

KVKK & GDPR NEWSLETTER

Monthly Newsletter

DECEMBER-JANUARY 2023-2024

No : 2024 / 12 - 50



Decision Summaries • KVKK-GDPR Reviews • Data Breach Notifications •

01

Dirk Rossmann Mağazacılık Ltd.Şti. Data Breach Notification

The breach occurred on the website of Dirk Rossmann Mağazacılık Ltd.Şti., which has the title of data controller, by seizing the data of the site users who shopped between 27.12.2023 and 09.01.2024, and the relevant breach was detected during routine security checks. It is stated that the person, registration and personal data categories affected by the breach have not yet been identified.

Details of the data breach notification can be found [here](#). (In Turkish)

02

French Data Protection Authority Has Decided to Impose Administrative Fines on Amazon France Logistique

Amazon France Logistique manages the Amazon group's large warehouses in France, where it receives and stores products, which are then prepared for delivery to customers.

As part of their activities, each warehouse worker is given a scanner to document in real time the performance of specific tasks assigned to them (storing or removing an item from shelves, lifting or packing, etc.). Each scan performed by employees results in the recording of stored and used data to calculate indicators that provide information about the quality, productivity and periods of inactivity of each employee.

The French DPA found several breaches of the GDPR regarding Failure to comply with the principle of data minimization, Failure to ensure lawful processing (Article 6 GDPR) by using three indicators which are illegal, failure to comply with the obligation to provide information and transparency and failure to the obligation to ensure security of personal data. Following media reports about the company's practices in its warehouses, the French Supervisory Authority (SA) conducted several investigations, and finally French SA fined Amazon France Logistique €32 million.

You can find the detail of the Decision [here](#).



03

Luxembourg Data Protection Authority Has Decided to Impose Administrative Fine on a Company Providing Electronic Communication Services

During the handling of the complaint, it appeared that the data controller transferred multiple times personal data of the complainant to its data processor, who then transmitted said data to a third party. Therefore, the Luxembourg Supervisory Authority (the CNPD) decided to open an investigation in order to verify the compliance with the provisions of the GDPR, and more precisely concerning the legal basis of the transfer of personal data of the complainant to a third party, as well as the information of the data subject concerning said transfer.

An administrative fine of 1.500 € was imposed, as well as a reprimand for having violated article 13.1.e) of the GDPR. In addition, the CNPD ordered the controller to bring the processing operations into compliance with article 24.1 of the GDPR, in particular by putting in place appropriate technical and organizational measures in order to verify that the data processor stops transferring the data of the complainant to a third party.

You can find the detail of the Decision [here](#).





04

Belgian Data Protection Authority Has Decided to Impose Administrative Fine on Black Tiger Belgium

The Belgian DPA received a complaint about the processing activities carried out by BISNODE BELGIUM — which was subsequently taken over by the French BLACK TIGER GROUP and renamed BLACK TIGER BELGIUM (hereafter “BTB”) —, claiming that the company had indirectly collected and unlawfully processed personal data of the plaintiffs for over 15 years, without properly informing them beforehand.

The Belgian DPA imposed three administrative fines on BTB, amounting to a total of 174.640 EUR. These fines relate to the unlawful and unfair processing of personal data without informing data subjects in a proactive, individual and transparent manner; to the failure to respond appropriately to data access requests; and lastly to various infringements relating to the record of processing activities.

Additionally, the Belgian SA imposed several corrective measures on BTB, including a temporary ban of the processing of the personal data of data subjects for whom BTB possesses contact details, until BTB has individually notified them about the processing of their data and given them an opportunity to object to the processing.

You can find the detail of the Decision [here](#).





05

Hungarian Data Protection Authority Has Decided to Impose Administrative Fines on an Airline Company

On 23 October 2018, the Data Subject filed a complaint with the Polish Data Protection Authority (SA) stating that it had requested the data controller to delete all of its personal data in the online interface provided by the data controller. In previous cases, it had already been established that the Hungarian Data Protection Authority (SA) was the Chief Supervisory Authority (LSA) of the data controller, so the dispute was transferred. It deleted the Data Subject's account on 23 November 2018 but did not inform the Data Subject about it before 6 November 2018. Based on Article 83(2)(i) of the GDPR, Hungary DPA has ordered the data controller to pay a data protection fine of HUF 5,000,000, which is equivalent to approximately EUR 13,244.

You can find the detail of the Decision [here](#).

06

Belgian DPA Stated that a Baptized Person Has the Right to be Deleted from the Baptismal Register

A baptized person has applied to the diocese of Ghent to have it deleted from all Church files, including baptismal records. However, the Roman Catholic Church does not delete the data from the baptismal records, but instead adds a statement in the margin of the record reflecting the person's desire to leave the Church. The right to data erasure contained in the GDPR is not absolute and can only be exercised under certain conditions. The Roman Catholic Church has stated that it has a legitimate interest in retaining the data contained in the baptismal register because such storage is necessary for the purpose of data processing and therefore the conditions applicable to the deletion request are not met in this way. The Belgian DAP has decided to order the diocese of Ghent to comply with the complainant's request to object to the processing of his data and the request for the deletion of his data.

You can find the detail of the Decision [here](#).



07

Spanish Data Protection Authority Has Decided to Impose Administrative Fine on Eurocollege Oxford English Institute SL

The case initiated following a complaint against the CENTRO DE ESTUDIOS AERONÁUTICOS SL for the request of mandatory personal data to be able to access the training of cabin crew. Among the requested data are the COVID certificate, a criminal certificate and certain data such as address, people with whom you live or bank account number. A fine was imposed by the Spanish DAP the controller proceeded to the voluntary payment of the fines, terminating the proceedings according to Spanish national procedural law with a 20% reduction, and a total fine of EUR 72,000.

You can find the detail of the Decision [here](#).

08

Summary of the Decision of the Personal Data Protection Board Dated 24/08/2023 and Numbered 2023/1465 on Displaying Personal Data Belonging to a Third-Party During User Login on the Website of the Data Controller

In the notification petition submitted to the Authority, in summary; it was stated that the data subject was directed to the account of another user while logging in to the website of the car rental company with the username and e-mail address registered in the system, as a result of incorrect routing, a third person accessed personal data such as address, telephone number, Turkish ID number and driver's license information, notified the call center regarding the issue, subsequently the information in the system was corrected, but the questions in the application to the data controller were not answered, and it was requested that the necessary action be taken within the scope of the Personal Data Protection Law No. 6698 (Law).

