

KVKK - GDPR Newsletter

MARCH 2021



Decision Summaries News KVKK&GDPR Reviews Of the Month;

Summary of the Decision regarding "the employee of the data controller airline company obtaining the personal data of the data subject from the company records illegally"

01. It has been imposed an administrative fine of 100,000 TL for the data controller's failure to take the necessary security measures when the employee of the data controller airline company shared the data subject's personal data with another employee and the data subject was disturbed. Details of the Decision can be found [here](#).

Summary of the Decision regarding "the use of the health report in the personnel file of the data subject as a defense during the reemployment lawsuit by the data controller employer"

02. In the reemployment lawsuit after the unilateral termination of the employment contract by the data controller employer, the complaint was submitted to the Authority by the data controller in their defense that not containing a medical report of the data subject. The provision of "Processing of personal data by judicial authorities or execution authorities by means of investigation, prosecution, judgment or execution proceedings" included in sub-clause d of paragraph 28/1 of the Law and paragraph 6 / b titled "Petitions that cannot be examined" of the Law numbered 3071 on the Use of the Right to Petition. Considering the issue, it has been decided that there is no action to be taken by the Board regarding the issue. Details of the Decision can be found [here](#).

Summary of the Decision regarding the "illegal publication of the data subject's personal data on the internet newspaper by the data controller"

03. It has been imposed an administrative fine of 55,000 TL on the data controller as a result of the complaint of the data subjects, who are the members of the Board of Directors, that the data controller company made false and untrue statements on the internet newspaper. Since the data subject's personal data are deliberately published in the public domain and their security are in danger, also may be defrauded by third parties by using them without their consent. Details of the Decision can be found [here](#).



Summary of the Decision regarding "the use of credit card information that the data subject does not allow by the data controller car rental company"

04. In accordance with the contract made with a car rental company, the data subject, who approved the use of the credit card for the purpose of withdrawing the car rental fee and provision, contacted the customer representative upon the SMS received about collecting the HGS amount used during the rental period from another credit card and asked to get information about the reason for using the other credit card. However, the data subject could not get the necessary information on the subject. The defense of the data controller company was requested. As a result of the investigations regarding the complaint, it has been imposed an administrative fine of 75,000 TL on the data controller company. Details of the Decision can be found [here](#).

Summary of the Decision regarding the "unpermitted incoming call to the data subject by the private hospital"

05. Upon being called by the hospital for advertising purposes, the data subject asked for the written information about their Personal Data Protection Law Policy by the hospital via e-mail. The data subject, who decided the given answer by the hospital was inadequate, submitted a complaint to the Authority and requested that the necessary action be taken within the scope of the Law. As a result of the investigations, it has been imposed an administrative fine of 50,000 TL on the private hospital. Details of the Decision can be found [here](#).

Summary of the Decision regarding the "recording and monitoring by placing a camera in the building where the data person is a resident"

06. The data subject stated that 4 cameras were installed by the neighbor in the building where the data subject was the resident. Recording and monitoring was carried out with these cameras, the crimes of disturbing the peace and tranquility of the people, illegally recording the personal data, violating the privacy of private life were committed, and complaining to the prosecutor's office about the neighbor who installed the cameras and the data subject submitted a complaint to the Authority. As a result of the investigation, the Authority has decided that the data subject's complaint may contain an element of crime within the framework of the Turkish Criminal Code provisions and within this framework, it cannot be evaluated within the scope of the Personal Data Protection Law. Details of the Decision can be found [here](#).



Summary of the Decision regarding the "use of a security camera with sound recording feature"

07. In order for the audio-camera recording to be considered as a legal personal data processing activity, it must be looked after in the fundamental rights and freedoms specified in the Constitution. As the public institution, which is the data controller, stated that it is necessary to be attached to the public entrance for security purposes, as it may cause a general assessment that the use of audio recording cameras is also necessary for all kinds of similar environments and may result in a very wide exception to the right to protect personal data. It was evaluated that this issue would harm the essence of the right. Details of the Decision can be found [here](#).

