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Two Violation Verdicts Has Been Made Under Article 8 of the European Convention on Human Rights

Anayasa Mahkemesi'nin Wikipedia ile ilgili 2017/22355 sayılı ve 26 Aralık 2019 tarihli kararı ("Karar") 15 Ocak 2020 tarihli Resmi Gazete'de yayımlanmıştır. Karar'a göre, Anayasa Mahkemesi, erişimin engellenmesi kararını veren yerel mahkemenin söz konusu hususlara ilişkin detaylı bir inceleme yapmadığını, karara konu URL adreslerinde yer alan içerik ile sınırlama sebebi arasında somut bir bağlantı ortaya koyamadığını belirtmiştir. Buna ilaveten Mahkeme, bu gibi erişimin engellenmesi kararlarının Anayasa'da korunan temel hak ve özgürlüklere müdahale niteliğini taşıdığını ve bu kapsamda yalnızca ilgili içeriğe değil de bütün siteye erişimin neden engellendiğine dair gerekçenin açık ve detaylı bir şekilde belirtilmesi gerektiğini vurgulamıştır.

Yukarıdaki gerekçeler ışığında Mahkeme başvuru sahiplerinin Anayasa'nın 26. maddesinde güvence altına alınan ifade özgürlüğünün ihlal edildiğine kanaat getirmiştir. İşbu Karar göz önünde bulundurulduğunda ifade özgürlüğünün kısıtlanabilmesi için sınırlamanın gerekçesi ile konu arasında somut bir bağlantı bulunması ve engellemeyi gerektirecek derecede önem arz etmesi gerektiği anlaşılmıştır.

Regulation Amending the Regulation on Procedures and Principles Regarding Fees to be Collected from Financial Consumers has been published

Regulation Amending the Regulation on Procedures and Principles Regarding Fees to be Collected from Financial Consumers (“Regulation”) has been published in the Official Gazette dated February 10, 2020 and numbered 31035. With the Regulation, some fee items are restricted with the aim of supplying interbank solidarity.

In this context, the annual rate of increase in fees to be collected from financial consumers for individual products and services is limited to the annual rate of consumer price index (CPI).

In a case that cash advance is used, the fee to be collected from this transaction is limited to one percent of the advance amount.

Fees to be collected from EFT transactions are limited to the following amounts on the basis of the limits and channels determined for the transaction amount:

	Up to TRY 1,000	TRY 1,000 –50,000	Over TRY 50,000
MOBILE	1 TL	2 TL	25 TL
INTERNET	1 TL	2 TL	25 TL
REGULAR PAYMENT	1 TL	2 TL	25 TL
ATM	2 TL	5 TL	50 TL
BRANCH/OTHER	5 TL	10 TL	100 TL

The maximum fees to be applied in money order transactions will be applied at the rate of half of the relevant fees, subject to the distinctions specified for EFT transactions. The Regulation will come into force on 01.03.2020 and the amended provisions will be applied to the contracts established before the effective date, in terms of the transactions to be carried out after the effective date.

Decision Summary of Personal Data Protection Board on Opinion Request Relating to the Publishing of Personal Data of Candidates on Website Without Explicit Consent Has Been Published

Personal Data Protection Board (“Board”) has published the Decision Summary dated December 26, 2019 and numbered 2019/389 (“Decision Summary”). The subject of the Decision Summary is the application made to the Board about the application of publishing of the personal data information requested from the candidates in the online environment for the appointments to be made at the academic staff and research assistant staff seats.

At the end of the examination made by the Board within the scopes of the provisions of the “Regulation on Procedures and Principles Regarding Central Examinations and Entrance Exams to be Applied in Appointments to Staff Members Other than Faculty Members” (Regulation) and the Turkish Personal Data Protection Law (“Law”), the following have been decided:

- The evaluation scores should be announced in accordance with the general principles in Article 4 of the KVKK, in a way that can only be displayed by the relevant persons applying to academic staff, and by allowing them to be authenticated,
- It will be appropriate to remove the connection between the data subjects and the exam scores by masking (operations such as deletion, painting and starring certain areas of personal data so as not to be associated with a specific or identifiable natural person). Instead of directly writing information such as identification number, letters or numbers may be published by the methods mentioned above by starring as "A **** B ****, 11 ***** 11" in a way that the person can understand,
- Within the scope of the clarification obligation regulated in Article 10 of the Law, it was decided that the universities should enlighten the data subjects regarding the relevant personal data processing activity.