Considering that due to the incorrect operation of the algorithm in the data recording system of the data controller, unlawful access to the personal data of different users was provided when the car rental platform users tried to log in to the system, it was decided to impose an administrative fine of TRY 200,000 in accordance with subparagraph (b) of paragraph (1) of Article 18 of the Law on the data controller who failed to fulfill its obligations regarding data security in Article 12 of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)

09

Summary of the Decision of the Personal Data Protection Board Dated 24/08/2023 and Numbered 2023/1461 on Video and Audio Recording by an Educational Institution Through a Camera

In summary in the complaint petitions submitted to the Authority; the data controller is the tenant of one of the data subjects, a meeting took place between them due to a rent dispute, then in the notice sent by the data controller, it was declared that audio and video recordings of the data subjects were taken during the meeting, in this direction, in the reply notice sent by the data subjects to the data controller, it was reminded that taking audio and video recordings without the explicit consent of the data subjects is a criminal act in accordance with Article 133 and the following provisions of the Turkish Penal Code (TCK), In the notice sent by the data controller, it was stated that it is a legal right granted to the data controller to take the audio and video recordings of the data subjects without their explicit consent, however, it was stated that the data controller responded only to one of the data subjects and did not respond to the other data subject and requested the necessary action.

In the response letter of the data controller addressed to the Institution, it is stated that video and audio recording is made possible in accordance with the provisions of the Ministry of National Education Private Education Institutions Regulation in places open to the general use of the school and for security purposes, but when the relevant legislation is examined, it is seen that the places where video recording can be taken are listed and it is prohibited to place cameras in certain places, and the provisions in question are only for video recording and do not create a special provision that legitimizes the taking of audio recordings; It has been evaluated that the personal data processing activity carried out by taking voice recordings has been carried out without relying on any of the data processing conditions in Article 5 of the Law, and in this respect, the data controller has acted in violation of the first paragraph of Article 12 of the Law, which obliges the data controller to take all necessary technical and administrative measures to ensure the appropriate level of security in order to prevent the unlawful processing of personal data, and accordingly, in accordance with subparagraph (b) of paragraph (1) of Article 18 of the Law, TRY 200.000, and also in accordance with subparagraph (ç) of the second paragraph of Article 5 of the Law "data processing is mandatory for the data controller to fulfill its legal obligation" and subparagraph (f) "data processing is mandatory for the legitimate interests of the data controller, provided that it does not harm the fundamental rights and freedoms of the data subject", the data controller's obligation to inform continues; on the other hand, the data controller has failed to prove that the obligation to inform has been fulfilled, and in this respect, due to the violation of the provision regulated in Article 10 of the Law, the data controller will be charged a TRY 30.000 in accordance with subparagraph (a) of paragraph (1) of Article 18 of the Law, totally administrative fine of TRY 230.000 have imposed to the Data Controller.

You can find the details of the Board's decision [here](#). (In Turkish)

10

Summary of the Decision of the Personal Data Protection Board Dated 17/08/2023 and Numbered 2023/1430 On Processing of Turkish ID Number in the Mobile Application of the Data Controller Providing Meal Card Service

The Personal Data Protection Board (the Board) initiated an ex officio investigation on the matter upon the notification received by the Authority stating that the data subject's Turkish ID number information was requested when registering to use the mobile application of the data controller that provides meal card service. During the examination of the mobile application, it was determined that name, surname, phone number, date of birth, e-mail information was requested when registering for the mobile application; and when the person wanted to define a meal card to his/her profile, it was stated that the information entered would be compared with the Turkish ID number. In the event that physical meal cards are registered in the mobile application, since it is possible to verify the card in ways that will protect the data subjects more, such as processing card and phone number information through the employer, without processing the T.R. identification number information of the persons, the processing of the T.R. identification number data is carried out without relying on legal reasons in Article 5 of the Personal Data Protection Law (Law) No. 6698 and the personal data in Article 4 of the Law are processed in a measured manner for the purpose for which they are processed. Since it is evaluated that the processing of the identification number data was carried out without the legal reasons in Article 5 of the Personal Data Protection Law No. 6698 (Law) and that it is contrary to the principle of proportionate processing of personal data for the purpose for which it is processed in Article 4 of the Law, it was decided to impose an administrative fine of TRY 200,000 on the data controller who did not fulfill his obligations under the first paragraph of Article 12 of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)

Summary of the Decision of the Personal Data Protection Board Dated 31/08/2023 and Numbered 2023/1509 on Transfer of Personal Data of the Data Subject to Kredi Kayıt Bürosu A.Ş. by a Bank

In the complaint petition submitted to the Authority; in summary, pursuant to the first paragraph of Article 8 of the Law on the Protection of Personal Data (the Law), the data subject has applied to the data controller bank regarding the transfer of their personal data to KKB Kredi Kayıt Büro A.Ş. (Company/KKB), which was established to ensure the exchange of all kinds of information and documents between credit institutions and financial institutions, and has stated that it does not accept the transfer of personal data in the said application and requested to withdraw its explicit consent in this regard, however, it was stated that his request was rejected and it was requested to take the necessary action within the scope of the Law. It has been decided that there is no action to be taken against the data controller since the transfer of personal data of the data subject to the Company by the data controller bank in accordance with the legal regulations in the field of banking and the reference to paragraph (2) of Article 8 of the Law and paragraph (2) of Article 5 of the Law is in accordance with the provision of banking services as required and in accordance with the legal regulations in the field of banking.

You can find the details of the Board's decision [here](#). (In Turkish)



12

Summary of the Decision of the Personal Data Protection Board Dated 17/08/2023 and Numbered 2023/1414 on Transfer of Sensitive Personal Data of the Data Subject by the Lawyer to the Court

In summary of the complaint petition submitted to the Board; it was stated that the data subject needed to have a DNA test of himself and his children upon the need and agrees with a company to carry out the test within the limits of confidentiality, that the company printed the DNA reports of the data subject and their children on paper and does not send them by normal mail or cargo, but sends the password to the e-mail address of the data subject, which only the data subject knows, and that the data subject did not share the DNA reports with anyone anywhere, on the other hand, it was stated by the lawyer of the other party, that the personal data within the scope of the DNA reports of the person and children of the data subject were illegally obtained from the e-mail address of the data subject using various programs and that the data controller used this information against him in the receivables case, and it was requested that the necessary action be taken.

Considering the provisions of Articles 2 and 35 of the Advocacy Law as well as Article 219 of the Turkish Procedural Law, the processing of the genetic data in question by the data controller is a processing activity in accordance with paragraph (3) of Article 6 of the Law, and the transfer to the relevant courts is a personal data transfer activity in accordance with Article 8 of the Law;

Considering that the DNA test reports in the category of genetic data belonging to the data subject are also the reports of the children of the data subject, it has been decided that there is no action to be taken within the scope of the Law, since it is evaluated that the processing and transfer of the personal data in question by the data controller, who is the representative of the children, is within the scope of paragraph 2 of Article 8 of the Law and in accordance with the provision in paragraph (3) of Article 6 of the Law that personal data other than health and sexual life can be processed without seeking the explicit consent of the data subject in cases stipulated by law.

