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# LAW UPDATES

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# Constitutional Court's Decision on Wikipedia has been Published

The Constitutional Court's decision dated December 26, 2019 and numbered 2017/22355 ("Decision") on Wikipedia has been published in the Official Gazette on January 15, 2020.

According to the Decision, the Constitutional Court stated that the trial court which decided to block the the access to Wikipedia failed to make a detailed examination on the case and also failed to present a concrete causal link between the content in the URL addresses and the reason for the restriction. The Constitutional Court also emphasized that such access blocking decisions constitute a violation of fundamental rights and freedoms which are protected under the Constitution, and thus, if a court bans the access to a whole website instead of restricting the access to specific content, such court shall provide explicit and detailed explanations on the rationale of taking such measures.

Due to above reasons, the Constitutional Court decided that there has been a violation of the applicants' right to freedom of expression which is guaranteed by Article 26 of the Constitution. In light of such Decision, it is obviously seen that there must be a concrete causal link between the grounds and the content of the measure taken to restrict the freedom of expression, and the content shall constitute a considerably strong reason for the blocking of the access.

# BRSA Has Changed the Installment Periods for Foreign Expenditures and the Credit Periods Relating to Loan Transactions of Banks

Banking Regulation and Supervision Agency (“BRSA”) published a press release on its website on January 13, 2020 and announced that installment periods for credit cards determined by the its Board Decision dated January 11, 2019 and numbered 8198 have been amended with the Board Decision (“the Decision”) dated January 9, 2020 and numbered 8791. According to the Decision, installment periods for foreign expenditures regarding airlines, travel agencies and accommodation have been reduced to three (3) months from six (6) months.

Moreover, the Regulation on the Amendment of the Regulation on the Loan Transactions of Banks (“the Regulation”) has been published in the Official Gazette dated January 14, 2020 and numbered 31008.

According to the Regulation, the credit periods of the consumer loans will not exceed sixty (60) months; the credit periods of the loans made available for purchasing vehicles with a final invoice value of one hundred twenty thousand Turkish Liras and below will not exceed sixty (60) months, the credit periods of the loans made available for purchasing vehicles with a final invoice value of one hundred twenty thousand Turkish Liras and above or loans secured by vehicle collateral will not exceed forty eight (48) months, the credit periods of the loans made available for purchasing computer will not exceed twelve (12) months, the credit periods of the loans made available for purchasing tablet will not exceed six (6) months, the credit periods of the loans made available for purchasing mobile phone with a maximum price of three thousand five hundred Turkish Liras will not exceed twelve (12) months and the credit periods of the loans made available for purchasing mobile phone with a price over three thousand five hundred Turkish Liras will not exceed three (3) months.

The Regulation entered into force on the date of its publication, which is January, 14 2020.



# Communiqué on the Principles of the Removal of the Privileges for Voting Rights and Representation in the Board of Directors Has Been Published in the Official Gazette

Communiqué on the Principles of the Removal of the Privileges for Voting Rights and Representation in the Board of Directors (“the Communiqué”) has been published in the Official Gazette dated January 10, 2020 and numbered 31004.

The procedures and principles determined by the Capital Markets Board (“the Board”) regarding the removal of the privileges in the public companies that have been making loss have been announced in the Communiqué.

According to the Communiqué, privileges regarding the voting rights and representation in the board of directors will be eliminated by board decisions in public companies that have made loss for five (5) consecutive years -except for the circumstances that the activities of the company are reasonable or compulsory- according to the financial statements prepared in accordance with the legislation.

The aforesaid five (5) year period shall be calculated as of the first annual accounting period starting after the year that public company status is acquired.

The Communiqué has entered into force on the date of its publication.





# Decision Summary of Personal Data Protection Board on Reporting Data Subject's Special Categories of Personal Data by a Newspaper Has Been Published

Personal Data Protection Board (“Board”) has published Decision Summary dated December 9, 2019 and numbered 2019/372 (“Decision Summary”). The Decision Summary’s subject is the complaint that has been made to the Board with regards to the news published by a newspaper on the data subject’s health data which constitutes a special categorie of personal data..

Due to the conclusion, which has been reached by the Board with its Decision dated July 1, 2019 and numbered 2019/186, the Board has not found any public interest in reporting a health data in a column of a newspaper; accordingly, in the context of conflicting rights, personal rights has overcome right of freedom of expression. Accordingly, the Board has decided that the present case does not constitute an exception of Law on the Protection of Personal Data (“LPPD”) and decided to examine the complaint.

At the end of the examination process, the Board concluded that publishing special categories of personal data of data subjects’ in the newspaper columns without being in the scope of one of the conditions listed in Article 6 of the LPPD constitutes a violation of the obligation to prevent unlawful processing of personal data, and imposed an administrative fine in the amount of TRY 125,000 to the publisher corporation of the relevant newspaper.

# The Regulation Amending the Regulation on Commercial Communication and Commercial Electronic Messages Has Been Published in the Official Gazette

The Regulation Amending the Regulation on Commercial Communication and Commercial Electronic Messages (“Amending Regulation”) has been published in the Official Gazette dated January 4, 2019 and numbered 30998.

With the Amending Regulation, new concepts have been introduced in Article 4 “the Definitions” of the Regulation on Commercial Communication and Commercial Electronic Messages (“Regulation”) and the institutions authorized by the Ministry of Commerce to establish commercial electronic messages has been defined as “Institution”, and the system allowing to receive the approvals and the use of right of rejection, and the management of complaint processes regarding the commercial electronic messages have been defined as “Commercial electronic messages management system” (“CEMMS”).

CEMMS has been regulated as a system that any natural or legal person intends to send commercial electronic messages is obliged to register to.

CEMMS has been determined as one of the electronic portals, which is eligible for gathering approvals by the receivers of electronic commercial messages, which need to be received prior to sending such electronic commercial messages. Approval and rejection processes of the receivers may be held through CEMMS. Complaints made by the receivers against commercial electronic messages may also be made through CEMMS.

As per the Amending Regulation, approvals received shall be registered to the CEMMS by service providers until June 1, 2020. Commercial electronic messages shall not be sent to the receivers without their approvals registered in the CEMMS. CEMMS shall inform the receivers on their registered approvals for them to check the accuracy until September 1, 2020 and after such date, the approvals shall become final and valid, and the rejections shall be made through CEMMS. Finally, CEMMS will start operating on September 1, 2020. The Ministry of Commerce has been authorized to suspend such date for three (3) months.

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Please visit our web site at [www.kavlak.com.tr](http://www.kavlak.com.tr) for further information on our legal team and practice areas.

Please contact us at [info@kavlak.av.tr](mailto:info@kavlak.av.tr), 0212 324 55 00

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