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**Law on Movable Property  
Pledge at Commercial  
Transactions**

**Highlights of this issue**

**New Regulations Regarding Processing  
Personal Health Data and  
Protecting Its Privacy**

**Urban Renewal;  
What is New?**



## Law on Movable Property Pledge at Commercial Transactions

The Law on Movable Property Pledge at Commercial Transactions (**Law**) is published in the Official Gazette dated 28 October 2016 and will come into effect as of 01 January 2017. The Law will abolish Law on Commercial Enterprise Pledge numbered 1447 as of its enforcement date.

The Law shall be applied to the pledge transactions which are executed to guarantee a debt and the subjects of such are movable properties indicated in the Law. The Law shall not be applied to deposit pledge and to pledge agreements which are subject to financial agreements related to capital market instruments and derivative financial instruments.

As per the Law, pledge right shall be established by the registration of pledge agreement which was signed by and between (i) credit institution and merchant, craftsman, farmer, producer organization, self-employed real persons and legal entity and (ii) merchant and/or craftsman, to Pledged Movable Property Registry (**Registry**). In order to ensure pledge right establishment and effect of the establishment for the third parties, public Registry will be established.



For the establishment of pledge right, the pledge agreement which is executed by and between the parties mentioned above, shall be approved by Notary or executed before the Registry or executed electronically via electronic signature.

In the event that pledge creditor (**Creditor**) does not apply to Registry within 3 days following the performance of debt, Creditor will be obliged to pay an administrative fine at the rate of 10% of the debt that was guaranteed. The debtor who performed its debt and proves this, may also request the cancellation of the pledge following this period from the Registry.

In the event that the debt is not performed on time, Law grants Creditor the right to request;

- for first degree creditors, transfer of movable property from execution offices,
- transfer of receivable to an asset management company,
- for the assets which are not subject to transfer of possession, to demand usage of lease and license rights.

Additionally, Law also regulates various administrative fines for the actions indicated in Article 16 and penal sanctions under “Usury” crime.

Turkish language text of the Law can be found at the following link:  
<http://www.resmigazete.gov.tr/eskiler/2016/10/20161028-1.pdf>

## The Regulation on Processing Personal Health Data and Protecting Its Privacy

The Regulation on Processing Personal Health Data and Protecting Its Privacy (**Regulation**) was published in the Official Gazette dated 20 October 2016 and entered into effect as of such date.

The Regulation aims to set forth (i) rules and principles for the collection, processing and transfer of personal health data and (ii) notifications that have to be made to the Ministry of Health. Accordingly, Regulation covers health service providers and the other real persons and legal entities that process personal health data, individuals and legal entities who provide data filing system and real persons whose personal health data is processed.

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According to the Regulation, personal health data means any information related to an identified or identifiable real person and process of personal data means any operation performed on personal health data, such as collection, record, storage and transfer.

The Regulation defined health service providers as a real persons or private legal entities who provide or produce health services and data controller as a real or legal entities who determine the aims and means of processing such data and who is responsible for establishment and management of data recording system.

Under the Regulation, personal health data shall only be processed and transferred in the event that the data subject is informed on the the processing purpose and the written consent of data subject is obtained and kept . Data subject can always retrieve its written consent, unless otherwise stated in the law or a ruling.

However this data may be processed without a written consent of the data subject for the protection of public health, preventive medicine, medical diagnose, nursing and treatment activities and planning and management of health services and its financing. Personal health data shall only be processed to the necessary extent of health services concerned and in any event, it is necessary to take the measures determined by the Personal Data Protection Board.



In addition to the requirements for the processing of personal health data above, personal health data can be transferred to other public entities and organizations, provided that it is expressly provided in the relevant laws.

Even if personal health data is processed complying with law, this data shall be deleted, destroyed or anonymized by the data controller upon the request of data subject providing that the purpose of processing such personal health data no longer exists. However, all personal health data shall be archived in a central data recording system established by the Ministry of Health, to be shared with the judicial authorities when it will deemed necessary.

According to the Regulation, data controller or person authorized by a data controller shall inform health data subjects regarding the matters listed under the Regulation. In addition to these matters, data controller is obliged to take necessary measures in order to provide an adequate level of security for personal health data.

It should be noted that, data subject can also use the rights granted under the Data Protection Law such as right to be informed of whether his personal data is processed and the third parties to whom personal data have been transferred.

The Regulation states that the Personal Health Data Commission and the General Directorate of Health Information Systems will be established by the Ministry of Health. The duties and the authorities of these institutions are regulated in the Directive distinctively.

Furthermore, information systems where personal health data are recorded can only be accessed via authorization; all aspects related to this authorization and access information shall be recorded in accordance with the specified standards.

Besides, under the Regulation, each person may create a user account on the personal health record system which is established by the Ministry of Health, in order to view the health services and health records related to their own. Each person will be able to manage, delete health data through this system and or request the correction of this data.

The sanctions and administrative penalties stated in the Personal Data Protection Law shall be applied to the person, institutions and organizations who violates the obligations set forth under the Regulation.

The Turkish language text of the Regulation can be found at the following link:

<http://www.resmigazete.gov.tr/eskiler/2016/10/20161020-1.htm>

## **The Regulation on Amending the Application Regulation of Law no 6306**

The Regulation on Amending the Application Regulation of Law no 6306 (**Regulation**) is published in Official Gazette dated 27 October 2016 and entered into effect as of such date.

The purpose of Law no 6306 is to do reformation and renewal works on the areas which are under the risk of disaster and that other risky buildings are located on, to make them proper and safe. According to the Regulation reserve construction area shall be designated by examining the reason report which will be prepared on the basis of observational data and documents that will be requested by Ministry of Environment and Urbanization according to the characteristics of the area, in addition to the documents specified in previous regulation.

As per the Regulation, determination of an area as risky may be proposed by the Council of Ministers for the areas that the infrastructure services are insufficient, illegal structuring is located on it or in the areas where the public order is destroyed in such a way of interrupting the ordinary life.

Additionally, the Regulation is regulated the (i) issues related to the determination of risky constructions, (ii) issues related to the institutions and foundations which are licensed for risky area determination and sanctions on written warning and license cancellation the defective practices of the licensed foundations and institutions.

Turkish language text of the Regulation can be found at the following link:

<http://www.resmigazete.gov.tr/eskiler/2016/10/20161027-2.htm>



# Answers. Not theories.

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### About our firm

Gokce Attorney Partnership is an Istanbul-based law firm offering legal services across a broad range of practice areas including mergers and acquisitions, joint ventures, private equity and venture capital transactions, banking and finance, capital markets, insurance, technology, media, telecoms and internet, e-commerce, data protection, intellectual property, regulatory, real property, and commercial litigation. Please visit our web site at [www.gokce.av.tr](http://www.gokce.av.tr) for further information on our legal staff and expertise.

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