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# LAW UPDATES

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# BRSA Decision Regarding the Credit Card Installment Periods

Credit card installment periods have been changed with the decision of the Banking Regulation and Supervision Agency (“BRSA”) dated June 9, 2020 and numbered 9053 (“Decision”), and the Decision has been announced to the public on the same date through BRSA’s website.

Pursuant to the Decision, the installment periods of credit cards determined by the BRSA decision dated 11 January 2019 and numbered 8198 in accordance with the 7. clause of the 26. article of the Regulation on Debit Cards and Credit Cards, have been increased from twelve (12) months to eighteen (18) months in terms of the expenses related to airlines, travel agencies and accommodation.



# The Suspended Statutory Periods Resume

Law Amending Certain Laws numbered 7226 has regulated the cessation of certain statutory periods, the transactions of which cannot be performed during this process in judicial affairs because of COVID 19 pandemic in order for the citizens not to lose any of their rights. Due to ongoing risk of outbreak, in accordance with the Presidential Decision numbered 2480 published in the Official Gazette dated April 30, 2020 and numbered 31114 the foregoing periods had been extended to start on June 15, 2020.

In this context, the suspended statutory periods resume as of June 15, 2020. The time statutory periods that expire in fifteen (15) days or less as of the suspension period will end in fifteen (15) days as of June 15, 2020.



# A Decision of the Supreme Court on Mandatory Mediation for Negative Declaratory Actions in Commercial Disputes

19th Civil Chamber of the Court of Appeals, , has resolved that the mediation is a pre-condition in commercial negative declaratory actions in its decision numbered 2020/85E. 2020/454K. and dated February 13, 2020 (“Decision”). The Regional Courts adopted various opinions regarding the mandatory mediation as pre-condition before filing a lawsuit in commercial negative declaratory actions in accordance with Article 5/A of the Turkish Commercial Code numbered 6102 .

19th Civil Chamber of the Court of Appeals determined that certain conditions shall be met for mandatory mediation before filing a lawsuit regarding the commercial disputes. According to the Court of Appeals, to apply mandatory mediation; (i) the subject of the case should be the monetary payment (ii) the request should be a claim for compensation. Therefore, the Supreme Court ruled that it is not obligatory to apply mediation before filing a lawsuit, and applying to the mediator is not a legal requirement for commercial negative declaratory actions disputes.

The Decision’s effect on the practice is yet to be seen. However, considering the fact that the Decision is not binding, it would be useful to apply to the mediator prior to filing a lawsuit.





# Regulation on Unfair Price Evaluation Board Has Been Published

Regulation on Unfair Price Evaluation Board (“Regulation”) has been published in the Official Gazette dated 28 May 2020 and numbered 31138.

Within the scope of the Regulation, the procedures and principles regarding the formation of the unfair price evaluation board, the qualifications of the members, task duration of the members and termination of the task, duties and powers of the board and the chairman of the board, complaint application to be made to the board, examination of the complaint and supervision and penal sanctions have been regulated.

The duties and powers of the board are regulated as; (i) protecting the market balance and consumers against exorbitant price increases and stockpiling practices, (ii) having inspections and supervision regarding exorbitant price increases and stockpiling practices, (iii) deciding on administrative fines for manufacturers, suppliers and retail businesses, which violate the provisions of the Law on Regulation of Retail Trade (iv) determining principles and rules regarding exorbitant price increases and stockpiling practices, and (v) performing other duties assigned by the Minister of Commerce regarding exorbitant price increases and stockpiling practices.

The Regulation entered into force on 28 May, 2020.



# Decision of Personal Data Protection Board on the Notification of a Bank's Data Breach

Decision Summary on Personal Data Protection Board (“Board”) on the notification of a bank’s (“Bank”) data breach dated May 5, 2020 and numbered 2020/344 has been published on the Board’s website on June 23, 2020 (“Decision Summary”).

According to the Decision Summary, three (3) mm in two (2) separate branches of the Bank has made queries through CRA (consumer reporting Agency) query screens containing personal loan information provided by the Risk Center of the Banks Association of Turkey, within the scope of the internal control activities carried out regularly by the Bank’s Compliance and Internal Control Group and the Board of Inspectors has detected that the three (3) personnel used their authority to make queries through CRA contrary to the Bank’s access and information security policies, and accessed the personal data of 7.706 people that are not customers of the Bank and 17.582 Bank customers illegally.

