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## MAJOR CHANGES ON THE INTERNET: DISINFORMATION LAW

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## Major Changes on the Internet: Disinformation Law

The Law Amending the Press Law and Other Laws (**Omnibus Law**), also known as the “*Disinformation Law*” among public, was published in the Official Gazette on 18 October 2022. Omnibus Law amends various laws, such as Press Law, Turkish Penal Code and Law on the Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts. We summarized the notable amendments below.

**(i) Crime of publicly disseminating misleading information to the public.** With Omnibus Law, Article 217/A was added to the Turkish Penal Code; which regulates that anyone who publicly disseminates false information about the internal and external security, public order and general health of the country, in a way that is suitable for disturbing the public peace, just for the purpose of creating anxiety, fear or panic among the people, shall be sentenced to imprisonment from one to three years.

As an important aspect, since the perpetrator is required to have the motive to create anxiety, fear or panic among the public for this crime to be committed, this crime can only be committed with "special intent". Special intent represents a situation in which a specific consciousness, a more intense type of intent, is sought. In the justification of the article, it was stated that the crime was added as content created and spread in an organized manner with special intent, or the posts made through bot accounts rapidly increased the disinformation on the internet. However, it should be noted that there may be some ambiguity in practice about which information will be included in the scope of “false information about the internal and external security, public order and general health of the country”, as the referred condition has abstract boundaries.

**(ii) Inclusion of internet news sites in the scope of periodicals.** Prior to Omnibus Law, objections have been made that the provisions of the Press Law would not be applied to news content on the Internet as internet news sites were not covered by the Press Law. With Omnibus Law, it was explicitly regulated that internet news sites are within the scope of periodicals. Along with regulations regarding the press card, the obligations of internet news sites have been stated as follows:

- To contain contact information in a way that users can access it directly from the home page;
- To state the date on which the content was presented for the first time and the update dates on the content;
- To retain the content published on internet news sites for 2 years to be delivered to the Office of the Chief Public Prosecutor;
- To publish a correction and reply text on the main page of the internet news site for a period of 1 week in cases where the content is removed as a result of the implementation of the decisions to block access / the removal of the content or the removal of the content by the internet news site. of the relevant internet news site.

Internet news sites are given 3 months to fulfill their obligations stipulated in the Press Law. In addition, the Press Advertisement Agency is authorized to make regulations regarding official announcements and advertisements on internet news sites, within six months.

**(iii) Amendments regarding the decision to remove content and block access.** As per Law on the Regulation of Broadcasts via Internet and Prevention of Crimes Committed through Such Broadcasts, it was regulated to remove the content and/or to block access to publications on the internet that has an adequate reason for suspicion that the content constitutes the crimes listed as catalogue. With Omnibus Law, the crimes in Article 27 of the State Intelligence Services and National Intelligence Organization Law are added to these catalogue crimes.

In addition, prior to Omnibus Law, the cases in which the Information and Communication Technologies Authority (**ICTA**) could decide to remove the content or block access were limited according to the catalogue crimes and the presence of the content or hosting provider in the country or abroad. With Omnibus Law, this restriction is abolished. ICTA will be able to decide *ex officio* to block access or remove content for all catalogue crimes, regardless of the location of the access provider.

**(iv) Additional obligations for social network providers.** Additional obligations and responsibilities are introduced for social network providers to provide a secure internet environment. It is especially significant that the scope of current reporting obligations of social network providers has been expanded. Other noteworthy amendments are as follows:

- Social network providers will be obliged to establish an effective notice and take-down mechanism in cooperation with the ICTA. Social network providers will be responsible for the crime committed through the publication of someone else's content through title tags or featured content, provided that unlawful content has been reported to the social network provider, but it has failed to remove the content immediately and within four hours at the latest from the notification of the content.
- Social network providers will be obliged to provide the necessary information to the judicial authorities, upon request, to reach the perpetrators of internet content subject to certain crimes. On the other hand, the internet traffic bandwidth of the foreign social network providers who do not fulfill this will be reduced by ninety percent.
- Within Omnibus Law, it may be decided to prohibit taxpayers residing in Turkey from advertising to the social network providers which do not comply with the decision to remove content and/or block access given by ICTA.

**(v) Defining over-the-top services and making regulations within this scope.** In the Omnibus Law, over-the-top services are defined as electronic communication services between individuals within the scope of audio, written and visual communication provided through software open to the public, independent of the operators or the internet service, to subscribers and users with internet access.

Within Omnibus Law, it is regulated that over-the-top service providers must have a fully authorized representative in the status of joint stock or limited liability company in Turkey. Administrative fines ranging from 1 million Turkish Liras to 30 million Turkish Liras may be imposed on over-the-top service providers that do not comply with the obligations set by the ICTA. However, if the violation continues, it may be decided to reduce the internet traffic bandwidth of the service providers by up to ninety-five percent or to block the access under the specified conditions.



**In conclusion**, Omnibus Law brings significant changes to determine the responsibilities of many actors operating in the internet environment. In the justification of Omnibus Law, the reason for these changes is explained as a lack of mechanisms in current legislation to protect the fundamental rights and freedoms of individuals although the impact of the digital world on individuals is increasing. It is a matter of curiosity how Omnibus Law, which is the subject of public debate, will be implemented by the judicial authorities and the effects it will create.

You can reach the full text of Omnibus Law [here](#) (only available in Turkish).

## **Regulation on Consumer Arbitration Committees Has Been Amended**

New Regulation on Consumer Arbitration Committees (**Regulation**) has been published in the Official Gazette on 21 September 2022, repealing the Regulation on Consumer Arbitration Committees dated 27 November 2014 (**Repealed Regulation**).