You can find the details of the Board's decision [here](#). (In Turkish)



13

Summary of the Decision of the Personal Data Protection Board Dated 03/08/2023 and Numbered 2023/1321 on Continued Processing of the E-mail Data of the Data Subject by the Data Controller Company of Which the data Subject was Previously a Partner

In the complaint submitted to the Authority, in summary; it was stated that the data subject left the data controller Company, of which he was a partner before, and established a new company, but the e-mail address he used while he was a partner of the data controller Company was still active and he learned that the data controller read the e-mails sent to the address in question, this situation created unfair competition for him and he suffered financial damage, he applied to the data controller on this issue but did not receive any response, and it was requested to take the necessary actions within the scope of the Personal Data Protection Law No. 6698 (Law).

It was decided to impose an administrative fine of TRY 50,000 in accordance with Article 18 of the Law due to the fact that the e-mail address previously used by the data subject and which is currently inactive, e-mail data has the quality of personal data, in this context, the personal data continued to be processed by allowing the messages to be viewed in the undefined e-mail due to the fact that the e-mail was not prevented and that the personal data processing activity in question did not have any basis within the scope of Article 5 of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)





14

Summary of the Decision of the Personal Data Protection Board Dated 03/08/2023 and Numbered 2023/1310 on Processing of Personal Data by Processing Facial Data While Setting a Digital Password in The Bank Mobile Application

In the complaint submitted to the Board; It is stated as in summary, that the data subject is an individual and corporate customer of a bank (data controller), that he wants to reset the password for his corporate account that he has forgotten by using the mobile banking application on 19.11.2022, that after entering the corporate password determination field, it is requested to prepare the TR ID card or credit/debit card, and when continuing with the TR ID number, generating a digital password with the TR ID card is the only option. Then it was stated that it is required to use a digital identity card when logging into the corporate account, and when it is desired to log in with a Turkish ID card, the confirmation screen appears for the processing of face data, and if approval is not given, the service cannot be used and the system returns to the beginning, thus forcibly processing personal data, and it was requested to take the necessary action within the scope of the Personal Data Protection Law No. 6698 (Law).

Considering that creating a digital password within the scope of the services of the data controller Bank can only be realized by processing the T.R. ID card and facial data in mobile banking on the date of the complaint, but customers can also benefit from the digital password service through the Bank's Branch and Telephone Banking channels and this issue is stated on the Bank's website, it is evaluated that the claim this service is conditional is not appropriate and there is no action to be taken against the data controller, on the date of the incident subject to the complaint, the Bank terminated the transaction, since it is understood that the information that the digital password determination service can be done through alternative channels is stated in another section of the website, although the service subject to the complaint has started to be provided with an alternative method in mobile banking, the data controller Bank is warned to review its service processes and if there are processes that may cause misunderstanding by its customers in data processing activities, to take utmost care to ensure that the relevant persons are informed about these processes in an easy-to-understand/accessible manner.

You can find the details of the Board's decision [here](#). (In Turkish)

Summary of the Decision of the Personal Data Protection Board Dated 03/08/2023 and Numbered 2023/1309 on Unlawful Sharing of Personal Data of the Data Subject with Third Parties by an Airline Company

In the complaint submitted to the Authority, in summary, it is stated that the data subject purchased a tour with his family from a travel agency and flight information was sent to him, when he entered his Passenger Name Record-Passenger Name Information (PNR)-and surname to check-in from the airline's mobile application, he saw information such as "name, surname, gender, date of birth, nationality, document type, country of issue, document number, expiry date, visa information" of four people he did not know, In addition to this, it is highly probable that other people he/she does not know can see his/her personal data such as name, surname, gender, date of birth, nationality, document type, country where the document was issued, document number, expiry date, visa information, and which personal data are processed in line with his/her rights under Article 11 of the Law on the Protection of Personal Data (Law), to provide information on what technical and administrative measures have been taken to protect the personal data processed, the purpose of processing the personal data processed and whether they are used in accordance with their purpose, to provide information about third parties to whom personal data are transferred domestically or abroad, the transfer of personal data to third parties who are not authorized to access personal data and the termination of unlawful data processing activity, that in the response given by the data controller, it was accepted that his personal data was transferred to third parties unlawfully, and that no answer was given to the issues he requested to be answered in order to obtain information in the answer given, and it was requested that the necessary action be taken.

Within the scope of the complaint regarding the unlawful sharing of the personal data of the data subject with third parties and the failure to take the necessary technical and administrative measures to protect the data; despite the statements of the data controller that when a passenger in the Group PNR wants to check-in or manage ticket transactions via the website or mobile application, the PNR + Surname combination is entered, and after successful login, unlike the general application, it cannot display all passengers in the PNR and only the records with matching surnames in the PNR can be displayed, In the screenshots submitted by the data subject, the surnames of the people he saw on his screen as a result of entering the PNR information are different from his own surname, therefore, contrary to what is claimed by the data controller, even if the entry process is performed with the PNR + Surname combination, the data of people with different surnames can be seen on the same PNR, considering that this situation shows that the data controller has not taken the necessary technical and administrative measures to ensure the appropriate level of security in order to prevent unlawful access to personal data within the scope of paragraph (1) of Article 12 of the Law and to ensure the protection of personal data within the scope of paragraph (1) of Article 12 of the Law, the possibility of a large number of people being affected by the situation in question is also high, and also considering that no notification was made to the Authority within the scope of paragraph (5) of Article 12 of the Law regarding the data breach in question, it was decided to impose an administrative fine of TRY 300. 000.

You can find the details of the Board's decision [here](#). (In Turkish)

Summary Of the Decision of the Personal Data Protection Board Dated 07/09/2023 and Numbered 2023/1563 on Publication of the Name-Surname and Share Information on the Public Disclosure Platform Website Upon the Application Made by the Data Subject to Merkezi Kayıt Kuruluşu A.Ş. for the Conversion of The Shares in The Partnership into Shares Traded On The Stock Exchange

In the complaint submitted to the Board, in summary, it was stated that the data subject had shares that were unsaleable in Borsa Istanbul, that he applied to the intermediary institution to make these shares saleable, that the application was forwarded to Merkezi Kayıt Kuruluşu AŞ (MKK-data controller), that within this framework, MKK announced his name and surname information and how many lots of which shares were made saleable on the Public Disclosure Platform (KAP) website www.gov.tr website of the Public Disclosure Platform (KAP) and that this transaction was based on the relevant communiqué, that he applied to MKK to remove his name and surname information from the announcement, but that this request was not accepted, and requested that the necessary action be taken within the scope of the Personal Data Protection Law No. 6698 (Law).

