

OCTOBER 2019

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Presidential Circular No. 2019/22 on the Coordination of Activities Related to European Union Has Been Published

Presidential Circular No. 2019/22 on the Coordination of Activities Related to European Union (“the Circular”) has been published in the Official Gazette dated October 17, 2019 and numbered 30921.

The Circular emphasizes that, reforms performed to be in line with European Union (“EU”) membership in political, economic and social areas contributed greatly to Turkey’s radical change over the years.

In this framework, the Circular has determined which way to follow for the EU membership process. The activities of public institutions and organizations on the issues within the scope of their duties and responsibilities will be carried out in line with the development plan and other programs, also within the scope of the Program to be conducted under the coordination of the Ministry of Foreign Affairs Directorate for EU Affairs. Public institutions and organizations will inform the Directorate for EU Affairs about the correspondence, meetings, consultations and high-level meetings with EU institutions and authorities in a timely manner.

The guideline to be published on the official website of the Directorate For EU Affairs will be taken into consideration in the principles to be followed in the drafts of the legislation to be prepared in order to harmonize with the EU achievements and in the procedure of the references to be made to the EU legislation. The draft legislation will be sent to the Directorate for EU Affairs for consideration.

To conduct and coordinate compliance with of EU achievements and EU membership negotiation, European Union Coordination Board (“EUCB”) has been founded. EUCB is supposed to gather in times of need and not less than two times a year, under the presidency of Vice President of Ministry of Foreign Affairs and president of Directorate for EU Affairs and other participants will be Vice Presidents of relevant ministries and top directors of relevant institutions.

Responsibilities of ABEK are;

- i. Determining prior fields and activities to be done in the compliance on EU achievements,
- ii. Guiding, monitoring and evaluating the work of public institutions and organizations on compliance and implementation with EU achievements,
- iii. Examining and evaluating the work on compliance on EU achievements made by public institutions and organizations and private sector institutions, non-governmental organizations and universities’ and their proposals related to the issue.

Regulation on Filming Permits and Co-Productions Has Been Published

Regulation on Filming Permits and Co-Productions (“the Regulation”) has been published in the Official Gazette dated October 15, 2019 and numbered 30919. The Regulation regulates methods and principles for producers desiring to film a movie for commercial purposes and co-production movies.

Co-productions containing both local and foreign producers require to have certain qualifications to be in the scope of the Regulation. To benefit the new arrangements the Regulation brings, the local producer of the co-production should apply to the Ministry of Culture and Tourism (“the Ministry”). After assessment of the qualifications and financial share percentages of co-production is made, the Ministry gives a Temporary Co-Production Document and if necessary, may apply to relevant institutions to get travel and work permits for foreign employees of the project and in the entry and exit of the materials to be used in the production of the film. Co-Production Document will be provided by the Ministry following the completion of the movie.

According to the Regulation, it is compulsory for foreign producers who want to film a movie in Turkey with commercial intentions to make their filming permit application to Directorate General of Cinema and employ at least one Turkish Republic citizen as host/hostess or get service from the trading companies established under the Turkish Commercial Code . Also, both foreign and local producers who want to film a movie in Turkey with commercial intentions are supposed to notify the biggest administrative chief of the filming location.

The Ministry will establish Filming Coordination Commissions in the necessary provinces in order to determine the needs and solutions related to filming process, to ensure coordination among institutions, to carry out the works and transactions in a fast and efficient manner and to determine the filming fee schedule and filming security principles.



Communiqué on the Amendment to the Communiqué on Deposit and Loan Interest Rates and Participation Accounts Profit and Loss Participation Rates and Other Non-Interest Benefits To Be Provided in Credit Transactions

Communiqué on the Amendment to the Communiqué on Deposit and Loan Interest Rates and Participation Accounts Profit and Loss Participation Rates and Other Non-Interest Benefits To Be Provided in Credit Transactions (“the Communiqué”) was published in the Official Gazette numbered 30920 and dated October 16, 2019. With the Communiqué, the first paragraph of Article 4 of the Communiqué on Deposit and Loan Interest Rates and Participation Accounts Profit and Loss Participation Rates and Other Non-Interest Benefits That Will Be Provided in Credit Transactions numbered 26371 and dated December 9, 2006 was amended and another paragraph was added to the same article.

The first paragraph of Article 4 of the Communiqué has been amended as “The interest rates to be applied to the loans other than rediscount loans and the qualifications and limits of the non-interest benefits to be provided except for the member workplace commission and the expenses to be collected are freely determined by the banks.” and “except for the member workplace commission” phrase has been added. Thus, member workplace commission has been taken out among the benefits to be freely determined and provided by the banks.

Also, a new paragraph has been added to the same article and a limit has been set for banks to take commissions from member workplaces for purchases made by credit card, where there is no limit in current practice.

Accordingly, in the purchase of goods and services, in case of the amount of transactions to be transferred to the use of member merchants the next day, the commission rate that can be taken by banks will not exceed 1.60 percent.

In the case of purchases of goods and services in installments, it is stated that the maximum rate will be increased by 0.89 points for each additional installment.

The Communiqué will enter into force on November 1, 2019.

