

MAJOR CHANGES INTRODUCED WITH THE LAW NO. 7418 ON THE AMENDMENT OF THE PRESS LAW AND OTHER CERTAIN LAWS PUBLISHED IN THE OFFICIAL GAZETTE DATED 18.10.2022 AND NUMBERED 31987

The Law No. 7418 on the Amendment of the Press Law and Other Certain Laws ("Law") entered into force after being published in the Official Gazette dated 18.10.2022 and numbered 31987. With this amendment, various modifications were made in several laws, particularly the Press Law No. 5187 ("**Press Law**") and the Law No. 5651 on the Regulation of Broadcasts on the Internet and the Prevention of Crimes Committed through Such Broadcast ("**Internet Law**"). The significant amendments introduced under the Law are briefly summarized below.

Amendments Introduced under Turkish Criminal Code

With Article 217/A "the Crime of Public Dissemination of Misleading Information" has been added to the "Crimes Against Public Peace" section of Turkish Criminal Code ("**TCC**"). Accordingly, a person who publicly 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, shall be punished with imprisonment from one to three years.

Amendments to Press Law

- News websites have been included in the scope of periodical publications that are subject to the Press Law No. 5187 ("**Press Law**").
- The business address where the news site operates, trade name, electronic mail address, contact phone numbers, electronic notification address and the name and address of the hosting provider must be included in the internet page of the news websites. This information must be included in the home page and under the contact heading in a manner directly reachable by the users.
- The date when a content is first published on news websites and the subsequent update dates shall be indicated in a manner without being changed each time they are accessed.
- In the event that the news website does not submit to the Chief Public Prosecutor's Office the declaration and annexes containing the necessary and real information within the scope of the Press Law, or if the owner or representative of the publication or the responsible director does not have the stipulated qualifications, the Chief Public Prosecutor's Office shall request the news websites to make up the deficiency or to correct the unsubstantial information within 2 (two) weeks. If the request is not fulfilled within 2 (two) weeks, the Chief Public Prosecutor's Office will apply to the Criminal Court of First Instance to determine that the news website lacks the required qualifications, and the court will decide within 2 (two) weeks at the latest.
- The obligation to retain broadcasts is added to the obligation of the publisher to deliver the copy of any broadcast to the Chief Public Prosecutor's Office, as regulated by Article 10 of the Press Law. Accordingly, the contents broadcasted on the news website will be kept for 2 (two) years to be delivered to the requesting Chief Public Prosecutor's Office when necessary. In case judicial authorities notify to news websites that the

relevant broadcast is subject to investigation and prosecution, the broadcast records subject to investigation and prosecution will have to be retained until it is notified that the processes are concluded.

- In parallel to the obligation of the manager in charge to correct and reply regarding the periodical publications within the scope of the Press Law, the manager in charge is obliged to publish the correction and reply letter of the person who is harmed due to a broadcast on a news websites without making any corrections and additions, within 1 (one) day at the latest from the date of receipt, on the pages and columns where the relevant broadcast is located, with the same font size and in the same way by providing the URL link.
- Criminal cases related to crimes committed through news websites or other crimes stipulated in the Press Law are obliged to be filed within 4 (four) months.
- Press card application, features, types, cancellation and procedures and principles related to the Press Card Commission have been regulated.
- News websites have been given 3 (three) months to comply with the obligations stipulated in the Law.
- The procedures and principles regarding the qualifications and obligations to be carried by those who will publish official announcements and advertisements on news websites will be determined by a regulation within 6 (six) months.

Amendments to the Internet Law

1. Obligation of Social Network Providers to Have Representatives in Turkey

- The obligation of social network providers to have representatives is regulated in detail. Accordingly, if the representative of a foreign-based social network provider, which has a daily access of more than one million from Turkey, is a natural person, this person must be a Turkish citizen residing in Turkey.
- In terms of the social network provider whose daily access is more than ten million from Turkey, if the representative is a legal person, the representative must be a legal entity established by the social network provider in the form of a capital company. The natural or legal person representative designated by the foreign-based social network provider shall be fully authorized and responsible in technical, administrative, legal and financial terms, without prejudice to the responsibilities of the social network provider.