It has been seen that the data subject objected to the sharing of his name and surname information during the publication of his shares in Borsa Istanbul on the website "www.kap.gov.tr" within the scope of making his shares in Borsa Istanbul saleable, and in this context, he applied to MKK, which is responsible for the transaction, and MKK stated that it carried out the said transaction based on the third paragraph of Article 15 of the Equity Communiqué (VII-128.1), and in the relevant paragraph, "MKK announces the nominal value of the shares that are desired to be converted into shares traded on the stock exchange, the name or title of the persons who make the application, to the public on a daily basis, collectively through KAP." As a result, it was seen that the personal data processing activity in question was carried out compulsorily in order to fulfill the legal obligation within the scope of subparagraph (ç) of paragraph (2) of Article 5 of the Law in accordance with the Equity Communiqué, and in this sense, it was decided that there is no action to be taken within the scope of the Law regarding the data subject's complaint against the data controller Merkezi Kayıt Kuruluşu AŞ, since sufficient explanations were made by the data controller.

You can find the details of the Board's decision [here](#). (In Turkish)

Summary of the Decision of the Personal Data Protection Board Dated 20/07/2023 And Numbered 2023/1234 on Processing of Personal Data by Requesting a Findeks Report from the Data Subject by a Car Rental Company

In the complaint submitted to the Authority; In summary, It is stated that it is rented a car from a car rental company the Platform (Platform), which offers online bus, flight, rental car and accommodation search services to users; for a period of 7 days through the official website of the Platform (Platform), which offers online bus, ferry and airplane companies' travel tickets for sale to users, made a payment from the credit card registered in the name of the data subjects on the same day to receive the rental service, when the data subject went to the authorized agency of the car rental company to pick up the vehicle, he gave the credit card to the authorities again to pay a deposit for the delivery of the vehicle he had booked and paid for, despite the presentation of the credit card for the payment of the deposit fee, the agency employees sent an SMS to the mobile phone of the data subject that the Findeks report of the data subject was also wanted to be accessed by the agency employees, the Findeks report should be forwarded to the data subject, and the data subject should give explicit consent to the processing of the data in the report, otherwise, it was stated that he would not be able to benefit from the car rental service, the vehicle was not delivered to the data subject for this reason, the performance of the service was not carried out by the car rental company due to the lack of Findeks report and explicit consent declaration, and on the same day, the data subject was notified that "your reservation was canceled because you did not accept the procedures of our company. ", it was requested by data subject that all personal data kept and processed within the car rental company be destroyed and a record of the destruction process be given, if there are third parties to whom personal data is transferred, the destruction process be carried out before these third parties, the unlawful practice be terminated, and if there is any personal data belonging to the person concerned in the systems and/or records of the car rental company, it should be destroyed immediately.

Considering that the processing of personal data by querying the Findeks report information can only be carried out with explicit consent within the scope of paragraph (1) of Article 5 of the Law, and in this context, the explicit consent is linked to the service condition by not making the leasing transaction without obtaining the Findeks report by the data controller, it has been decided to impose an administrative fine of TRY 100,000 in accordance with subparagraph (b) of paragraph (1) of Article 18 of the Law on the data controller who does not fulfill its obligations under paragraph (1) of Article 12 of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)

Summary of the Decision of the Personal Data Protection Board Dated 14/09/2023 and Numbered 2023/1578 on Transferring the Sensitive Personal Data of The Data Subject in the Patient File to the Court

In the complaint petition submitted to the Board, in summary; the patient file containing the records of the personal therapy received by the data subject at a medical center, the personal therapy received within the scope of the treatment service and the marriage therapy received together with his/her spouse, in a way that everyone can see and learn by the physician acting as the responsible manager of the medical center within the scope of the divorce case between the data subject and his/her spouse, documents containing intimate information about his/her private life were sent to the court without any precautions, without any confidentiality statement and containing much more personal data than requested, and the court scanned the personal data in question and recorded it in UYAP. It was stated that this information was read and learned by everyone, including hospital staff, court staff, the other party and his/her attorney, that it was sufficient to provide information only about the dates between which the patient was treated, the reason, duration, type of treatment (inpatient/outpatient treatment) and the result of the treatment while answering the court order, that it was clearly against the ordinary course of life to share the notes kept during the session itself, that the private life of the data subject was exposed both in his/her private life and business life for this reason, and it was requested that the necessary action be taken against the Medical Center within the scope of the Law No. 6698 on the Protection of Personal Data (Law).

Considering that the processing of the special categories of personal data of the data subject by a medical center based on the health service received is within the scope of the provisions of paragraph (3) of Article 6 of the Law, and that the transfer of the health records, which are the special categories of personal data of the data subject, to the court is based on the provision in Article 221 of the Code of Civil Procedure No. 6100, the personal data transfer in question is within the scope of the provisions of paragraph (3) of Article 8 of the Law, "The provisions of other laws regarding the transfer of personal data are reserved.", that measures should be taken in accordance with the Board Decision No. 2018/10 on "Adequate Measures to be Taken by Data Controllers in the Processing of Special Categories of Personal Data" in the transfer activities, and that the methods of sending special categories of personal data should be selected by respecting the confidentiality principles in this context, although it is also stated among the allegations of the data subject that the document in question was opened to the access of third parties by uploading it to UYAP, It has been decided that the data controller is not a medical center in terms of the transactions carried out by the court on the information and documents containing special categories of personal data submitted by the data controller to the court due to the request by the writ, and that there is no action to be taken within the scope of the Law due to the application of the provision "Processing of personal data by judicial authorities or execution authorities in relation to investigation, prosecution, trial or execution procedures" in subparagraph (d) of paragraph (1) of Article 28 of the Law in terms of the works and transactions carried out by the court.

You can find the details of the Board's decision [here](#).



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Summary of the Decision of the Personal Data Protection Board Dated 06/07/2023 and Numbered 2023/1130 On Sharing the Report and Medication Records of the Data Subject with the Ex-Spouse by the Pharmacy

In the complaint submitted to the Board; in summary, it was stated that the data subject divorced his/her spouse, but there was a custody case between him/her and his/her ex-wife, it was understood from the case file that the hospital report and medication records of the data subject were removed from the Medula system by the pharmacist and given to the ex-wife, and it was requested to take the necessary action within the scope of the Personal Data Protection Law No. 6698 (Law).