Summary of the Decision regarding the "submission of the illegally obtained personal data of the data subject allegedly while they were working in a governorship by an employee of the governorship on the digital environment to the governorship"

08. While the data controller was working in a Governorship, it was alleged that the personal data of the data controller obtained by another employee of the data controller and was presented to the data controller in a digital environment. The data subject applied to the Ministry of Interior within the scope of the Personal Data Protection Law and requested the destruction of the personal data obtained illegally and the cancellation of the disciplinary processes. The Ministry of Interior sent this request to the data controller, claiming that an insufficient response was given by the data controller and requested to be taken into account. You can find the details of the Decision regarding the complaint filling, [here](#).

Summary of the Decision regarding the "processing of the sensitive personal data of the complainant's children by the data controller educational institution illegally"

- 09.** You can find the [details](#) of the Decision on the complaint regarding the statement that a test conducted by the data controller school where the children were educated, clinical and neurological evaluation ability and sensitive personal data were processed and used. It was stated that the data subjects or parents did not give their explicit consent on the subject, and that the data controller did not fulfill its obligation to inform.

Summary of the Decision regarding the "sharing the personal data not publicly disclosed disclosed in Turkey Trade Registry Gazette with the public institutions and organizations at their request"

- 10.** You can find the [details](#) regarding the transfers to be made by the Trade Registry Office in accordance with the provisions regarding the transfer of personal data and the purpose of publicity should be adhered to processing the processed data in the registry and all kinds of technical and administrative measure should be followed while processing.

Summary of the Decision regarding the "processing of phone number information of the data subject by different data controllers illegally"

- 11.** According to the complaint regarding the receiving the debt information of a relative of the data subject via SMS was submitted to the Authority, it was stated that the data subject filed an application to the creditor company and the lawyer, but received insufficient and contradictory answers. You can find details about the Decision that imposed an administrative fine of 115,000 TL to the company and 50,000 TL to the lawyer [here](#).

Summary of the Decision regarding "Not responding by the data controller's request about sharing a copy of the personal data of the data subject, who is a former employee of the cargo company"

- 12.** The data subject requested a copy of their personal data within the scope of the Law that their employment contract was terminated illegally and without compensation while working in the cargo company. The data subject stated that there was no response from the data controller cargo company for 30 days. You can find the [details](#) of the Decision in which the data controller has been instructed to pay attention and care to respond to the applications within the legal period.

Summary of the Decision regarding "the request to remove the news of the data subject whose sentence was executed for the crime against which they were convicted, from newspaper's website"

- 13.** It was stated in the petition submitted to the institution that the data subject's attorney applied to the newspaper with the request to remove the news published in June 2009, but the request was rejected by the newspaper. You can find the [details](#) of the Decision, which states that there is no action to be taken within the scope of the Law regarding the complaint as a result of the examinations made.

Summary of the Decision regarding the "transfer of analysis results of the data subject with third parties illegally by the data controller hospital"

- 14.** The data subject noticed that in the e-mail where the IVF test results were sent from the hospital, it was also sent to a different e-mail address that the data subject concerned did not know. The data controller filed an application to the hospital, indicating that they requested information from the hospital. It has been imposed an administrative fine of 100,000 TL on the hospital. You can find details about the decision [here](#).



Summary of the Decision regarding the “processing of the personal data of the employer illegally without fulfilling the obligation to clarification ”

- 15.** The data subject requested information within the scope of their rights in Article 11 of the Law from the data controller company where they were working. As a result of the investigation made upon the data subject’s complaint that they did not receive an adequate response to the request, it has been imposed an administrative fine of 50.000 TL on the data controller since the data controller did not fulfill the obligation to clarification. In addition, it has been stated that the data controller processed personal data and sensitive personal data of their employees and relatives without their explicit consent. It was contrary to the principle of proportionality to process and transfer sensitive personal data to domestic and/or abroad without the explicit consent of its employees, therefore it has been imposed an administrative fine of 200,000 TL. You can find the details about the Decision [here](#).

