

Newsletter

| 37th Edition, September 2023 |

Welcome to the thirty-seventh edition of our newsletters. In this edition, we will discuss the new Cyber Crime Law No. (17) for the Year of 2023 (hereinafter referred to as the “**New Law**”), the most prominent justifications that called for its issuance and the most prominent amendments it contains in comparison with the previous Cybercrimes Law No. (27)/2015 (hereinafter referred to as the “**Old Law**”), as follows:

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“...Therefore, the need has become urgent today to develop our national legislation in a way that emphasizes the preservation and protection of freedom of expression, preserves citizens’ right to privacy, eliminates rumors and misleading news, and prevents incitement to hatred, especially since a number of managers of the largest social media platforms themselves have admitted that their platforms could be exploited for negative and subversive purposes ...”

King Abdullah II, Ibn Al Hussein

October 31, 2018

In an article written by his Majesty that was published on the official website of the Ministry of Interior

Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building, # 96, 2nd and 3rd
Floor

+962 6 569 1112

info@hammourilaw.com

Hammouri & Partners Attorneys at-Law
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Introduction

2 The New Law for cybercrime created a large stir in Jordanian society and caused a division of opinion between supporters and opponents of its provisions that included harsher penalties, expansion of concepts, the introduction of new crimes and special penalties for them and the tightening of the punitive policy followed as a whole.

As a result of the different and dissimilar points of view regarding the adoption of the New Law for cybercrime, we will shed some light on the justifications for approving the New Law, the essential differences between the Old Law and the New Law and we will address the most important provisions of the New Law, and explain the limits of criminal accountability, as follows:

First: *Justifications for repealing the Old Law and the Issuance of The New Law; and*

Second: *The most prominent crimes and new concepts stipulated in the New Law.*

¹ In accordance with article 3 of the Jordanian Penal Law No. (16)/1960

First: Justifications for Repealing The Old Law And The Issuance of The New Law

It is said that the law is a mirror to society, and that through the law we can form a clear idea about societies by the nature of the legislation they have issued. At the same time, the law changes; it is replaced by new laws and it develops to meet the changing needs of society and to keep pace with its course. That is done in a way that guarantees the safeguarding and preservation of rights of its citizens as well as in a manner that ensures social balance and the stability of the legal positions in it. Urgent matters may arise to amend or develop the legal rules in order to include the majority of common cases in society or those that have become widespread in order to regulate them in a comprehensive and complete manner.

This development is evident in the rules of the criminal law and is preserved in its texts as, in the application of the rule of legitimacy “*There is no crime and no punishment except as stated by a text¹*”, thus it is impossible for any person to be punished for a non-criminal act. Accordingly,

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and in light of the high rate of crimes committed electronically or which involve electronic programs, it was necessary for the legislative authority in Jordan to keep pace with the technical development in the world of communications and information technology and work to enact new legislation to suit the development taking place in the sector.

Considering the percentage of citizens who own platforms on the five main social networking sites, the number of users has reached nearly six million six hundred thousand people. With this large number², the Jordanian legislator had to find the means to organize and protect the visitors of those sites, especially if we are made aware of the fact that, according to recent statistics issued by the Cybercrime Unit, the total reported cybercrimes were more than

(16,027) crimes during 2022³. This made it imperative for the legislative authority to create modern and advanced legislation that regulates this sector in order to prevent people from misusing their rights and infringing on the rights of others and to preserve the rights of individuals in society.

