

## Data Protection and Privacy– Turkey: A quick Look at 2017 and The Year ahead

Turkey is almost 3 months away from the deadline of fulfilling the compliance with the Data Protection Law (Law) now. In 2017 we were all busy with compliance with the Law as much as possible in the absence of well-established rules and practices. It seems that our efforts will continue in 2018.

In 2017 it is worth saying that we have seen substantial progress after the enactment of the Law in 2016. In January 2017, Data Protection Authority (DPA) was officially established. In October 2017, Regulation on Anonymization, Erasure and Deletion of Personal Data and in December 2017 the Regulation on Data Controllers Registry were enacted. Further, the Regulation on Protection of Health Data which was highly criticized during 2016 and subjected to stay of execution decision, was amended in November 2017 in a way to clarify the main controversial provisions. In addition, sector specific Regulation on Privacy in Electronic Telecommunication was drafted and opened to discussion in August 2017.

Among the above mentioned legislative developments, the Regulation on Anonymization, Erasure and Deletion of Personal Data and the Regulation on Data Controllers Registry drew attention of data controllers the most and both came into effect on January 01, 2018. Although both regulations are now effective, data controllers need to wait for the resolution regarding the exceptions to be applicable to the registration requirement to be taken and announced by the Data Protection Board. Once the resolution and the date of start of registration obligation is announced then the data controllers will determine themselves within exemption or not and will proceed with registration if required. Those who are held within the registry obligation will be also under obligation to prepare company policy for anonymization, erasure and deletion of personal data.

In addition, the data registry requirement also entails preparation of a data inventory as required by the Regulation on Data Controllers Registry which may take quite some time for those who has not yet conducted data protection compliance efforts so far and worked on such an inventory before.

Last, as we are approaching May 2018 - the deadline of the period granted to become compliant with the Law we are expecting acceleration in last minute compliance attempts and efforts.

In 2018, we are hopeful in terms of establishment of privacy rules and enforcement of the Law in a more clarified way with more guidelines. We already received two new decisions announced by the DPA at the beginning of 2018. First one, dated 21.12.2017 and numbered 2017/61, is about web sites providing directory services by searching names from telephone numbers or searching telephone numbers from names. Upon number of claims made to the DPA, the DPA evaluated the case and held processing of personal data through these web sites and applications as illegal acts and contrary to the Law. The DPA requested cease of these services and in case DPA is informed of non-compliance with the decision, access to these websites will be stopped through applying to relevant authorities and administrative fines will be imposed on these service providers. Criminal complaint will be also lodged with the prosecution officer as per Turkish Criminal Code Article 136.

The second announced decision, dated 21.12.2017 and numbered 2017/61, is about public and private sector service providers, especially those in banking and healthcare sectors, rendering services through number of personnel adjacently (i.e. banks, cargo services, hospitals). It is decided that service providers must ensure that they have taken all technical and administrative measures to prevent presence of unauthorized persons at the tables, gates or benches and to prevent the recipients of services hearing, seeing, learning or reaching out each other's data. The DPA held that those who do not comply with the decision will be subject to administrative fines as per the Law.

As a last note, breach of data protection rules is exposed to criminal liability under the Criminal Code in addition to the administrative fines introduced under the Law. In light of the decisions of the DPA so far, we may expect to see more criminal cases about data protection breaches in 2018.



BEGÜM YAVUZDOĞAN OKUMUŞ  
MANAGING ASSOCIATE

+ 90 (212) 354 00 24  
[begum.yavuzdogan@gun.av.tr](mailto:begum.yavuzdogan@gun.av.tr)

Begüm is a managing associate in Gün + Partners and she has been working for the firm since 2007. Her practice focuses on corporate and M&A, competition and technology, media and telecom.

[Subscribe](#) | [LinkedIn](#) | [Twitter](#)

We are a full service law firm providing national and international businesses with transactional, advisory and dispute resolution services across a broad range of industry sectors in Turkey. All lawyers work in Turkish and English and majority of them also offering fluency in German and French.

Kore Şehitleri Cad. 17, Zincirlikuyu, 34394 Istanbul, Turkey T: +90 (212) 354 00 00 F: +90 (212) 274 20 95 E: [gun@gun.av.tr](mailto:gun@gun.av.tr) [www.gun.av.tr](http://www.gun.av.tr)