It is understood that the data controller pharmacist shared the sensitive personal data of the data subject obtained by using the Medula system with his divorced spouse, who is a third party, without relying on any of the data processing conditions specified in Article 6 of the Law. In this context, it is evaluated that the data controller has not fulfilled its obligation to take all necessary technical and administrative measures to ensure the appropriate level of security in order to prevent unlawful processing of personal data in Article 12 of the Personal Data Protection Law, and it has been decided to impose an administrative fine of TRY 50.000 to the data controller pharmacy.

You can find the details of the Board's decision [here](#). (In Turkish)



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Summary of the Decision of the Personal Data Protection Board Dated 15/06/2023 and Numbered 2023/1050 on Failure of the Data Controller Bank to Fulfill the Request to Provide the Voice Recording Transcript of the Conversation Between the Customer Representative and the Data Subject to the Data Subject Himself/Herself

In the complaint submitted to the Authority; In summary, it is stated that the data subject learned that his virtual card was copied and therefore his card was closed for use without informing him, within the scope of Article 11 of the Personal Data Protection Law No. 6698 (Law), it is requested from the data controller for information on which personal data may have been copied in accordance with the determination regarding the copying of personal data that caused the closure of his virtual card and which bank transaction led to this determination, but this request was left unanswered by the data controller, and also in data subjects's second application to the data controller on a different date regarding the same issue, he requested confirmation of whether his/her personal data was processed within the scope of Article 11 of the Law and the voice recording or transcript of this recording regarding the conversation with the customer representative; however, this request was also left unanswered by the data controller and it was requested that the relevant voice recording transcript be provided to the party.

The Banking Law No. 5411 and the related legislation stipulate that the "confidentiality obligation" requires not to inform third parties about the information and events obtained due to the commercial connection with the customer, except in cases of compliance with the law stipulated by the legal regulations, and on the other hand, within the scope of the provision of subparagraph (b) of paragraph (1) of Article 11 of the Law No. 6698, the right of the data subjects to request information if personal data related to them has been processed, considering that the right of access also includes the right to access the data in question and that the right of access complements the right to request information and enables the data subjects to have information about how their personal data is processed in order to exercise their rights over their personal data, it has been decided to instruct the Data Controller to send the said transcript, which includes the direct statements of the parties during the interview, to the Data Subject by taking measures such as removing / masking the personal data of others other than the data subject and to inform the Board about the transactions established in this regard.

You can find the details of the Board's decision [here](#). (In Turkish)



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Summary of the Decision of the Personal Data Protection Board Dated 15/06/2023 and Numbered 2023/1041 Regarding the Failure of the Data Controller to Duly Fulfill Its Obligation to Inform on Its Website and to Condition the Service It Provides on Explicit Consent

In summary, in the complaint submitted to the Board; it is stated that the product which the data subject wants to buy from the glucose meters worn on the body for examination and follow-up, that meets these features and is offered for sale by the Data Controller, is not sold without filling in the fields left blank to be marked in the privacy and clarification texts, or that the membership process cannot be performed on the website, that it is obligatory to fill in the fields in the said texts in order to purchase the product, that private health information is commercial and marketing. It was stated that the use of the product in purposeful activities and the non-sale of the product without sharing this information restricts the patient's right to diagnosis and treatment and does not allow any personal data to be transferred abroad, and it was requested to take the necessary action.

Considering that the practice of not being able to perform membership and sales transactions without marking the privacy and clarification texts has been adopted in order to fulfill the Data Controller's obligation to inform arising from the Law and it is intended to inform the customers by reading the clarification text and thus to encourage them to think; it cannot be concluded that the health data of the customers who purchase this product is processed by selling a product offered for the use of diabetic patients and therefore the claim that special category personal data is processed is not acceptable; explicit consent is sought for the processing of the personal data of the Data Subject for marketing purposes and that there is no situation that would prevent this consent from being given freely in the concrete case, it has been decided that there is no violation of the Law in terms of the allegations that the sale cannot be realized and the membership process cannot be made without marking the privacy and clarification texts of the Data Subject, and that the health data is used in commercial and marketing activities.

You can find the details of the Board's decision [here](#). (In Turkish)

22

Summary of the Decision of the Personal Data Protection Board Dated 01/06/2023 and Numbered 2023/938 on Sending Daily E-Mails by a University to the E-Mail Address of a Student

In the complaint submitted to the Institution, in summary; it was stated that the data subject is a student of the University, that the University sends daily e-mails to his e-mail address that are not directly related to him and whose content is not of interest to him, that he does not want to receive the e-mails in question and that he has applied to the university many times on this issue and stated that he wants to unsubscribe from the e-mail list, despite this, his e-mail address, which is his personal data, continues to be processed and kept on the list by the University and it was requested to do the necessary.

Considering that the personal data processing activity carried out by the data controller by sending electronic mails to the corporate e-mail address of the data subject, which is the personal data of the data subject, was carried out within the scope of the "Data processing is mandatory for the legitimate interests of the data controller, provided that it does not harm the fundamental rights and freedoms of the data subject" in subparagraph (f) of the second paragraph of Article 5 of the Law, it was decided that there is no action to be taken within the scope of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)





23

Summary of the Decision of the Personal Data Protection Board Dated 01/06/2023 and Numbered 2023/932 on Processing of the Phone Number That the Data Subject Has Not Notified to the Bank as a Contact Number by Informing About Loan Transactions

In summary in the complaint submitted to the Authority; it is stated that the data subject became a customer of the data controller Bank online via his/her mobile phone number and applied for a personal loan on the same day; on the same day, text messages with different content and related to the loan application were sent both to the phone number he/she gave to the Bank and to the phone number registered in his/her name but not used in his/her transactions with the Bank; in the response to his/her first application regarding this issue, the Bank stated that the Bank received the number subject to the complaint from the Credit Registration Bureau (KKB), In the response given by the Bank to his second application, it was stated that the number subject to the complaint was obtained from other banks based on the contracts made with other banks, and when he searched on the website of KKB, it was stated that the phone number registered in the relevant organization was the same as the phone number he had given to the Bank, that is, it was not the number subject to the complaint, and it was requested to take necessary actions within the scope of the Law No. 6698 on the Protection of Personal Data (Law).