The justifications that called for the abolition of the Old Law and the adoption of the New Law are varied. We will review the most important of those justifications as follows:

- 1) Stopping the spread of false news through social media platforms;
- 2) Prohibition of publishing anything that incites hatred and harms national security;

² In accordance with an article published on the Amoun News website (link: <https://www.ammonnews.net/article/779339>)

³ In accordance with statistics published on the official website of the Cybercrimes Unit of the Hashemite Kingdom of Jordan (link: <https://psd.gov.jo/ar-%D8%A7%D9%84%D9%85%D8%AD%D8%AA%D9%88%D9%89/%D8%A3%D8%B1%D8%B4%D9%8A%D9%81-%D8%A7%D9%84%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1/%D9%88%D8%AD%D8%AF%D8%A9-%D9%85%D9%83%D8%A7%D9%81%D8%AD%D8%A9-%D8%A7%D9%84%D8%AC%D8%B1%D8%A7%D8%A6%D9%85-%D8%A7%D9%84%D8%A5%D9%84%D9%83%D8%AA%D8%B1%D9%88%D9%86%D9%8A%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D8%A3%D9%85%D9%86-%D8%A7%D9%84%D8%B9%D8%A7%D9%85-%D8%AA%D9%86%D8%B4%D8%B1-%D8%A5%D8%AD%D8%B5%D8%A7%D8%A6%D9%8A%D8%AA%D9%87%D8%A7-%D8%A7%D9%84%D8%B3-%D9%86%D9%88%D9%8A%D8%A9-%D9%84%D9%84%D8%B9%D8%A7%D9%85-2022>)

<https://psd.gov.jo/ar-%D8%A7%D9%84%D9%85%D8%AD%D8%AA%D9%88%D9%89/%D8%A3%D8%B1%D8%B4%D9%8A%D9%81-%D8%A7%D9%84%D8%A3%D8%AE%D8%A8%D8%A7%D8%B1/%D9%88%D8%AD%D8%AF%D8%A9-%D9%85%D9%83%D8%A7%D9%81%D8%AD%D8%A9-%D8%A7%D9%84%D8%AC%D8%B1%D8%A7%D8%A6%D9%85-%D8%A7%D9%84%D8%A5%D9%84%D9%83%D8%AA%D8%B1%D9%88%D9%86%D9%8A%D8%A9-%D9%81%D9%8A-%D8%A7%D9%84%D8%A3%D9%85%D9%86-%D8%A7%D9%84%D8%B9%D8%A7%D9%85-%D8%AA%D9%86%D8%B4%D8%B1-%D8%A5%D8%AD%D8%B5%D8%A7%D8%A6%D9%8A%D8%AA%D9%87%D8%A7-%D8%A7%D9%84%D8%B3-%D9%86%D9%88%D9%8A%D8%A9-%D9%84%D9%84%D8%B9%D8%A7%D9%85-2022>)

3) Reducing the commission of crimes of defamation, slander and libel and contempt via the use of electronic means;

4) Reducing the burden on the judiciary as a result of malicious complaints;

5) Providing greater protection to citizens' money by way of placing additional restrictions on commercial dealings that occur through electronic means.

6) Attempting to reduce the crimes of extortion and electronic fraud by setting restrictions related to the prohibition of the use of pseudonyms and / or false descriptions and other means that assist in committing these crimes of impersonating an individual/identity theft or impersonating a position they do not possess;

7) Countering fierce attacks on the infrastructure of information systems, computer programs, and the information network;

8) Protecting financial information, supporting credit, and contributing to the development of financial services provided by financial and banking institutions and companies;

9) Harmonizing the New Law to the Arab Agreement to Combat Information Technology Crimes, signed in 2013, with international standards to ensure combating cybercrimes in accordance with the best applicable standards and practices, as they are serious crimes locally and cross borders internationally.

Through the foregoing, it becomes clear the pressing need for a modern law that meets the needs of society. Here we state that, according to recent statistics, the number of cases registered with regard to threats, extortion, theft of accounts, and electronic defamation and libel/slander has reached (8660) cases, and the number of cases involving impersonation of an individual/identity theft (2371), financial fraud (1113), corruption of marital bonds (47), data theft (1037), the number of cases for hacking websites (513) and abusing, bullying and deceiving children and inciting children into wrong practices (40), all of the above during (2021) alone. It should be noted that this number is of course less than the real number of crimes committed; due to the refusal of many people to report the crimes committed against them for reasons related to their social status in addition to family considerations that prevent



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building, # 96, 2nd and 3rd
Floor

+962 6 569 1112

info@hammourilaw.com

them from resorting to the judiciary to claim their rights⁴.