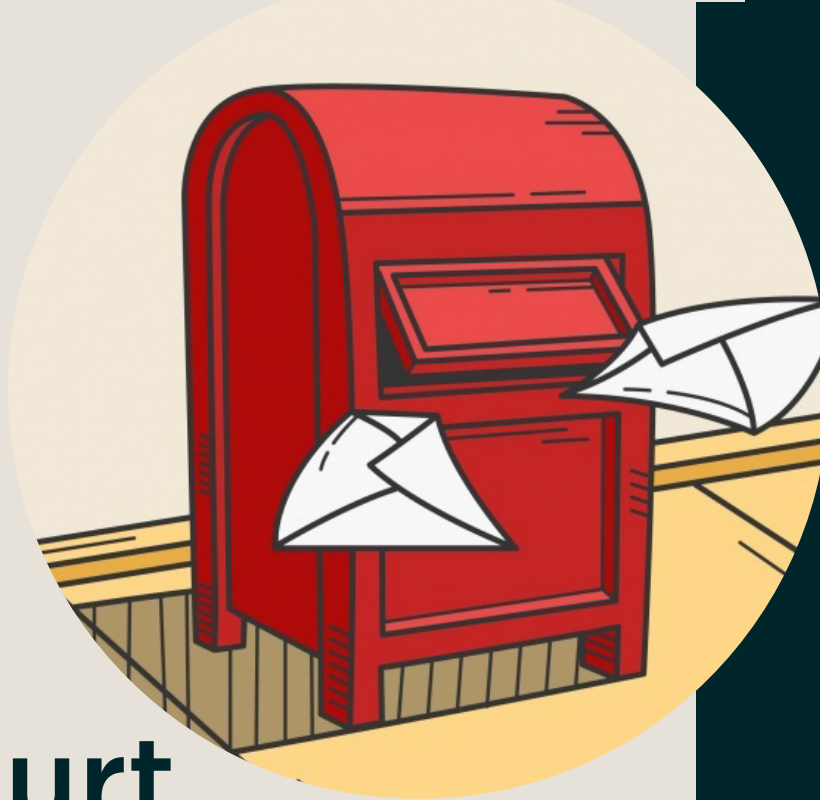
Regulation on Providing Information in Insurance Contracts has been published in the Official Gazette

Regulation on Providing Information in Insurance Contracts (“Regulation”) has been entered into force by being published in the Official Gazette dated February 14, 2020 and numbered 31039. The aim of this Regulation is to have the persons who are willing to enter a certain insurance relationship to be informed about the operation of the contract before the entry into force date.

According to Article 5 of the Regulation, the information to be provided by the insurer should be made in writing and in this context the obligation of informing starts prior to the entry into force of the contract and continues throughout the enforcement.

Pursuant to Article 8 of the Regulation, the information text should at least consist of the following (i) title and contact information of the insurer and the Agency, (ii) general warnings with regard to the contract to be established, (iii) assurances provided within the contract, (iv) exceptions of the insurance assurance and assets that are not covered by the assurance for each type of insurance, but can be included in the coverage by additional contract, provided that it is specified separately in the policy, information regarding contract risks or special clauses to be added to the contract, (v) general information regarding compensation and compensation payment rules, (vi) compliant and information requests and information regarding arbitration membership and (vii) other documents and information that may be demanded by the ministry.

Within the scope of the Regulation, the obligation of providing information belongs to the insurer and the insurent or the insured may claim compensation from the insurer for the loss that may arise as a result of the nonfulfillment of this obligation or as a result of wrong/deficient information.



Supreme Court Decision: The Notification Made by Mail to the Lawyers Considered as Null and Void

In accordance with Article 7/a of the Notification Law No. 7201 (“Law”) which is amended by Article 48 of the Law on Enforcement and Bankruptcy Law No. 7101 published in the Official Gazette dated March 15, 2018 and numbered 30361, the notifications shall be made to the lawyers, who are registered with the bar, electronically.

12th Civil Chamber of Supreme Court has decided that if a notification is served to a lawyer, such notification shall be made electronically in accordance with the paragraph 1 of article 7/a of the Law, therefore the notification made by mail shall be considered null and void in its decision dated December 26, 2019 numbered 2019/13554E., 2019/18558K. (“Decision”).

The Decision of Supreme Court considered as precedent shows that the e-notification system envisaged for the acceleration of the proceeding process has entered our lives as an indispensable element. In this context, while calculating the due dates of services, the electronic notification process that will be deemed to be made at the end of the fifth day following the date when the lawyer reached the electronic address will be valid and the notifications made through mail will not be taken into consideration when calculating the notification service dates.

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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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