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Gökçe

December 2022

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Happy New Year 

## Amendments to E-Commerce Law Entering into Force

Law Amending the Law on the Regulation of Electronic Commerce (**Amendment Law**), which envisaged significant changes within the e-commerce legislation, was published in the Official Gazette on 7 July 2022.

The Amendment Law introduced the concepts of electronic commerce intermediary service provider and electronic commerce service provider and set forth comprehensive regulations covering electronic commerce marketplaces, data, unfair commercial practices and licensing. We had already assessed the changes set forth by the Amendment Law in detail in our TFP July 2022. Our article on the Law can be reached [here](#).

A transition period had been envisaged which will continue until 1 July 2025. In this context, the Amendment Law will enter into force on 1 January 2023, excluding some of its provisions. To re-evoke, we compiled some of the critical regulations that will come into force on 1 January 2023:

- It has been regulated that practices that cause significant disruption of the commercial activities of the service provider, reduction of its ability to make a reasonable decision or practices that force it into a commercial relationship with which it would not normally be a party by forcing it to take a certain decision, will be considered unfair commercial practices. In addition, practices that will be considered unfair commercial practices under all circumstances were listed in the Law.
- Obligations have been set forth for e-commerce intermediary service providers in proportion to their net transaction volume. The primary breakdowns of obligations based on net transaction volume have been determined as ten billion Turkish liras, thirty billion Turkish liras, and sixty billion Turkish liras. The obligations of the relevant e-commerce intermediary service provider will vary in each breakdown.
- E-commerce intermediary service providers cannot offer for sale or act as an intermediary in the sale of goods bearing the brand of itself or the persons with whom it has an economic integrity or have the right to use the brand in the e-commerce marketplaces where it provides intermediary services.
- In addition to the obligation of the e-commerce intermediary service provider to remove the illegal content, the obligation to "notify illegal content to the relevant public institutions and organizations" has been introduced.
- As of 1 January 2023, intermediary service providers and service providers are obliged to keep information, documents, ledgers and electronic records of e-commerce business and transactions for ten years from the date of the business or transaction as per the Law.

Since most of the regulations introduced by the Amendment Law will come into effect with the new year, it is expected to significantly affect the e-commerce sector soon.

You can reach the full text of the Amendment Law [here](#) (*Only available in Turkish*).

## New Regulations Regarding Geographic Information Systems

Following documents have been published on the Official Gazette dated 5 December 2022 being based on the decision of Turkish Geographic Information System Board dated 24 August 2022 and numbered 2022/1:

- (i) National Geographical Data Responsibility Matrix,
- (ii) National Geographical Data Transfer Matrix,
- (iii) Principles and Procedures on Geographical Data Access, Transfer and Usage and,
- (iv) Principles and Procedures on Geographic Data Production and Sharing in Disasters and Emergency.

The definition of geographic data in the law is *"any kind of data including location information,"* and the area where this data is kept and systematized is called the "Geographic Information System". The National Geographical Data Responsibility Matrix, on the other hand, aims to classify geographical data. In this context, the collection, production, sharing or sale of geographical data within the scope of Turkey's National Geographical Data Responsibility Matrix by real and legal persons is regulated within the scope of this relevant legislation.

Since geographical data is used in the operations of numerous businesses across many industries, the relevant parties should review the recently published matrixes and procedures and principles; and carry out its activities related to geographical data in accordance with the current legislation. The main aspects regarding these documents are as follows:

**(i) National Geographical Data Responsibility Matrix.** This matrix is an expanded version of the existing Data Responsibility Matrix, which shows geographic data themes and the public institutions and organizations responsible for these themes.

**(ii) National Geographical Data Transfer Matrix.** This matrix contains information on who (The Presidency and Ministries, local governments, universities, private companies, and citizens) and to what extent (all or limited, to the entire unit/staff or designated unit/staff etc.) each data theme/layer can be shared by the authorized institution in accordance with the Data Responsibility Matrix.

**(iii) Principles and Procedures on Geographical Data Access, Transfer and Usage.** The purpose of this text is to determine the principles and procedures regarding the production of geographical data by authorized public institutions and organizations, the registration of data services and metadata to the National Geographic Information Platform, and the use of data by public institutions and organizations and private real and legal persons.

This text provides guidelines on a variety of topics, including which criteria and standards will geographic data producers produce the data, data security, metadata creation, secure network connections, log record keeping, and information to be included in records.

**(iv) Principles and Procedures on Geographic Data Production and Sharing in Disasters and Emergency.** In this text the principles regarding the use of geographical data are determined in order for the public institutions and organizations in charge to perform their duties within the scope of disasters and emergency situations.

You can find the full text of the Decision of The Turkish Geographic Information System Board [here](#) (*Only available in Turkish*).