Since it is evaluated that the processing of the phone number, which the data controller did not notify as the contact number of the data subject, by informing the data subject about credit transactions, was carried out based on the conditions of "being clearly stipulated in the laws" in subparagraph (a) of paragraph 2 of Article 5 of the Law and "being mandatory for the data controller to fulfill its legal obligation" in subparagraph (ç), it was decided that there is no action to be taken against the data controller within the scope of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)

Summary of the Decision of the Personal Data Protection Board Dated 28/09/2023 and Numbered 2023/1645 on Unlawful Processing of Personal Data by the Data Controller Who Is the Distributor and Sole Authorized Person in Türkiye of a Widely Participated Online Game

In the complaint petition submitted to the Authority, in summary; it is stated the data controller is the distributor and sole authorized distributor of a widely participated online game in Türkiye and is the company that performs all kinds of transactions on behalf of the game for users in Türkiye and obtains all commercial revenues, the data subject applied to the data controller in order to exercise his rights under Article 11 of the Law on the Protection of Personal Data (Law), but in the response given to him, many of his requests were left unanswered or misleading and incomplete information was provided, in the response given by the data controller, many legislations are mentioned, but it is not stated which personal data is processed for which purpose and for which legal reason on the basis of these legislations, and the information letter on the website of the data controller, which is stated to be a “clarification text”, it can be easily understood that personal data is transferred abroad as a result of the examination of the privacy policy and cookie policy published on the website, that a third-party software is used by the data controller to “prevent cheating and fraud”, that this software runs during each login to the game and scans all files and software on the computer at that moment and that this software continues to run as long as the game remains open, that as a result of the examination of the license agreement of the company that owns the software in question, it is understood that personal data is illegally obtained and transferred abroad through this software, it was stated that the statement of the data controller that “we determine only by IP address” is untrue, that it is technically impossible to determine which software is running on a person’s device only by IP address, that the privacy policy on the website of the data controller does not comply with the Communiqué on the Procedures and Principles to be Followed in Fulfillment of the Disclosure Obligation, and it was requested to take necessary actions within the scope of the Law. Under the pop-up description of cookies published on the website of the data controller, two options are offered as “use only necessary cookies” and “allow all cookies”, by offering the option of “allow all cookies”, collective explicit consent is obtained for each type of cookie other than the category of necessary cookies and the data subjects are not given the opportunity to choose, in the cookie table in the Cookie Statement and Cookie Policy texts, it is stated that various cookies are used by third party cookie providers in the category of “necessary cookies”, the third party cookie provider is a company located abroad, in the personal data processing activity carried out by the data controller based on the explicit consent condition through cookies on the website, the explicit consent is crippled due to the failure to meet the elements of “being related to a specific subject” and “given with free will”, which are among the elements of explicit consent, and a lawful personal data processing activity has not been carried out within the scope of Article 5 of the Law; on the other hand, it has been concluded that the personal data processing activity carried out by transferring personal data abroad by using third-party cookies, the providers of which are companies located abroad and which are in the category of mandatory cookies, is unlawful since it is not based on the conditions for data transfer abroad specified in Article 9 of the Law, and it has been decided to impose an administrative fine of TRY 750.000 administrative fine was decided to be imposed in accordance with subparagraph (b) of paragraph (1) of Article 18 of the Law on the data controller who is considered to have acted contrary to the data security obligations regulated in Article 12 of the Law.

You can find the details of the Board’s decision [here](#). (In Turkish)



25

Summary of the Decision of the Personal Data Protection Board Dated 01/06/2023 and Numbered 2023/928 on Sharing the Document Containing the Personal and Sensitive Personal Data of the Data Subjects by a University with Third Parties in an E-Mail Attachment

In summary in the complaint petitions received by the Board; In the e-mail sent by the rector of the university to the data subjects and in the file attached to it, it was understood that personal and private personal data such as personal phone numbers, personal e-mail addresses, address information, HES codes, vaccination information, risk status, etc. belonging to the data subjects and third parties were transferred to third parties by publicizing them via mass e-mail. It was understood that personal and sensitive personal data were transferred to third parties by publicizing them via mass e-mail, and that personal data belonging to the data subjects and third parties were publicized via mass e-mail in an e-mail message before the e-mail message subject to the complaint, therefore, it was stated that there was no possibility that the transaction was made by mistake, and it was requested that necessary actions be taken against the data controller.

The sharing of the Excel file containing personal and sensitive personal data of the data subjects by the data controller university rector with third parties by including it in the e-mail attachment was carried out without being based on the processing conditions specified in Articles 5 and 6 of the Law, in this context, the data controller did not take adequate technical and administrative measures to ensure the appropriate level of security in order to prevent unlawful processing of personal data within the framework of subparagraph (b) of the first paragraph of Article 12 of the Law, to prevent unlawful access to personal data, and to ensure the protection of personal data, it was determined that the data processing activity subject to the complaint constituted a data breach, but the data controller did not notify the Board of a data breach, and since it was concluded that this situation constituted a violation of the obligation to notify the Board regulated in the fifth paragraph of Article 12 of the Law, it was decided to take disciplinary action against the responsible persons working within the data controller, which is a public legal entity within the scope of the third paragraph of Article 18 of the Law, and to inform the Board of the result.

You can find the details of the Board's decision [here](#). (In Turkish)



26

Summary of the Decision of the Personal Data Protection Board Dated 01/06/2023 and Numbered 2023/924 on Unlawful Processing of Personal Data of the Person Concerned by the Parking Operator Data Controller and Failure to Fulfill the Obligation to Inform

In the complaint submitted to the Authority; in summary, enforcement proceedings were initiated by the data controller of the parking lot operator with the claim that the vehicle of the data subject had a parking debt, and as a result of his objection to the said enforcement proceedings, a lawsuit was filed against him in the consumer court for the cancellation of the objection, within the scope of the said case, his personal data was processed by the data controller, it was unclear how the license information of his vehicle was obtained, and photographs of his vehicle were submitted to the case file, it was stated that it was not clear by whom and for what reason these photos were taken, that the debt information could be accessed publicly as a result of the inquiry made with the license plate of the vehicle on a website, and that he was not informed about the processing of his personal data, and it was requested to take the necessary action within the scope of the Personal Data Protection Law (Law) No. 6698.

Considering that the personal data processing activities carried out by accessing the identity information by querying the license plate of the data subject and taking a photo of the vehicle of the data subject in the parking areas operated by the data controller and submitting these photos to the case file between the data subject and the data controller are within the scope of subparagraph (e) of the second paragraph of Article 5 of the Law, there is no action to be taken within the scope of the Law, in terms of the personal data it processes, In accordance with subparagraph (a) of the first paragraph of Article 18 of the Law, it has been decided to impose an administrative fine of TRY 75,000 on the data controller who does not fulfill the disclosure obligation stipulated in Article 10 of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)

Decision of the Personal Data Protection Board Dated 28/09/2023 and Numbered 2023/1653 on Processing of Personal Data for the Purpose of Sending SMS for Advertising Purposes to the Relevant Persons in the Store Belonging to the Data Controller

In the complaint petition submitted to the Authority, it is stated that the data subject made a purchase from the store belonging to the data controller, that he was asked whether he wanted a shopping card during this shopping, that a confirmation code was sent to his phone upon requesting the card, that the data subject first read the confirmation code to the officer, and then realized that reading that confirmation code to the officer means that he “read the clarification text” and “consents to the processing of his personal data”. It was stated that the transaction in question means the seizure of the explicit consent of the data subject regarding the processing of his personal data through deception, and although the personal data of the data subject was deleted upon his application to the data controller, the method of obtaining personal data is systematically applied to all customers, and it was requested to take the necessary action within the scope of the Personal Data Protection Law No. 6698 (Law).

