the relevant court within 24 hours, and also require that the court then reach a decision within 24 hours, failing which the TIB's blockage decision becomes null and void.

Let me also emphasize that the previous practice in cases of violations of personal rights and the right to privacy foresaw blocking access to the entire website in question, whereas the new practice only requires that access to the relevant Uniform Resource Locator or URL be blocked. This means that only the offending text or images cannot be accessed, while the website hosting them remains freely accessible.

Claims that the state will store data and monitor individuals are baseless. No data is to be stored by state institutions. Hosting providers will be required to store traffic data – and I emphasize, traffic data only, not contents - for a minimum of one year and a maximum of two years. This is in fact based on Article 6 of EU Directive 2006/24/EC concerning the storage of online activity records. In addition, the new changes I alluded to above foresee that all information on Internet traffic be collected based on IP and subscriber numbers instead of on URLs. Thus the scope of stored traffic data has also been narrowed down.

Furthermore, the amendments to the Internet law replace prison sentences for related offenses with fines. This paves the way for global hosting provider companies such as Youtube, Facebook, Twitter and Google to set up offices in Turkey and was in fact a precondition requested by such companies.

All participating States are faced with challenges when it comes to new technologies. The Internet may not be a new technology anymore, but many contentious issues regarding its use and implications remain unresolved. We need to find the requisite balance between freedom of expression and crime prevention. We cannot shy away from this problem, uncomfortable though it might be. We must discuss these issues with an open mind in a spirit of tolerance and engagement, in order to find acceptable methods to address them in a manner consistent with our shared commitments on human rights and fundamental freedoms.

Thank you.

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