The Data Protection Board Fines Facebook

The Data Protection Board (“Board”) has imposed Facebook an administrative fine of 1.600.000 Turkish Liras due to the breach of personal data with its decision dated September 18, 2019 numbered 2019/269 (“Decision”). The Board stated that the personal data of the users’ who use Facebook in Turkish are affected due to an error caused by interaction of “view as”, “birthday celebration tool”, “video uploader” systems.

As a result of the review made by the Board, it has been detected that there are many security gaps regarding data security in the above mentioned systems of Facebook. The Board emphasized the importance of such errors to be identified during the testing and corrected before presenting to the users. Therefore, it was decided to impose Facebook with a fine of 1.600.000 Turkish Liras on the grounds that it did not take the necessary administrative and technical measures while developing the system and did not make the necessary notifications to the Board, although it had previously determined the existence of such violations.



The Data Protection Board Highlights the Importance of Data Breach Notification



The Data Protection Board (“Board”) has specified the minimum elements which shall be included in the data breach notification made by the data controllers to the data subject with its decision dated September 18, 2019 numbered 2019/271 (“Decision”). As it is emphasized in the previous decisions of the Board, in case of any data breach within the knowledge of the data controller, both the Board and data subject shall be notified of such data breach, otherwise administrative fines may be imposed.

The Board has notified and warned the data controllers about the mandatory elements that should be included in the data breach notification sent to the data subject in case of data breach with its Decision. Based on the Decision, it is possible to say that the Board considers the data breach notifications and the transparency of the companies to be extremely significant and failure to do so requires the imposition of serious administrative fines. From this point of view, in the near future, it will be inevitable for companies to establish a system for data breach notification to the Board and data subject as a result of data breaches.

Equity Based Crowdfunding Communiqué Has Been Published in the Official Gazette

Equity Based Crowdfunding Communiqué (III - 35/A.1) (“the Communiqué”) has been published in the Official Gazette dated October 3, 2019 and numbered 30907. The Communiqué mainly regulates principles of establishment and operation of crowdfunding platforms, platform membership, campaign process,

According to the provisions, companies acting in field of equity based crowdfunding should be; joint stock companies, which have the term “Crowdfunding Platform” in their trade names, which have paid all of their shares with a registered share of minimum TL 1,000,000.00 in cash and whose paid-in capital and equity is not less than this amount, and established an investment commission. In addition, the Communiqué seeks certain criteria for board members and investment commission members.

The platforms will only be able to carry out crowdfunding activities, but it is possible to provide consultancy to the entrepreneur or venture companies during this activity.

It is prohibited for platforms to make evaluations, analyses and comments to investors in relation to the venture company or projects as investment advice; to collect funds from residents in Turkey in order to conduct crowdfunding activities as real and legal persons resident abroad.

According to the Communiqué, entrepreneurs or venture companies will be able to make a maximum investment of TL 20,000.00 through equity-based crowdfunding in a calendar year. However, this limit can be applied as 10% of the annual net income declared by the investor to the platform provided that it does not exceed TL 100.000,00.

The campaign process will begin as soon as a venture company or entrepreneur requests a fund-raising request to any crowdfunding platform. The campaign period shall start on the date of publication of the information form approved by the investment committee on the campaign page and this period shall be maximum sixty days. No other campaign process can be initiated by the same venture company or entrepreneur until the current campaign process is completed.

Regulation on Support of Cinema Industry Has Been Published



Regulation on Support of Cinema Industry (“the Regulation”) has been published in the Official Gazette dated October 15, 2019 and numbered 30919.

According to the Regulation, Ministry of Culture and Tourism (“the Ministry”) will establish a Support Commission and Support Boards to evaluate the support applications and determine the projects that will be supported and together with the amount of support. Support types are limited in the Regulation as following; (i) animation film production support, (ii) documentary film production support, (iii) support after shooting period, (iv) support of distribution and promotion, (v) serial movie support, (vi) first feature and fiction film production support, (vii) short film production support, (viii) co-production support, (ix) project development support, (x) scenario and dialogue writing support, (xi) feature movie production support, (xii) national film screening support, (xiii) foreign film production support, (xiv) event and project support, (xv) cinema artist support, and (xvi) cinema hardware support.

The Regulation provides for the support amount for each support type with different support percentages and different payment methods. After application made to the Ministry with complete documents, relevant board or the commission will evaluate the application within the criteria such as; originality of the Project, cultural, artistic and aesthetic value of the project, the contribution of the project to the promotion of our country and national culture, national and international circulation potential of the project, applicant’s previous studies and national or international achievements, if any, producer, director, screenwriter and dialogue writer and other team’s experience and achievements, budget and financial plan, not constituting a violation of human dignity and the principles stipulated in the Constitution of the Republic of Turkey .

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About Our Firm

Kavlak Law Firm, growing since 2006 with its qualified and dynamic lawyers, is one of the leading law firms of Turkey. With our effective works provided for our client portfolio which includes, by majority, local, international and multinational commercial and financial organizations, we provide distinguished legal support. Kavlak Law Firm, with the lawyers it co-operates in all of the major cities of Turkey, and worldwide, is able to respond immediately to clients' demands, provides a time-efficient service, based on mutual trust, works on long-term cases with each client, and adapts the clients' working principles and provides service accordingly.

Please visit our web site at www.kavlak.com.tr for further information on our legal team and practice areas.

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