

MARCH 2019

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Frequently Asked Questions About Restrictions On Determination Of Contract Values In Foreign Currency Or Indexed To A Foreign Currency Has Been Published

The Ministry of Treasury and Economy answered the FAQ's on February 27, 2019 about the amendment dated November 16, 2018 to the decision on the preservation of the value of Turkish currency. In accordance with this press release that contains the answers to the questions related to this amendment, which are the exceptions to the ban on the arrangement of foreign currency and foreign currency indexed contracts:

- Service Contract is defined as all transactions except delivery, transactions counted as delivery and import of goods.
- Although contracts subjected to foreign exchange earning services and activities, they cannot be deemed as exception if they are provided domestically to residents in Turkey.
- Contracts related to transport and shipping can benefit from the exception if their implementation begins in Turkey and ends abroad, begins in abroad and ends in Turkey or begins and ends abroad.
- Within the scope of services offered in bonded port area in Turkey, business and service contracts to be concluded between persons resident in Turkey can benefit from the exception.
- Contracts determined in foreign currency in any part of their costs can resolve the contract value in terms of foreign currency or indexed to a foreign currency.
- For mixed contracts, in order to benefit from exception, all contract types therein must be within the scope of exception.
- Except renting the hotel rooms for accommodation purposes in accommodation facilities certified by the Ministry of Culture and Tourism, the rental price can be determined in foreign currency or indexed in currency in the case of leasing of commercial enterprises such as baths, pools, spas, hairdressers and markets.
- Except for the securities contracts related to the sale of vehicles, contracts related to the sale of commercial goods within the scope of securities will benefit from the exception.
- Only commercial leasing contracts for passenger car and passenger transportation, which were concluded before September 13, 2018 will benefit from the exception.
- Saving the exceptions or derogations provided in the tax legislation, it is not possible to arrange the invoice in foreign currency while making the contract over TL.
- The hardware is defined as parts that cannot function alone and requires the entire system that creates the computer to be used. Therefore, machines such as photocopy machines, check reading machines etc. which can function singly, cannot benefit from the exception brought to the hardware.
- Residents in Turkey must be understood as people who have legal settlement in Turkey.
- Football players with the bond of citizenship with Turkey cannot benefit from the exception in the contracts made with established clubs in Turkey.
- The contracts that were converted into TL in accordance with the legislation in the interim period accepted between September 13, 2018 and November 16, 2018, may continue to benefit from the exception only if the parties agree.
- The possibility of making contracts related to capital market instruments in foreign currency will not change the exclusion of private sector borrowing instrument in foreign currency from the scope of exception.

Regulation On The Rights Of Passengers Travelling By Railway



Pursuant to the “Regulation on the Rights of Passengers Travelling by Railway” published by the Ministry of Transportation and Infrastructure on 08.03.2019, railway passengers will also be able to claim compensation in case of delays and cancellations other than death and injury. The railway train operator is responsible for any damage such as passenger’s death, injury and physical and mental integrity as a result of an accident involving the railway system when the person is getting on the train, getting off the train or while they are on the train. Besides, the railway train operator will be liable for passengers’ damages due to cancellation, delay or missing the connection train. However, the railway train operator is exempted from liability, if the damages occur due to force major, prejudiced’s fault or third party’s fault.

İNG Bank A.Ş. - Data Breach Declaration

Pursuant to the Article 12/5 of Law No. 6698 on Personal Data Protection, in case processed personal data is acquired by others through unlawful means, data controllers must notify the data subject and the Board of this situation as soon as possible. Based on this article, ING Bank A.Ş. has been notified regarding the data breach by the Personal Data Protection Board on 21.01.2019. The relevant notification is explained below elaborately which stands as a very important example for banks as a data controller that process and preserve many personal data.

The Banking Association, which is one of the auditing institutions where the banks are subject, has identified suspicion actions in one of the ING Bank employee's customer examination transactions. For this reason, ING Bank has been informed that the bank will undergo an investigation. In the investigations, it has been detected that the bank employee's customer examination transactions are contrary to both Personal Data Protection Law No. 6698 and the provisions of Banking Law No.5411 regarding the disclosure of customer privacy. According to findings of the investigation conducted by the Banking Association, the employee has exceeded the limits of authority by queried the customers' data which can only be done with the Bank's login and got direct Access to this information. Besides, it has been concluded that there are also other employees who are doing these transactions. Data categories, which are subject to data breach, are IDs, Tax ID numbers and personal information of sole proprietorships who are not ING Bank customers. It has been announced that the estimated number of natural persons who are affected by the data breach is 19055.

This data breach, which has been done by ING Bank soon, shows the possible risk factors that can be faced by all data controllers in the future. This risk factor is access to user's login which are not restricted to the personnel/managers and/or using programmes data. As a priority step for the compliance of the relevant Law, data controllers will ensure that all personnel who are working in the field of data processing will be informed-trained. Another step that cannot be considered separately from this measure is limiting the data access of relevant persons by technical tools. Technical limitations are not enough, therefore auditing these issues regularly is also essential for data security. Otherwise, these kinds of breaches may happen frequently.



Exceptional Acquisition of Turkish Citizenship by Preliminary Sales Agreement for Real Estate Property



With “The Regulation on Amendments to the Regulation on Implementation of Turkish Citizenship Law” published in the Official Gazette dated 07.12.2018, Article 20 of the related regulation has been amended. With the amendment, it has been made acquisition of Turkish citizenship possible, not only with purchasing real estate and also by establishing flat ownership or flat servitude and making a preliminary agreement to sell real estate stating that the sale of real estate was deposited in advance in the amount of at least USD 250,000.000 or foreign currency equivalent or the exchange rate for Turkish Lira. If it is decided that the real estate is transferred to a buyer at a later date with a preliminary agreement to sell real estate which has been signed between buyer and seller at the notary, in order to obtain exceptional Turkish Citizenship;

- a. The amount of at least USD 250,000.000 or foreign currency equivalent or the exchange rate for Turkish Lira must be deposited in advance for a promised real estate under the preliminary agreement to sell real estate.
- b. It is required to be annotated the real estate sale ban for three years to the relevant land registry. In this respect, a commitment should be made in the contract that the real estate will not be transferred or abandoned.
- c. In determining the monetary value, the effective selling rate of the Central Bank of Turkey and/or cross Exchange rate will be considered according to determination date.
- d. There should not be any obstacles in the application of applicant who applies for citizenship in terms of national security and public order.

Storage And Destruction Of Personal Data Policy Published

Pursuant to the Article 15 of Regulation on Deletion, Destruction or Anonymization of Personal Data, data controllers are responsible for storing personal data in accordance with the personal data processing inventory and preparing data destruction policy. In this regard, Personal Data Protection Board published the Storage and Destruction of Personal Data Policy on their website on 10.03.2019, in order to assist data controllers. The objectives of the policies that will be prepared by data controllers on the purpose of deletion, destruction, anonymization and determining the maximum time required for the purpose of which personal data is processed, have been determined.



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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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