Within the scope of the concrete case, it is seen that a personal data processing activity based on the explicit consent of the data subject was carried out, and upon the withdrawal of the explicit consent of the person concerned, the said processing activity was terminated, and it was decided that there was no action to be taken within the scope of the Law regarding the complaint.

You can find the details of the Board's decision [here](#). (In Turkish)



28

Summary of the Decision of the Personal Data Protection Board Dated 25/05/2023 and Numbered 2023/892 on the Complaint Regarding the Unlawful Processing of the Personal Data of the Data Subject Despite Leaving the Cooperative Partnership

In the complaint submitted to the Board, in summary, it is stated that the personal data of the data subject was processed unlawfully to KOOPBIS (Cooperative Information System), that his personal data continued to be processed by the Cooperative by sending him a general assembly invitation despite the fact that he left the Cooperative partnership with the warning letter he submitted to the Cooperative, the request for the destruction of his personal data in accordance with Article 7 of the Personal Data Protection Law No. 6698 (Law) was not fulfilled. It was stated that the application was not answered within the time limit and it was requested that the necessary action be taken within the scope of the Law on the Cooperative. Considering that the conditions for processing personal data have disappeared as of the date the person concerned notifies that they have left the partnership in accordance with the provision of Article 13 of the Cooperatives Law titled "Refraining from accepting to leave the partnership", the personal data of the data subject continues to be processed by the data controller by sending a general assembly invitation despite leaving the Cooperative partnership. Considering that it is not based on the conditions, it has been decided to impose an administrative fine of TRY 50,000 in accordance with subparagraph (b) of paragraph (1) of Article 18 of the Law on the data controller, who is considered not to have fulfilled the obligations regarding data security in Article 12 of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)

29

Summary of the Personal Data Protection Board's Decision Dated 25/05/2023 and Numbered 2023/890 on Conditioning an Airline's Special Passenger Program Service on Explicit Consent

In the complaint submitted to the Authority, it is briefly stated that the data subject logged in to the website to see the miles accumulated in the special passenger program of the data controller airline company; However, in order to benefit from the services of the Special Passenger System in question, the mandatory fields in the profile must be filled in and the box must be checked in order to use the personal data in marketing activities to create and promote products and services specific to him; If the relevant box is not checked, it is stated that the system in question does not allow it to progress and it is requested to take the necessary action within the scope of the Law. Considering that the incident subject to the complaint is not the imposition of explicit consent as a condition and in this sense, the explicit consent of the data subject is not put forward as a prerequisite for the provision of a product or service or the benefit of a product or service, it has been decided that there is no action to be taken against the data controller within the scope of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)

Summary of the Decision of the Personal Data Protection Board Dated 18/05/2023 and Numbered 2023/845 on Unlawful Processing of Personal Data by Sending a Text Message to the Phone of the Data Subject After the Delivery of Cargo by a Cargo Company Employee

In the complaint submitted to the Board; in summary, It is stated that the product purchased by the seller was delivered by the courier working for the data controller, one day after the order date an abusive message was sent to the mobile phone number by the courier and that was confirmed by the cargo company (data controller), the data controller could not ensure personal data security and the employee disturbed him. It has been requested to be done.

Due to the fact that it is concluded that the mobile phone number, which is the personal data of the data subject, has been shared illegally by the data controller without relying on the personal data processing conditions stipulated in Article 5 of the Law, and in this context, the data controller has not taken the necessary technical and administrative measures to ensure the appropriate level of security in order to prevent the unlawful processing of personal data within the scope of subparagraph (a) of paragraph (1) of Article 12 of the Law Within the scope of subparagraph (b) of paragraph (1) of Article 18 of the Law, it has been decided to impose an administrative fine of TRY 250,000 on the data controller.

You can find the details of the Board's decision [here](#). (In Turkish)

Summary of the Decision of the Personal Data Protection Board Dated 11/05/2023 and Numbered 2023/767 on Processing of Sensitive Personal Data Containing Health Data of Married Couple by Publishing in the Newspaper

In the complaint submitted to the Board, In summary; it is stated that the data subject received health services from a private hospital, that they complained to the Ministry of Health, the Public Prosecutor's Office and the hospital by sending a warning letter about the doctor who performed the treatment due to the negativities experienced during the treatment, that their sensitive personal data were processed with the news published in a newspaper with a high circulation, two months after the date of treatment, due to the unlawful dissemination of personal and private personal data throughout the country, It was stated that the data controller was applied but the answer given was insufficient, that it was unlawful for the newspaper to receive sensitive personal data that should be kept confidential between the doctor and the patient, that there was no public interest and interest in the provision of the news, and that the treatment process and details in question would not concern anyone, and it was requested that the necessary action be taken against the data controller within the scope of the Personal Data Protection Law No. 6698 (Law).

Since it has been concluded that the right to personal rights and privacy of private life have been violated in terms of the data subjects in terms of the sensitive personal data contained in the news subject to the complaint, the exception to freedom of expression in subparagraph (c) of paragraph (1) of Article 28 of the Law cannot be given priority, and the processing of the sensitive personal data included in the news in question without relying on a valid processing condition within the scope of the Law is stated in Article 12 of the Law. Considering that it is an indication that "necessary technical and administrative measures to ensure the appropriate level of security have not been taken in order to prevent the unlawful processing of personal data, to prevent unlawful access to personal data and to ensure the protection of personal data", it has been decided to impose an administrative fine of TRY 100,000 on the data controller newspaper within the scope of subparagraph (b) of paragraph (1) of Article 18 of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)



32

Summary of the Decision of the Personal Data Protection Board Dated 27/04/2023 and Numbered 2023/646 on Sharing the Personal Information of Employees Within a University with All Personnel

In the complaint petition submitted to the Board, in summary, it is stated that the data showing the registration numbers of the data subject and all faculty members working at the University, the unit they work in and their leave status are transferred to all administrative and academic staff of the Faculty with the file attached to an e-mail sent with the signature of the Dean of the Faculty of a University, and that it is unlawful for the University to share this data with all staff in a mass e-mail without any discrimination or justification. It has been requested to take the necessary action within the scope of the Law on the Protection of Personal Data No. 6698 (Law).