Amendments on several issues were made with the Regulation, including the functioning and organization of consumer arbitration committees, consumer rights and the application process. We present below the primary changes brought forth by the Regulation:

- The monetary limits of 10,280 TRY and 15,430 TRY established in the Repealed Regulation for applications to the provincial-district arbitral committees have been amended. It is now mandatory to apply to consumer arbitration committees for disputes under **30,000 TRY**, regardless of whether the arbitration committee is provincial or district. The monetary limits on the application date will be considered in applications.
- In parallel with the Repealed Regulation; applications to consumer arbitration committees will be made to the committee in the consumer's area of residence or the location of the consumer transaction. However, if there are no arbitration committees in the relevant areas, it will now be possible to apply to the district governor's office so that the application can be referred to the authorized arbitration committee, which will be determined by the Ministry of Commerce.
- Effective as of 1 January 2023; each party will have the right to demand the completion of the decision, within fifteen days of the notification of the final decision, on the issues requested in the first application but not resolved by the consumer arbitration committee.
- It has been regulated that for disputes with the same subject, reason and parties, it is not possible to apply to more than one consumer arbitration committee or make multiple applications to the same committee, and if such applications are made, the consumer arbitration committee will always consider pendency *ex officio* or upon the objection of one of the parties.

- The six-month period for the conclusion of applications made to the consumer arbitration committee specified in the Repealed Regulation was increased to **nine months** with the Regulation.
- Appeals against the consumer arbitration committee's decisions can be filed within **fifteen days** following the notification. The appeal can be made to the court in the consumers' area of residence or the area of the consumer transaction's occurrence.

Regulation has entered into force on 01 October 2022; with some exceptional provisions that will enter into force on 1 January 2023.

You can reach the full text of the Regulation [here](#) (only available in Turkish).

## Guide on the Business Models in the Field of Payments is Published

Turkish Republic's Central Bank (**TCMB**) has published the "Guide on the Associating Business Models Presented in the Field of Payments with Payment Service Types" (**Guide**). This Guide aims to ensure uniformity in terms of payment services and their sectoral practice, which are regulated in the Law No. 6493 on Payment and Securities Settlement Systems, Payment Services and Electronic Money Institutions (**Law**) and the secondary regulations.

In the Guide, TCMB's evaluations regarding the activities covered by the payment services and electronic money issuance activities defined in the Law were included. These evaluations, which also take into account the current sectoral practices, will help sectoral actors determine whether their activities are within the scope of the Law.

In addition, information on the legal status of the following business models and the different applications within these business models, the payment services they are associated with, and the permits required under the Law are also included in the Guide:

- Payment account management
- Money transfer
- Virtual POS
- Physical POS
- Issuance and acceptance of electronic money (prepaid cards)
- Digital wallet
- Mobile payment
- Mediation for mobile payments

Guide contains guidance on how the services/business models offered by payment service providers should be evaluated within the scope of the Law and which authorizations they will be subject to. In this context, all actors who provide or will offer payment/electronic money services must evaluate their status within the scope of the Guide and ensure their compliance with the Law and secondary legislation.

You can reach the full text of the Guide [here](#) (only available in Turkish).

## New Regulation from the EU Council: MiCA is Approved

Final steps towards the Markets in Crypto Assets Regulation Bill (**MiCA**) have been taken for legalization. In accordance with the document shared on 5 October 2022, the Permanent Representatives Committee of the Council of Europe approved the MiCA text. If the European Parliament also accepts the text, MiCA is expected to enter into force within the first quarter of 2023.

The main goal of the European Union (**EU**) in developing MiCA, is to promote technological developments. It also aims to protect market integrity and financial stability by regulating financial stability, transparency, control, energy consumption, consumer protection, and the public offering of crypto assets.

The regulations in MiCA include preventing actions involving manipulation of the market, money laundering, terrorist financing and other similar criminal activities. It also introduced license regulation for crypto wallets and exchanges and also required a reserve for stable coins such as Terra in order to protect the investor. However, whereas there is yet no explicit regulation in MiCA in terms of Non-Fungible Tokens (NFT), discussions started to take place on the matters that can be applied by comparison.

The relevant regulation will apply to individuals and legal entities as well as other undertakings, engaged in the issuance, public offering, and trading of crypto assets, or in the provision of crypto asset services within the EU.

If MiCA is approved by the EU Parliament, it is expected to enter into force in all EU countries without the need for implementing local laws.

You can reach the full text of the Regulation [here](#).



# Answers. Not theories.

## Gokce Attorney Partnership

### Editors:



**Prof. Dr. Ali Paslı**  
ali.pasli@gokce.av.tr



**Dr. Mehmet Bedii Kaya**  
bedii.kaya@gokce.av.tr



**Elif Aksöz**  
elif.aksoz@gokce.av.tr



**Yağmur Yollu**  
yagmur.yollu@gokce.av.tr

### About our firm

Gokce Attorney Partnership is an Istanbul-based law firm offering legal services across a broad range of practice areas including mergers and acquisitions, joint ventures, private equity and venture capital transactions, banking and finance, capital markets, insurance, technology, media, telecoms and internet, e-commerce, data protection, intellectual property, regulatory, debt recovery, real property, and commercial litigation. Please visit our web site at [www.gokce.av.tr](http://www.gokce.av.tr) for further information on our legal staff and expertise.

**Please contact us at**  
**info@gokce.av.tr**  
**0 212 352 88 33**

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