



## **Law No. 7418 on Amendment of Press Law and Certain Laws is Published**

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Law No. 7418 on Amendment of Press Law and Certain Laws (“Amendment Law”) is published in Official Gazette of October 18, 2022 and introduced significant amendments on certain laws including the Press Law No. 5187, the Turkish Criminal Code No. 5237 and the Law No. 5651 on the Regulation of Broadcasts via the Internet and the Prevention of Crimes Committed through Such Broadcast (“Law No. 5651”) and the Law No. 5809 Electronic Communications Law (“Law No. 5809”).

### **Amendments in the Press Law No. 5187**

The Amendment Law includes news websites within the scope of the Press Law No. 5187 along with the printing and publication of printed works. Accordingly, news websites are defined as periodicals established and operated to provide written, visual or audio contents in the form of news or comments at regular intervals on the Internet.

Further, Article 6 of the Amendment Law regulates that the contents broadcasted in news websites should be kept for two (2) years to be submitted to public prosecutor’s office when necessary by preserving its accuracy and integrity and in case judicial authorities notify in writing to news websites that the relevant broadcast is subject to investigation and prosecution, it is mandatory to keep the broadcast records until it is notified that the processes are concluded.

The Amendment Law also introduces amendments to various laws such as Law No. 2004 on Enforcement and Bankruptcy, State Bidding Law No. 2886 and Law No. 4734 on Public Procurement, accordingly announcements stipulated to be made on newspapers might also be made on news websites.

### **Amendments Introduced under the Turkish Criminal Code No. 5237 and Law No. 5271 on Criminal Procedures**

With Article 29 of the Amendment Law, a new article titled “Public Dissemination of Misleading Information” is introduced to Turkish Criminal Code, in this regard a person who publically disseminates unsubstantial information regarding the country’s domestic and foreign security, public order and general health in a way suitable for disturbing public peace, with the mere motive of creating concern, fear and panic among public, should be punished with imprisonment from one (1) year up to three (3) years. If the crime is committed by concealing the true identity of the perpetrator or within the scope of an organization’s activities, the punishment will be increased by half.

Further, the crime of “public dissemination of misleading information” is added to list of crimes regulated under Criminal Procedure Law, where the decisions of district court criminal chambers granted due to the specified crimes might be appealed even if the decisions are non-appealable.

### **Amendments Introduced under the Internet Law**

The Amendment extends the scope of the catalogue crimes which are regulated under Article 8 of the Internet Law and includes the crimes regulated under Article 27/1-2 of the Law Government Intelligence Services and National Intelligence Authority. With this respect, an access ban request can be demanded regarding the contents constituting the relevant crimes.

The Amendment Law also specifically regulates the activities of social network providers (“SNP”) by bringing full technical, administrative, legal and financial authority and responsibilities to the representatives of SNPs with certain qualifications. Before the enactment of the Amendment Law, real person representative of the SNP should only be a Turkish citizen. However, with the new amendment, the Turkish citizen representative must also reside in Turkey. In terms of the SNPs whose daily access is more than ten million, the Amendment Law requires the legal entity representatives of those SNPs to be established by the relevant SNP as a branch office incorporated in form of a stock Corporation.

Further, it obliges SNPs to act within the principle of accountability, to provide transparency in compliance with the law, to provide to the Information Communication and Technologies Authority (“Authority”) all the required information and documents regarding compliance with the law when asked by the Authority. SNPs are also obliged to draft and notify to the Authority a crisis plan with regards to public security, public health and extraordinary situations and SNPs should take necessary measures to provide separated services particular for children.

With regards to reporting obligations, the Amendment Law stipulates the information which SNPs should include on title tags, algorithms regarding the contents that are put forward or that are reduced,

advertisement and transparency policies in their reports. The Amendment Law also requires the SNPs to disclose the parameters which are used during the suggestions provided to the users on its website.

Furthermore, it extends the authorities of Access Providers Union (“APU”) and states that the objections with regards to the APU decisions should be submitted against the relevant criminal judgship of peace’s decision. The Amendment Law also authorizes the Authority to request any information including but not limited to information systems, corporate structure, algorithms, data processing mechanisms and commercial approach for the compliance with the Internet Law, and SNPs should provide such information at the latest within three (3) months. It also entitles Authority to conduct on-site examinations regarding SNPs’ compliance with the Internet Law. According to the Amendment Law, representative of the SNPs should provide the information which is requested by the relevant Authorities.

In case the following requirements are not fulfilled, the President of Authority (“President”) may request gradual bandwidth throttling and may decide on advertisement ban decision. Besides, the Amendment Law also foresees sanctions for the Turkish taxpayers who do not comply with the advertisement ban decisions. In addition to the sanctions which are already in force, the Amendment Law provides an administrative fine sanction which will be calculated as 3% of the previous year’s global revenue, in case of failure to comply with obligations on data localization, separated services to children, user rights, notification of identity for dangerous contents to life and property, failure to share information requested by Authority regarding compliance with the Law No. 5651 and crisis plan.

#### **Amendments Introduced under the Law No. 5809 Electronic Communications Law**

Amendment Law defines over the top service (“OTT”) and OTT service providers. Accordingly, OTT service covers audio, written and visual electronic communication provided to the subscribers or users through publicly available software. The definition also separates OTT service from the Internet service and operators, by defining OTT service to be independent of the Internet service and operators. Additionally, OTT service provider is defined as the real person or legal entity providing services within the scope of the definition of OTT services.

The Authority is authorized to make necessary regulations related to OTT service provision, take any measures including setting forth obligations for operators to ensure prevention of provision of OTT services without fulfillment of obligations foreseen in regulations or authorization. OTT service providers carry out their activities within the scope of the authorization given by the Authority through their fully authorized representatives having the status of a joint-stock company or a limited liability company established in Turkey.

Furthermore, the Amendment foresees an administrative fine at the amount ranging between one (1) million Turkish Liras and thirty (30) million Turkish Liras, for the OTT service providers who provide OTT services without required authorizations. OTT service providers who do not pay the administrative fine amount in due time and do not comply with the requirements within six (6) months upon the notification, might be subject to bandwidth throttling up to 95% or access ban of the relevant application or website.

Articles 20, 21, 22, 25, 26, 27 and Article 28 of the Amendment Law except for sub-paragraphs (a) and (b) will enter into force on April 1, 2023, while its other articles enters into force at the date of publishing.

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