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Law on Amendments to the Law on Electronic Commerce

Corporate & Commercial

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On 22 July 2019, the Government of the Republic of Serbia has adopted the Amendments to the Law on Electronic Commerce (*Official Gazette of the Republic of Serbia No. 52/2019*) (hereinafter: "**Amendments**"), and the Amendments came into force on 30 July 2019.

Key novelties

The Amendments improve already adopted solutions in the initial version of the respective law, refine and redefine the existing terms and definitions and create enhanced legal framework for electronic commerce, thus continuing the harmonization process in accordance with European legislation in particular the Directive on Electronic Commerce (*Directive 2000/31/EC*) (hereinafter: the "**Directive**").

THE CROSS-BORDER PROVISION OF SERVICES

The Amendments have added a new article to the initial text of the respective law, which regulates the cross-border provision of services, i.e., the provision of services in the Republic of Serbia or the European Union when the provider does not have the seat, i.e. is not established in the territory where the service is being provided. The same article defines the restrictions to the cross-border provision of services by imposing the measures in the event of a real and serious danger in order to protect the public order, public security, public health and enhance consumer protection.

The Amendments define that commercial message, as the IT service, must meet the conditions prescribed by this law.

The sending of such a commercial message by electronic means, is permitted only with the prior consent of the person to whom the message has been intended. These provisions also introduce the service provider's obligation to regularly check and respect the log out request sent by a person who does not want to receive such messages.

The IT service provider, which transmits an electronic message given by the user, is obliged, to preserve specific set of information about the IT service user, during the period of providing service and, at least 30 days after the termination of the service.

THE ELECTRONIC AGREEMENT

Bearing in mind that the law allows the conclusion of agreements electronically i.e. in electronic form, by Amendments is defined the following deviations:

- If it is prescribed by special regulations that legal transactions cannot be undertaken in the electronic form;
- In case of the agreements and other legal transactions which must be concluded in other form as required by a special law;
- In case of the guarantee agreement and the legal actions and statements of the guarantor i.e. the person who acts outside of the scope of a commercial, business or professional activity.

The Amendments also contain final provisions which envisage the postponement of the application of individual articles, as well as the adoption of a by-law until the entry of the Republic of Serbia into the European Union.