## New Monetary Limits in Consumer Law

Regulations on increasing the administrative fines to be applied in accordance with Article 77 of Turkish Consumer Protection Law (**Law**) and the monetary limits foreseen for the application to the consumer courts were published in the Official Gazette on 16 December 2022. New regulations have increased the monetary limit and administrative fines stipulated in Law and relevant legislation, as per the revaluation rate determined at the rate of 122.93% for 2022 in accordance with the General Communiqué on Tax Procedure Law (Sequence No.: 542). In this context;

- Consumer arbitration committees will oversee disputes with a value of **less than** 66.000 Turkish liras in applications made by consumers as of 2023. Consumer courts will be in charge of disputes **over** this amount. You can reach the related communiqué [here](#) (*Only available in Turkish*).
- As of 1 January 2023, the amounts of administrative fines to be applied in accordance with Article 77 of the Law have been determined. You can reach the relevant communiqué [here](#) (*Only available in Turkish*).

## Turkish E-Sport Federation's Main Statute is Published

Turkish E-Sports Federation's Main Statute (**Statute**) was published by the Turkey E-Sports Federation (**Federation**) in the Official Gazette and entered into force on 18 November 2022 within the Law on Sports Clubs and Sports Federations (**Law**) and the Regulation on Procedures and Principles on the Work of Independent Sports Federations.

The Statute regulates the procedures and principles that the actors operating in the field of e-sports must follow, particularly the establishment of the administrative structure and boards of the Federation.

It has been stated that all activities in the field of e-sports shall be managed by the Federation and the board of directors of the Federation shall have the authority for competitions, tournaments and their publications. It is also among the regulations that sports clubs and sports joint-stock companies operating in the field of e-sports within the scope of the Law shall be registered and enrolled by the Ministry of Youth and Sports.

The obligations and authority of the Federation, which has an independent organizational structure, were clearly illustrated with the publication of the Statute. In context of this, it can be stated that a new era in the supervision and regulation of e-sports activities is about to start.

You can reach the Turkish E-Sports Federation's Main Statute [here](#) (*Only available in Turkish*).

## Latest European Court of Justice Ruling on Dereferencing from Search Engines

A significant decision was published by the European Court of Justice (**ECJ**) on 8 December 2022. The decision concerns search engine operators with respect to processing requests for dereferencing webpages and image thumbnails, along with the burden of proof regarding the dereferencing.

The applicants are persons who are in the managing positions in private companies. The dispute arose when three articles focusing on corruption were published on a website criticising the companies and the applicants, along with pictures depicting them in luxury vehicles.

The applicants requested Google to dereference these articles as they were inaccurate and lead to defamatory opinions. Google refused the request and argued that they were unaware of the inaccuracy of the information provided in the articles.

Subsequently, the case was brought before the European Court of Justice by the Federal Court of Justice of Germany, requesting an interpretation on GDPR and the Directive on the Protection of Individuals with regards to the Processing of Personal Data and on the Free Movement of Such Data.

As a preliminary point the Court of Justice referred to its previous rulings, in which it has ruled that the processes and activities of a search engine constitute "data processing" and in this capacity, Google is a data controller. Also, in these decisions, it was pointed out that the extent of responsibilities of the search engine do not arise from personal data appearing on a third-party's page. Instead, it results from internet users conducting web searches with an individual's name, will result with a display of a list that has the potential to significantly affect the data subject's fundamental rights to privacy and to the protection of the personal data.

However, ECJ also decided that search engine operators should not be expected to actively investigate the truthfulness of the request. Instead, only the "prima facie", found it sufficient to make an evaluation by adhering to the criteria of apparent accuracy and to remove it from the list if the condition exists. According to the Court, investigating the actual situation in detail is a burden that ultimately falls on administrative or judicial bodies.

In the second question posed by the Federal Court of Germany, the image thumbnails are discussed. Court underlined that images have the capacity to relay information about a person's chief characteristics. In this manner, it finds that a separate inquiry must be carried out about the images of a dereferencing request.

Accordingly, the Court dictates that the image dereferencing must be carried out alongside webpage dereferencing.

The European Court of Justice "*inter alia*" imposes a new responsibility for search engine operators with this decision. It is stated that the search engine provider must entail information on the references of web searches if they are made aware of any judicial proceeding taking place.

You can reach the full text of the decision [here](#).

## Green Light to Cryptocurrency Payments from Brazil

Brazil's Chamber of Deputies has approved the bill titled "(PL) 4.041/2021" (**Bill**) regulating the cryptocurrency industry in the country. Once the Bill enters into force, all cryptocurrencies, including Bitcoin, will be able to be used as a means of payment in the country. In this context, cryptocurrencies will also have the status of investment instrument. However, it should be noted that the Bill does not grant official currency status to cryptocurrencies.

The fundamental regulation in the Bill is the license requirement. In this context, cryptocurrency companies must obtain a virtual service provider license to operate. In this way, it is aimed to strictly regulate companies operating as crypto money service providers in the country. Bill also imposes imprisonment and monetary fine as a penalty to those who commit fraud with virtual assets.

The Bill approved by the Chamber of Deputies also envisages establishment of a body to oversee the cryptocurrency industry. In this regard, the expectation is that the use of cryptocurrencies in payment transactions will take place under the supervision of the Brazilian Central Bank.

The final step for the implementation of the Bill, which is seen as a significant step in the adoption of cryptocurrencies in Latin American countries, is the approval of the president. Then, it is expected that companies will have 180 days to adapt to the new rules. In this period, when we witness that the regulatory work accelerates in order to draw the legal framework for crypto assets in the world, the legislation in Brazil is also extremely crucial.

# 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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