2. Obligations of Social Network Providers Regarding Users

- The social network provider is obliged to treat its users equally and impartially.
- When offering recommendations to users, the social network provider will place on its website which parameters it uses in a clear, understandable, and easily accessible way.
- In its report, the social network provider will list the necessary measures taken to update users' preferences for the content they recommend and to give them the option to limit the use of their personal data.
- The social network provider will create an advertising library with information such as the advertisements' content, advertiser, advertising duration, target audience, number of people or groups reached, and publish it on the website.
- The social network provider will take the necessary measures to provide a segregated service particular to children.

3. Reporting Obligations of Social Network Providers

- Reports to be submitted by social network providers to the Information Communication and Technologies Authority (“ICTA”) will also include information on title tags, algorithms regarding content that is featured or reduced in access, advertisement, and transparency policies. Social network providers shall be obliged to provide the information requested by ICTA.
- The social network provider is obliged to treat its users equally and impartially, and include the measures taken in this regard in the report to be submitted to ICTA. The social network provider will take the necessary measures in cooperation with ICTA in its own system, mechanism and algorithm regarding the non-publication of content and title tags related to crimes within the scope of the Internet Law and will include these issues in its relevant report.

4. Responsibilities of Social Network Providers Regarding Content, Providing Information/Documents to ICTA and Administrative Sanctions

- The information necessary for reaching to the offenders who create or spread content regarding sexual assault of minors, public dissemination of misleading information, disrupting the unity and the integrity of the state, crimes against state secrets and espionage which are regulated in TCC, shall be provided by the Turkish representative of the relevant social network provider to the judicial authorities, in the event that it is requested by the Prosecutor during the investigation phase and by the court during the prosecution phase. Otherwise, the relevant Public Prosecutor may request the restriction of bandwidth internet traffic of the foreign-based social network provider up to 90%, from Ankara Criminal Court of Peace. In this case, if the court decides to implement the restriction, said decision will be sent to ICTA to be forwarded to social network providers; and the decision shall be complied with by access providers immediately and in four hours at the latest following the notification of the decision. If the social network providers comply with the decision mentioned in this sub-section, the sanctions will be lifted and ICTA will be notified.
- Without prejudice to administrative measures, if the decision issued by President of ICTA of banning access and/or content removal is not complied with, the President of ICTA can decide that taxpaying natural and legal persons residing in Turkey shall not place any advertisements to the relevant foreign-based social network providers for up to 6 months. In this regard, no new agreement can be established, and no related monetary transaction can take place. The ad ban decision will be published in the Official Gazette. In light of relevant regulations, taxpaying natural or legal entities residing in Turkey who do not comply with the ad ban shall be subject to an administrative fine of ten thousand Turkish liras to one hundred thousand Turkish liras, as decided by the President of ICTA.
- Aside from the ad ban, the President of ICTA can apply to the Criminal Court of Peace for restriction of bandwidth internet traffic for up to 50% of the social network provider until the decision on access ban and/or content removal is complied with.
- If the administrative fines issued by the President of ICTA is not paid within the legal time frame for multiple times in one year, the President of ICTA can decide that taxpaying natural and legal persons residing in Turkey shall not place any advertisements on the relevant foreign social network providers for up to 6 months.
- The President of ICTA can issue an administrative fine of up to 3 percent of the global turnover in the previous calendar year to social network providers that fail to fulfil its obligations under Internet Law.

5. Changes on Over-the-Top Network Services

- New terms of “over the top network services” and “over the top network service provider” have been added to the Electronic Communications Law. Accordingly, “over the top network services” refers to interpersonal electronic communication services within the scope of audio, written and visual communication, offered to subscribers and users with internet access, through a software open to the public, independent of the operators or the internet service provided; and “over the top network services provider” refers to legal or natural person offering services that fall under the definition of over the top network services.
- Over the top network service providers shall carry out the activities through a fully authorised representative in a joint stock company or a limited liability company established in Turkey, in accordance with the authorisation made by ICTA.
- Over the top network service providers that fail to comply with the legal duties or offer services without being authorised shall be subject to an administrative fine of one million to thirty million Turkish liras.

6. Effective Dates

- Articles 20, 21, 22, 25, 26 and 27 of the Amendment Law and the other clauses of Article 28, excluding clauses a and b, will enter into force on 01.04.2023, and other provisions (including those we have summarized in this memorandum) entered into force as of its publication in the Official Gazette.

Should you have any queries on the above, please do not hesitate to contact us.

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