The Decision regarding the "request for the removal of sensitive personal data of the data subject person from the personnel file of criminal conviction and security measures".

- 16.** A penalty decision was issued against the data subject before the date of their first entry into the civil service. Accordingly, the data controller applied to the institution where they worked for removing and destroying the sensitive personal data according to the aforementioned decision in the relevant file in their personnel file. The investigations were made with the complaint of the data controller that the application was rejected. As a result of these investigations, it has been concluded that the “legality” factor are not included in the personnel file. Details of the decisions can be found [here](#).



Summary of the Decision regarding "not responding the data subject’s application which contains processing the visual and audio personal data are in the video promotion section on the website of the medical center"

- 17.** It was stated that the data subject, whose employment was terminated, had visual and audio data in a video for marketing purposes on the website of the medical center. The data subject requested the cessation of data processing and removal of the data by applying to the data controller, but no response was received from the data officer within the legal period. You can find the details of the Decision regarding the data controller is instructed to pay attention and care to respond to the applications within the legal period [here](#).

Summary of the Decision regarding "the data controller sent the reply with an official letter, which was meant to be sent to the data subject, to the unit where the data subject works"

- 18.** The data subject requested information to find out the result of the petition by the Art History Department of the University where he was an employee for a period. The answer to the request was not directly sent to the data subject, but to the Directorate of the Vocational School where he is currently employed. The data subject’s request for the data controller to take the necessary measures within the scope of the Law for the information made available to third parties was not responded within the legal period. Upon this, you can find the details of the Decision regarding the complaint submitted to the Authority [here](#).

Summary of the Decision regarding "not benefitting from the rental service when the data subject does not give their explicit consent to the processing of their personal data during the car rental service"

- 19.** As a result of the investigation of the complaint submitted by the data subject to the Authority, the data controller took a mass explicit consent to process the personal data of the persons who want to benefit from the service within the scope of the processing conditions other than the processing conditions specified in the second paragraph of Article 5 of the Law during the car renting service. Although, it was not necessary for the performance of the service, it was determined that personal data were requested and in the case of not giving explicit consent, the service was not provided to the persons. It has been imposed an administrative fine of 50,000 TL on the data controller. You can find the details of the decision [here](#).

Summary of the Decision regarding the "data controller bank sending the personal data on the credit card statement of the data subject to the wrong e-mail address"

20. You can find the [details](#) of the complaint regarding the data controller bank, of which the data subject was a customer, sharing the personal data with third parties by sending the credit card statement of the data subject to another e-mail that did not belong to them. The data subject filled an application to the data controller bank, but there was no response from the bank for a month.

Summary of the Decision regarding the "transferring the personal data of the data subject who is a former employee by the health company without their consent"

21. You can find the [details](#) of the decision of the complaint regarding sharing the data subject's personal data by the former company to new company without the explicit consent of the data subject and the request of the new company and the decision not to impose any sanctions on the former company in this regard.

Summary of the Decision regarding the "transfer of the data subject's personal data to a bank that was responsible for the account and safe deposit box"

22. You can find the [details](#) of the complaint's Decision regarding the sending illegal and unfair execution against the data subject to the complainant bank where the first attachment notice was sent and obtaining the company information unofficially from the data subject's business colleagues, the companies they had partnership with, also sharing the personal data that only the data subject knew, such as bank account and safe deposit box information.

Summary of the Decision regarding the "illegal processing of the bank account details, which are the personal data of the data subject, by the deputy tax inspector without the data subject's explicit consent"

23. You can find the [details](#) of the complaint's Decision regarding the report prepared as a result of a tax inspection made to the institution where the data subject works, although there is no tax examination about them. Bank account movements, deposit information, deposit and withdrawal transactions, which are personal data of the data subject were illegally processed without their explicit consent.