5 The New Law was concerned with addressing all aspects that contain legal and/or technical loopholes in the Old Law, and was cautious to develop legal texts that are in line with the technical, informational, and technological development, and ensure that it covers the growth in services provided via electronic methods as a whole.

The New Law also included special provisions that would increase the punishment stipulated in the Cybercrime Law or enacted additional penalties for some crimes that are committed in violation of the Jordanian Penal Law No. (16)/1960 (hereinafter referred to as the “**Penal Law**”) and that are carried out by electronic means. This will be elaborated in the second section of this newsletter, in which we will discuss the most prominent provisions of the New Law.

Second: The Most Prominent Provisions Brought About by The New Law

The New Law came with additional provisions and harsher penalties and dealt with new types of criminal acts. The Old Law stipulated the following crimes:

- 1) Accessing the information network without permission or going further than the authority of granted permission.
- 2) Entering or publishing a program to remove, delete, modify or erase data or information.
- 3) Capturing, intercepting, eavesdropping, obstructing, altering, or deleting data or information on the electronic network.
- 4) Obtaining information related to credit cards or financial and banking information details.

⁴ In accordance with an interview with the Minister of the Digital Economy and Entrepreneurship, “HE Ahmad Alhinada”.

5) Committing the crimes stipulated in paragraphs (1-4) above on an information system related to money transfers.

6) Pornographic actions and sexual exploitation.

7) Facilitating and promoting prostitution.

8) Defamation, slander and libel and contempt carried out through the information network.

9) Access to databases that are not available to the public.

The New Law deals with the following crimes:

- 1) Accessing the information network without permission or going further than the authority of granted permission: The most prominent element that was added for this crime is the harshening of penalties in the New Law and the addition of an article related to hacking the systems of governmental agencies, ministries and institutions. This would give greater protection to governmental systems and

the databases of governmental and official institutions as well as others.

- 2) Adding a penalty related to the act of impersonating an individual/identity theft or impersonating a position one does not possess. The Jordanian legislator ensured the protection of citizens from the dangers of impersonating an individual/identity theft, which individuals may use as a means to commit many financial crimes such as extortion and electronic fraud.
- 3) Accessing or publishing a program to remove, delete, modify or erase data or information: The most prominent thing that was done for this crime is the harshening of penalties in the New Law. This harshening of penalties provides for a greater protection for information and data, especially with the rapid technological development that is taking place in the world.
- 4) Obtaining information related to credit cards or financial and banking information details and committing the crimes stipulated in paragraphs (1-4) above on a money transfer information system: The most prominent element that has been added for this crime is the increased punishment in the New Law. The harshened punishment was a result of the continuous development of money transfer methods



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building, # 96, 2nd and 3rd
Floor

+962 6 569 1112

info@hammourilaw.com

and the development of the nature of financial operations and the programs that banks and financial institutions offer to their clients in order to facilitate the work and complete it in the best, shortest and fastest way possible.

- 5) The crime of electronic fraud was already stipulated and the legislator assigned a special punishment to it. Although the Penal Law criminalizes the crime of fraud and it allows for the punishment of the offender who commits a crime using electronic means, the Jordanian legislator was keen to establish a special text that criminalizes the aforementioned act due to its severity and the increase in the number of complaints submitted to the judiciary regarding the aforementioned crime.
- 6) The possession of a device, program, data or password for the purpose of committing an electronic crime has been criminalized; given the ease of committing this crime, its seriousness, and the widespread nature of its commission.
- 7) Pornographic acts and sexual exploitation: The New Law has added special protection to the rights of those who lack legal liability, people with special needs and minors, and has increased the penalty for acts committed against them if they are

committed for the sake of sexual exploitation or if pornographic (indecent) acts are committed against them.

