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REGULATION ON DELETION, DESTRUCTION OR ANONYMIZATION OF PERSONAL DATA IS PUBLISHED

Regulation on Deletion, Destruction or Anonymization of Personal Data (**Regulation**) was published in the Official Gazette dated 28 October 2017 and shall enter into force on **1 January 2018**. Regulation is crucially important for Data Controllers in terms of time limitations, definitions given for terms and other provisions. Regulation shall be implemented in accordance with Law on the Protection of Personal Data (**Law**).

Regulation refers to **personal data processing inventory** that was also mentioned in Regulation on Registry of Data Controllers. Data Controllers are responsible for preparing personal data processing inventory.

According to Regulation, a personal data storage and destruction policy (**Policy**) must be prepared in accordance with the personal data processing inventory. Policy shall include;

a) The purpose of the preparation of Policy,
b) Data recording mediums foreseen by Policy,
c) Definitions of legal and technical terms included in Policy,
ç) Instructions of legal, technical or other reasons that requires the process of storage and destruction of personal data,
d) Technical and administrative precautions that were taken to store personal data safely and prevent its illegal processing and access,
e) Technical and administrative precautions taken in order to destroy the personal data in accordance with the law,
f) The titles, units and job descriptions of persons involved in the process for storage and destruction of personal data,
g) Table that indicates storage and destruction periods,
h) Periodic destruction times,
i) If the existing Policy has been updated, relevant changes regarding the updates.

In this context, besides the obligation for preparing Policy, Data Controller are obliged to determine precautions to be taken for the processing of personal data, identify persons working in personal data storage and destruction processes, categorize personal data, store and destroy these data and determine periodic destruction processes. Liabilities of Data Controllers not obliged to prepare such Policy, will be specified according to the criteria to be determined by Personal Data Protection Board.

In accordance with Regulation, if the prerequisites for processing personal data provided in the Law are not met at all, the personal data must be deleted, destroyed or anonymized by Data Controller on its own motion or upon the application of related person. All actions related to the execution of this process must be recorded and these records shall be kept for at least **three years**. Data Controller is responsible for clarifying in its policies and procedures the methods that it applies to such deletion, destruction or anonymization.

Regulation defines the **deletion of personal data** as making it inaccessible and irrevocable for “related users”. The

related user is defined as the person within Data Controller's organization, except the person or entity responsible for the technical storage, protection and backup of the data.

Again, the **destruction of personal data** is defined as making any data unreachable, irretrievable and irrevocable by anyone; **making personal data anonymous** is defined as making it impossible for any other person to be associated with any identified or identifiable person, even if this data is matched.

In accordance with Regulation, Data Controller selects and carries out the appropriate action in the first periodic destruction process after the obligation to erase, destroy or anonymize personal data arises. The timeframe for periodic destruction shall be determined by Data Controller in Policy and may be **no more than six months**.

If any of the conditions of processing personal data are not met and the data owner's personal data is requested to be deleted, destroyed and anonymized; Data Controller shall conclude this request within **thirty days** at the latest. If some conditions of processing personal data are not met, the request can be rejected by clarifying the reasons and the response will be notified in writing or electronically within **thirty days** at the latest.

REGULATION ON CONSUMER RIGHTS IN THE ELECTRONIC COMMUNICATIONS SECTOR ENTERED INTO FORCE

Regulation on Consumer Rights in the Electronic Communications Sector (**Regulation**) was published and entered into force on 28/10/2017 with the aim of protecting the consumers against the developments experienced in the electronic communication sector. Regulation imposes obligations on operators to inform about tariffs and campaigns, to send invoices, to comply with certain standards regarding form and conclusion of subscription contracts. Within the scope of Regulation, Operator means the company that provides electronic communication service and/or provides electronic communication network and operates the infrastructure within the framework of authorization.

Within the scope of Regulation, operators are obliged to inform consumers about the aspects that can be effective in the decision making of the consumers within the process of service selection and subscription contract conclusion. Besides, in accordance with good faith, the operator shall provide access for consumers to any information deemed to be necessary even without their demand.

Rights of Consumers within Regulation

The consumers are granted certain rights under Regulation. These rights are to access the same services on equal terms and benefit from services with fair prices that are not discriminatory, to contract with the operator who provides the service when subscribing to the electronic communication service, to request that the subscriber's personal data is or is not included in publicly available guides, to request detailed invoices, to access detailed and up-to-date information, to abandon all services offered in the scope of tariffs, campaigns and the like by a simple method, and to benefit from services in accordance with international standards and standards set by the Information Technologies and Communication Institution (Institution).

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Innovations about Subscription Agreements

The most noticeable part of Regulation is the novelties introduced about subscription contracts. Under Regulation, subscription agreements in the electronic communications sector can now also be concluded with secure electronic signatures. Subscription contracts can conclude in electronic environment according to the procedures to be determined by the Institution, provided that the responsibility for obtaining all the precautions related to the conclusion of the contract and its implementation belongs to the operator. Considering the informal announcement of the Institution, it is understood that the signing through tablet / computer with an electronic pen will take place in parallel with the signing of the handwritten signature in accordance with the acceptance of the contract in electronic environment.

OBLIGATION OF RESORTING TO MEDIATION IN LABOR DISPUTES BROUGHT AS CAUSE OF ACTION

The Law on Labor Courts (**Law**), which provides mediation as a cause of action in labor disputes, was published in the Official Gazette on 25/10/2017 and entered into force . The Law introduces provisions on the establishment, duties, powers and procedures of labor courts and mediation as a cause of action.

There has been a need for years for labor disputes to be resolved through alternative dispute settlements outside the court. The obligation, adopted by Law to resort to the mediator before the courts, is aimed to help solve the business disputes in a short time and with less expense.

Mediation as Cause of Action

The most important novelty brought by Law is the obligation of resorting to mediation in labor lawsuits. Within the scope of Law, preliminary recourse to mediation is a cause of action for workers' or employers' claims based on individual or collective labor contracts. For example in cases of severance pay, notice pay, indemnity for bad faith damages, trade union compensation, mobbing indemnity, wage, premium, bonus, overtime wage, vacation payment and similar worker receivables, it is now obligatory to resort to mediation. There is no obligation to apply for mediation in cases of material and moral indemnity arising from work accidents or occupational diseases, and related detection, appeal and recourse cases.

It is not possible for the parties to go to judicial process for the matters which parties agreed on at the end of the mediation negotiations. It is also possible not to come to an agreement as a result of negotiations. In this case, the plaintiff must also add the original of the final record regarding the failure to reach an agreement at the end of the mediation activity or a sample of the record approved by the mediator.

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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 for further information on our legal staff and expertise.

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