Summary of the Decision regarding "the submission of the camera images as personal data to the court by the cargo company in the reemployment lawsuit filed by the data subject against a cargo company"

24. In the complaint of the data subject, it was stated that the camera recordings were presented as an evidence in the court by the data controller in the reemployment lawsuit. It was stated that records were personal data within the scope of the Law and cannot be processed without the explicit consent of data subject, and that there was no explicit consent to the processing of the data. Details of the Complaint decision can be found [here](#).

Summary of the Decision regarding "not submitting the transcript of call center call records belonging to the data subject by a data controller airline company"

25. You can find the [details](#) of the complaint regarding the request of the transcription of the call between the data subject and airline's call center within the scope of the Law, and their request was rejected by the data controller.



Summary of the Decision regarding the "request of the deceased's health data by the legal heir"

- 26.** The data subject requested the public institution to transmit all kinds of health data belonging to their father in accordance with Article 11 of the Regulation on Personal Health Data and the inheritance certificate showing that the data subject was the heir of their deceased father. The regulation includes the provision "The legal heirs of the inheritor are authorized individually by obtaining the health data of a deceased person, by submitting the declaration of inheritance". Therefore, it was decided that the data subject could request the data as the legal heir of their deceased father, but the application to the Authority could not be considered within the scope of the Law. You can find the details of the decision [here](#).

Summary of the Decision regarding "the data subject received an SMS stating that they purchased a plane ticket from an airline company, although they did not purchase a ticket"

- 27.** The data subject received an SMS on their mobile phone regarding buying a ticket from an airline company. It was stated that the data subject called the data controller after they noticed the situation but could not reach data controller. The data subject filled out an online complaint form, called and canceled the ticket. They wanted to get information about who did this transaction, but they could not get any response for their request. You can find the details of the Decision regarding the specified notification [here](#).

Summary of the Decision regarding the "processing of personal data of the hospital's customers illegally by the operator providing fixed telephone service to the data controller"

- 28.** In the complaint submitted to the Authority by the applicant hospital, an agreement had been made with an operator (1st fixed service) that provided fixed telephone service to send SMS to the patients on their phone numbers recorded to communicate with the patients who applied to them. This fixed service shared various information and patient contact information illegally with a different fixed service to provide a patient to a doctor who left the hospital. It was stated that the personal data of hospital customers were processed illegally by the fixed service and did not take the necessary technical and administrative measures to ensure the appropriate level of security to prevent processing of personal data illegally. It has been imposed an administrative fine of 125.000 TL on the fixed service. Details of the decision can be found [here](#).



Summary of the Decision regarding the "forwarding the debt information of the data subject to their relatives by the contracted lawyer of the bank due to the debt to the bank"

- 29.** The data subject stated that due to the debt to the Bank, their sister's mobile phone number was called by the Bank's lawyer and their personal data was illegally shared by the lawyer by sending an SMS to their sister's phone number. The investigations were made by the Authority based on the complaint. It was stated that it was illegal for the bank to record the mobile phone number of the data subject's sister in the Legal Tracking System and to share the phone number of the data subject's sister with the lawyer, except for the personal data of the data subject. It has been imposed an administrative fine of 175,000 TL on the bank. For the lawyer, it was decided that there was no action to be taken regarding the person's phone number registered as the other phone, considering that they would not know to whom it belonged. You can find the details of the decision [here](#).

Oto Rapor Araç Muayene ve Ekspertiz Hizmetleri San. ve Tic. A.Ş. Data Breach Notification

- 30.** You can find the [details](#) of the data breach notification regarding a received e-mail on February 22 indicating that it had entered Oto Rapor Araç Muayene ve Ekspertiz Hizmetleri San. ve Tic. A.Ş' systems.

Fibabanka A.Ş. Data Breach Notification

- 31.** You can find the [details](#) of the data breach notification regarding the employee sharing the personal data obtained from Credit Registry Bureau with third parties. Investigations were started by the Bank Inspection Board through the call received to the bank call center.

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