Since it is believed that the personal data processing activity carried out by the data controller by sharing the personal data regarding the permission status of the data subject with other personnel working in the unit where the data subject works is not based on any of the processing conditions in Article 5 of the Law and this situation is contrary to paragraph (1) of Article 12 of the Law, in accordance with paragraph (3) of Article 18 of the Law, the duty within the data controller. It has been decided to instruct the data controller to take action against the relevant personnel in accordance with the disciplinary provisions and to inform the Board about the result of the transaction.

You can find the details of the Board's decision [here](#). (In Turkish)



33

Summary Of the Decision of the Personal Data Protection Board Dated 11/04/2023 and Numbered 2023/570 on Requesting More Personal Data Than Necessary in Order to Increase the Level of the Membership of the Data Subject in the Crypto Asset Service Provider

In summary, in the complaint submitted to the institution; pursuant to the request of the data controller, which is a crypto asset service provider, to increase the membership level on the platform, it was requested that the photo of the front and back of the identity of the data subject was requested together with his own photo, and that personal data was processed by the data controller more than necessary and excessively, and it was requested to take the necessary action within the scope of the Personal Data Protection Law No. 6698 (Law).

Considering that the data controller has an obligation arising from the relevant legislation, especially the Law No. 5549 on the Prevention of Laundering Proceeds of Crime, regarding the processing of personal data, and in this respect, the processing of personal data is “clearly stipulated in the laws” within the framework of subparagraph (a) of paragraph 2 of Article 5 of the Law in order to determine the identity of the users by the data controller and to determine and confirm that the transaction has been made by the relevant user, that it is based on the legal processing condition, on the other hand, regarding the request for the deletion of the personal data of the data subject, the data subject did not first convey the said request to the data controller within the framework of the procedures and methods determined in the Law and the Communiqué, and that it is understood that his personal data continues to be processed within the scope of the contract due to the continuation of his membership, it has been decided that there is no action to be taken within the scope of the Law on the complaint of the data subject.

You can find the details of the Board's decision [here](#). (In Turkish)



34

Summary of the Decision of the Personal Data Protection Board Dated 11/04/2023 and Numbered 2023/567 on the Requirement to Record Credit/Debit Card Information in Order to Shop from an E-Commerce Site

In the complaint submitted to the Board; in summary, It is requested by the data controller that the data subject save their credit/debit card information with the “Add credit/debit card” button that opens on the payment screen while shopping on the e-commerce site, that the data subject is required to save their credit/debit card information in order to shop on the site, and that the “continue” buttons do not work and it is not possible to shop without entering the relevant information. It was stated that there is no valid data processing condition within the scope of the Personal Data Protection Law (Law) No.6698, that the data subject does not have an explicit consent given to the data controller, and on the other hand, no disclosure has been made to the data subject regarding this processing, and it has been requested that the necessary action be taken against the intermediary service provider within the scope of the Law.

Within the scope of the membership account on the website of the data controller, the card information required to be entered to complete the shopping continues to be processed in the wallet account of the data subject in order to facilitate subsequent purchases after the completion of the shopping, but the data controller is required to record the card information in the system and the data subjects are allowed to delete this information later. It has been decided to impose an administrative fine of TRY 500,000 on the data controller, who is considered to have not obtained a valid explicit consent within the scope of Article 5 and to have violated the principles of “complying with the law and the rule of honesty”, “processing for a specific and legitimate purpose” and “being limited and proportionate to the purpose for which they are processed” in paragraph (2) of Article 4 of the Law, and thus not fulfilling its obligations regarding data security.

You can find the details of the Board’s decision [here](#). (In Turkish)

Decision of the Personal Data Protection Board Dated 11/05/2023 and Numbered 2023/787 on the Notification That it is Unlawful for a Hospital to Obtain Explicit Consent from Patients Regarding the Processing of Personal Data, Including Health Data, Within the Scope of Advertising and Promotional Activities

In the notice sent to the Board; in summary, in the consent forms signed by the patients, explicit consent is requested from the patients regarding the sharing of the images and videos of the patient with the media organs that are stated to be contracted by the Hospital for advertising and promotional purposes, health institutions can process the personal data of the patients who apply to them only for the purpose of providing health services, provided that they remain within the limits required by the diagnosis and treatment service, in the legislation related to the sector. It was stated that the use of it for prohibited advertising and promotional activities does not constitute a data processing activity carried out for legal and legitimate purposes, as stated in Article 4 of the Law No. 6698, and that the fact that the patient has signed the so-called consent forms written contrary to this will not make the explicit consent lawful.

Considering health data, which is sensitive personal data, is processed by the data controller by making videos about the diseases and treatment process of the data subjects and sharing them on their social media accounts, and in this regard, there is the "explicit consent" of the data subjects in accordance with paragraph 2 of Article 6 of the Law on the processing of personal data for advertising, marketing and promotion purposes, but although the data subjects have explicit consent, Private Hospitals Considering the prohibitive provision in Article 60 of the Regulation, it was decided to impose an administrative fine of TRY 250,000 on the data controller who did not take the necessary measures to ensure the appropriate level of security within the scope of Article 12 of the Law.

You can find the details of the Board's decision [here](#). (In Turkish)

36

Summary of the Decision of the Personal Data Protection Board Dated 02/05/2023 and Numbered 2023/692 on the Condition of Explicit Consent for the Health Service Provided by a Private Health Institution

In the notice petition submitted to the Authority; in summary, It has been stated that during the filling out of the form to make an appointment on the website of the health institution (data controller), it is obligatory to approve the processing of the data of the applicants and to contact the people for this purpose in order to be informed about the services and announcements of the health institution, and that the appointment process is not completed unless the introduction box is approved, and thus the service is subject to explicit consent by the data controller.

As of the date of the notification, the inability to complete the appointment process without explicit consent to the personal data processing activity within the scope of the promotional activities of the data controller on the appointment registration page has injured the element of "giving with free will", which is one of the elements of explicit consent, and this situation constitutes a violation of the principle of compliance with the law and the rules of honesty in Article 4 of the Law, and also processed in the appointment application form within the scope of the service to be provided by the data controller. While it is possible for the required personal data to be based on processing conditions other than the explicit consent processing condition, considering that it would be deceptive and an abuse of the right to rely on the explicit consent processing condition regulated in paragraph 1 of Article 5 of the Law, it has been decided to impose an administrative fine of TRY 300,000 in accordance with Article 18 of the Law on the data controller.

You can find the details of the Board's decision [here](#). (In Turkish)



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