The Board has resolved that the necessary technical and administrative measures for the data breach have not been taken timely and adequately by the Bank, and the security software messages, access control logs and other reporting tools have not been regularly checked by the data controller since the data breach acts have been done with an interval of eighteen (18) months. In addition, regarding the in-company trainings, the Board has stated that regardless of where the personnel of data controllers work, all the roles and responsibilities and job descriptions of personnel regarding personal data protection should be determined and the personnel should be aware of their roles and responsibilities.

The Board has resolved to impose an administrative fine of TRY 1,000,000 to the Bank, considering that the Bank did not take the necessary technical and administrative measures in accordance with Article 12 of the Personal Data Protection Law .

# Personal Data Protection Board's Decision Summary on Data Breach of Data in the Risk Centre by Various Factoring Companies

Decision Summary on Personal Data Protection Board ("Board") dated March 3, 2020 and numbered 2020/191, 2020/192, 2020/193, 2020/194 has been published on Board' website on June 23, 2020 ("Decision Summary"). The subject of the Decision Summary is regarding the data breach notification relating to the data in Risk Centre caused by various factoring companies.

Risk Centre employees have determined that inquiries made from the Risk Centre are shared with the persons, who are not legally authorized by the Risk Centre members and/or used out of purpose. In the Decision Summary, the relevant regulations in the Banking Law , which concern issues like privacy and confidentiality obligation regarding the transactions to be carried out in the Risk Centre, has been set forth and violations has been revealed. In addition to the foregoing, it has been stated that the employees of factoring companies subject to the notification have exceeded the limit of their authority and have been involved in personal data processing activities in a way that is against the law.

In this regard, the Board has imposed TRY 1,400,000 administrative fine to the four (4) factoring companies, stating they have violated general principles of the Personal Data Protection Law , their obligation to prevent the unlawful access of personal data to protect personal data and to notify the Board in case of violation. The amount of TRY 950,000 has been given on the grounds that the necessary measures for data security have not been taken and TRY 450,000 has been given on the grounds that data subjects and the Board have not been notified about the data breach.



# Decision of the Personal Data Protection Board on the Notification of a Bank's Data Breach

Decision Summary on Personal Data Protection Board ("Board") on the notification of a gaming company's ("Gaming Company") data breach dated May 5, 2020 and numbered 2020/344 has been published on the Board's website on June 23, 2020 ("Decision Summary").

As a result of the investigation conducted by the Board, it is determined that hackers have had the access to the gamer's data via Gaming Company's cloud system, and 39,995 data subjects in Turkey have been affected by this data breach. The Board has stated that the illegal access to the database in the cloud system by the attackers indicates that the weakness tests performed by the Gaming Company were insufficient and the necessary measures were not taken. The technical measures to be taken following the violation by the data controller Gaming Company were also evaluated as an indication that the necessary technical and administrative measures were not taken.

The Board has resolved to impose an administrative fine of TRY 1,100,000 in total; TRY 1,000,000 for considering that Gaming Company did not take the necessary technical and administrative measures in accordance with Article 12 of the Personal Data Protection Law and TRY 100,000 considering that obligation of notifying a data breach in 72 hours has been violated.





# VERBIS Registry Periods Has Been Extended

With the Decision of the Personal Data Protection Board (“Board”) dated June 23, 2020 and numbered 2020/482 and published in the Official Gazette dated June 25, 2020 and numbered 31166 (“Decision”), the registry period to be made by natural and legal person data controllers to the Data Controllers Registry Information System (“VERBIS”) has been extended as;

☒ Data controllers whose annual number of employees are more than 50 or the annual financial balance sheet total is more than 25 Million TRY and data controllers residing abroad are obliged to register with VERBIS until 30 September, 2021;

- Data controllers with the annual number of employees less than 50 and the annual financial balance sheet total less than 25 million TL, whose main activity is processing special categories of personal data are responsible to register with VERBIS until March 31, 2021;

- Public institutions and organizations are responsible to register with VERBIS until March 31, 2020.

In the Decision, it is stated that data controllers has not been able to draft personal data processing inventories and fulfil their registry obligation with VERBIS due to the Covid-19 virus epidemic, which has showed its effect in our country as well as all over the world, and caused various workplaces to be physically closed or to implement remote/rotated work model.

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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.

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