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65

## PERSONAL DATA PROTECTION BOARD RULINGS



### **Highlights of this issue**

Personal Data Security Guideline  
Has Been Published

## **PERSONAL DATA SECURITY GUIDELINE HAS BEEN PUBLISHED**

Data Protection Authority (Authority) published a document, Personal Data Security Guideline (Guideline) on 19 January 2018 in order to shed light on the administrative and technical measures that should be taken by data controllers who have obligations under the Data Protection Law (Law), especially the obligation to prevent the unlawful personal data processing. There are also various methods and examples for the measures that should be taken by data controllers in the Guideline in order to avoid the risks of data security.

In this context, first of all, it is necessary to take measures by determining which personal data to be processed by the data controllers, risks that may arise regarding the non-protection of these data, and the losses that would be caused if the risks occur. When determining the risks; it is necessary to consider whether personal data contains sensitive data, which extent the data requires confidentiality, and the potential damage that may occur in the event of a violation. After determining abovementioned risks, the control and solution methods of such risks, their costs and applicability principles should be designated and planning should be required.

Additionally, training of the employees who are mostly in contact with the personal data on the issues such as data security and cyber security; creating employee awareness, determining job definitions related to data security; and acting in accordance with the principle of “Everything is Prohibited Unless it is Permitted” instead of the principle of “Everything is Released Unless prohibited” would be required.

It is indicated that it will be appropriate to prepare several policies on information security, use, storage and disposal of personal data security. Within the scope of these policies, it is necessary to make regularly the necessary controls and updates, to provide the documents in writing regarding the controls and to determine the aspects required to be developed.

Another measure is destroying incorrect or out of date personal data or any personal data does not serve for any purpose in accordance with Regulation on Deletion, Destruction or Anonymization of Personal Data to prevent unauthorized accesses. .



Data controllers who get service from data processors to meet their needs on information technology should assure that data processors are taking measures in proportion to the level at least taken by them. It has been further stated that it would be beneficial to get an undertaking from the data processors, to impose a confidentiality obligation, to bring procedures on notifications in case of any violation, and to clearly specify the types of the personal data that are transferred to the data processors.

At the third part, Guideline has divided the technical measures into various headings. Such technical measures are as follows; providing data security, following up the data security by analysing information networks, taking measures in the mediums contain personal data both with regards to physical and network components, evaluating security measures taken by the service provider in case cloud storage service is provided, procuring new security systems, monitoring security requirements if any improvement or repair is required, backing-up of personal data in order to be able to act effectively in case personal data is damaged, stolen or lost.



Although the Guideline is published solely to be guidance for data controllers and is not legally binding; the measures that data controllers are obliged to take pursuant to the Data Protection Law must be construed in conjunction with the regulations contained in the Law.

The full text of the Guideline on Personal Data Security is available at the following link:  
[http://www.kvkk.gov.tr/yayinlar/veri\\_guvenligi\\_rehberi.pdf](http://www.kvkk.gov.tr/yayinlar/veri_guvenligi_rehberi.pdf)

## **PERSONAL DATA PROTECTION BOARD RULINGS**

According to Law on the Protection of Personal Data (Law), Personal Data Protection Board (Board) is authorized to make and publish a ruling in case there is any violation of the protection of personal data in the particular case, upon complaint of related person or by ex officio investigation authority of Board stipulated in Law. In this regard, Board has adopted two important rulings and these decisions were published in the Official Gazette and entered into force on 25 January 2018.

### **1. Personal Data Protection in Service Areas Such as Counters, Box Offices and Desks:**

According to Law, data controllers are obliged to take necessary technical and administrative measures for the protection of personal data. In this regard, particularly for the banking and health sectors, Board declared that

The institutions providing services with multiple employees who are positioned adjacently such as;

- Postal and cargo service organizations,
- Tourism agencies,
- Customer service departments of chain stores,
- Institutions that various subscription transactions are made and
- Public and private sector institutions and the organizations, providing services such as municipal, tax and population related services

shall take administrative and technical measures to prevent unauthorized persons to stay in locations such as counter, box office and desk and avoid people who get such services adjacently from hearing, seeing, learning or seizing the others' personal data at the same time.

The full text of the relevant decision is available on the link below:

<http://www.resmigazete.gov.tr/eskiler/2018/01/20180125-13.pdf>

## **2. Personal Data Protection on Websites /Applications That Offer Phone Book Services**

This decision covers the websites and mobile applications which provide services without obtaining explicit consent of the related person against Law, to find out the name from a phone number or phone number from the name, and to show how the individuals are saved in someone's phone book, Board has determined that such websites and mobile applications are conducting their business by collecting the personal data of the related persons through their own personal applications, internet sites or social media accounts. By rule, to process personal data, such website and mobile applications shall fulfil their obligations stipulated by Law and one of the conditions designated by Law shall exist.



Therefore, Board has declared that such websites and mobile applications process personal data in the way as described above shall immediately cease their activities against Law, otherwise Board shall apply to the competent institutions for a decision regarding denial of access to such websites / mobile applications and initiate the necessary procedures under the violation of "Unlawful Delivery or Acquisition of Data" stipulated in Turkish Criminal Code

The full text of the relevant ruling is available on the link below:

<http://www.resmigazete.gov.tr/eskiler/2018/01/20180125-12.pdf>

# 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, debt recovery, 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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