- 8) Publishing statements that constitute defamation, slander and libel and contempt, or which contain false news: Whereby the New Law has increased the penalties imposed on the perpetrators of these crimes, especially since the spread of false information could harm the social status of people and expose them to compromising situations. Increasing the penalty would reduce the maliciousness in spreading news about other people if the news is untrue.
- 9) Publish data, information, pictures or videos that would harm an individual's standing; It is the publication of what harms another person and/or their reputation, dignity and/or honor.
- 10) Provoking strife, whether geographically, religiously or politically.
- 11) Threats and electronic blackmail: Threat means intimidating the victim and threatening to expose something or spread it among people. As for electronic blackmail it means threatening to reveal certain information about a person if the threatened person does not respond to certain requests. This is conditional on the



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building, # 96, 2nd and 3rd
Floor

+962 6 569 1112

info@hammourilaw.com

both acts being committed by electronic means.

- 12) Promoting or trading in weapons and ammunition.
- 13) Posting private photos or videos; anything relating to the personal lives of others without their permission and/or consent.
- 14) Calling for or promoting a competition or an electronic wallet to collect funds for investment from the public without a license.
- 15) Calling for and collecting donations or offerings by electronic means without a license or in violation of the license.
- 16) Publishing the names of people, information about them, or news of those responsible for implementing the provisions of the law; for example, if there is a case that affected public opinion and the names of the judges examining cases related to them or the names of those who issued a decisive judgement in the case are circulated.
- 17) The Jordanian legislator addressed a person's responsibility for illegal content on their page. Every person is responsible for the comments that are added to a post or electronic page belonging to them individually and must be careful when

allowing others to comment on their post or page, as the case may be.

The Jordanian legislator also addressed the powers of the police to prosecute some crimes without the need to file a complaint, including false news, defamation, slander and libel and contempt via social media.

The texts in the New Law have contributed to providing maximum protection for citizens, minors, and assets. Since cybercrimes have come to be committed with ease and convenience, the punishment must be harsher.

Conclusion

This newsletter dealt with the issue of repealing the Cybercrime Law No. (27)/2015 and adopting the Cybercrime Law No. (17)/2023, in Jordan, and dealt with the justifications for canceling the Old Law and approving the new one.

In this newsletter, we have concluded that it was necessary for Jordan, in its effort to develop the legislative system, to approve a new law that is compatible with the scientific and technological advancement through which crimes have begun to be committed, whether committed on or through them. Further, that it was useful to



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building, # 96, 2nd and 3rd
Floor

+962 6 569 1112

info@hammourilaw.com

establish strong legal texts to address the increase in cases of crimes that occur electronically or occur on an electronic system, and that the New Law has tried to accommodate

the largest possible amount of actions and deeds that are considered a crime, but these amendments require some clarity in certain parts and flexibility in some other parts.



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building, # 96, 2nd and 3rd
Floor



+962 6 569 1112



info@hammourilaw.com

If you would like to discuss further any aspects of this Newsletter, please feel free to get in touch with one of our lawyers, using the contact details in the Contributors section below.

If you feel that other persons would be interested to read this Newsletter, please feel free to share this Newsletter.

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Warm regards,

HAMMOURI & PARTNERS ATTORNEYS AT-LAW



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building, # 96, 2nd and 3rd
Floor



+962 6 569 1112



info@hammourilaw.com

CONTRIBUTORS TO THE EDITION IN ENGLISH

11



TARIQ M. HAMMOURI, Ph.D
MANAGING PARTNER



YOTTA PANTOULA-BULMER
OF-COUNSEL, HEAD OF INTERNATIONAL DEPARTMENT
yotta.b@hammourilaw.com



ROZANA ALHROOB
ASSOCIATE LAWYER
rozana.h@hammourilaw.com



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building, # 96, 2nd and 3rd
Floor

+962 6 569 1112

info@hammourilaw.com

CONTRIBUTORS TO THE EDITION IN ARABIC



TARIQ M. HAMMOURI, Ph.D
MANAGING PARTNER
tariq@hammourilaw.com



OMAR SAWADHA,
SENIOR ASSOCIATE, HEAD OF
LITIGATION
omar.s@hammourilaw.com



WARDEH HASSAN
ASSOCIATE LAWYER
wardeh@hammourilaw.com



ROZANA ALHROOB
ASSOCIATE LAWYER
rozana.h@hammourilaw.com



Jordan, Amman, Shmeisani,
Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building, # 96, 2nd and 3rd
Floor

+962 6 569 1112

info@hammourilaw.com

ABOUT HAMMOURI & PARTNERS ATTORNEYS AT-LAW

Hammouri & Partners Attorneys at-Law, is a Jordanian multi-practice law firm, founded over two decades ago (established in 1994) by the late Professor Mohammad Hammouri. Professor Hammouri was a renowned Jordanian attorney and an arbitrator, a former Minister of Culture and National Heritage and a former Minister of Higher Education, who wrote a plethora of books, primarily on constitutional rights. Professor Mohammad Hammouri also founded the first School of Law in the Hashemite Kingdom of Jordan at The University of Jordan, in which he was its first dean. Today, the firm is managed by Dr. Tariq Hammouri, a distinguished academic and attorney and a former Minister of Industry, Trade and Supply. Dr. Tariq Hammouri is both an experienced attorney and an arbitrator, an expert in the Corporate sector, Commercial Transactions, Financial Markets, Banking Law and International Trade. He is an Associate Professor at the School of Law, University of Jordan and (formerly) the Dean of the School of Law. Dr. Hammouri is also an officially appointed member of the International Center for Settlement of Investment Disputes (ICSID) Panel of Arbitrators upon designation by the Government of the Hashemite Kingdom of Jordan, for the period of 2020 to 2026.

Hammouri & Partners team consists of more than 30 attorneys and a number of other professionals working in the firm's specialized departments, providing professional legal services at a local, regional and international level.

The firm's legal services cover numerous areas of practice, including the following: Corporate and Commercial Law (whether that is corporate set-up or drafting of all types of commercial agreements), Intellectual Property Law, Banking and Finance Law (the Firm advises local and international banks regarding all Banking Transactions and Regulatory Compliance). Additionally, the Firm's Litigation and Arbitration department have the capabilities and competence to represent parties in the most complex and novel legal matters, as it encompasses expertise in several areas of law, whether it is before courts or arbitral tribunals. Hammouri & Partners Attorneys at-Law was one of the first firms in Jordan to establish a specialized International department to cater for the needs and requirements of international clients on an array of tasks with an international element, such as those regarding bilateral and international trade negotiations, projects, contracts and others.

In addition to what has previously been stated, Hammouri & Partners provides legal advice and consultation to various industries such as those of Construction & Infrastructure, Manufacturing, Engineering, Trade, Securities and Energy, as some of its clients are major energy, healthcare, information technology and telecoms companies.

Hammouri & Partners Attorneys at-Law provides its broad services throughout Jordan as well as worldwide, through established collaborations with reputable law firms in the MENA region, Europe, the United Kingdom and the USA. Hammouri & Partners has earned regional and international acclaim by the most reputable legal directories. Chambers and Partners Global, International Financial Law Review (IFLR 1000) and the Legal 500, all highlight Hammouri & Partners as a leading law firm in the Jordanian legal services industry.



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Al Sharif Naser Bin Jamil Street, Cairo
Amman Bank Building, # 96, 2nd and 3rd
Floor



+962 6 569 1112



info@hammourilaw.com