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"Summit on Future Topics of Law", which we are hosting for the first time this year, will take place on 2 May with the participation of our esteemed guests. Details will follow in the upcoming TFP!

Procedures and Principles Regarding Social Network Provider

The Procedures and Principles on the Social Network Provider (**Decision**), issued with the decision of the Information Technologies and Communications Authority (**Authority**) dated 28.03.2023 and numbered 2023/DK-ID/119, was published in the Official Gazette dated 01.04.2023.

This time, Authority made some changes in the obligations of the social network provider and the procedures and principles regarding the implementation of these obligations, which for the first time was issued with the abrogated decision numbered 2020/DK-ID/274 on 29.09.2020. The aforesaid amendments are majorly parallel to the amendments made in the Law on the Regulation of Broadcasts Made on the Internet and Combating Crimes Committed Through These Broadcasts (**Law**) on 13.10.2022.

In line with the Law, foreign-based social network providers with daily access from Turkey more than one million are obliged to designate at least one natural person or legal entity as their representative.

There are more detailed regulations when compared to the Law for foreign-based social network providers with daily access of more than ten million from Turkey. As stated in the Law, the Decision reiterates that the representatives of foreign-based social network providers whose daily access from Turkey is more than ten million; are fully authorized and responsible technically, administratively, legally and financially, without prejudice to the responsibilities of the social network provider. In addition, it is stated in the Decision that if the representatives of social network providers above this base are legal entities, the representative must be a branch established as a corporation and, as a critical issue, the registered capital must be at least 100 million Turkish Liras.

The obligations that the representative must comply with are regulated in more detail with Decision. We have summarized the primary ones below:

- The issues to be included in the reports that the representative should submit to the Authority every six months; in two periods: 1 January-30 June and 1 July-31 December, were detailed.
- Moreover, Decision detailed the obligation to create an ad library of foreign-based social network providers which have a daily access of more than one million in Turkey, which was previously included in the amendments to the Law.
- Another obligation parallel to the Law is to inform the judicial authorities. In this context, if requested by the prosecutor or the court, regardless of the access limit, all social network providers are obliged to provide the information necessary to reach the perpetrators who create or spread the internet content subject to the crimes stated in Article 12 of the Decision.
- Again, regardless of the number of access, according to Article 14 of the Decision, the social network provider must ensure that the followings were taken into consideration: The age of the child in the content, advertisement and other services offered to users who can be comprehended as children, the protection of the child's best interests, the protection of the child's physical, psychological and emotional development, the prevention of the risks of sexual abuse and commercial exploitation of the child, the protection of personal data belonging to the child with a high level of confidentiality and minimum data processing and presenting user agreements and policies in a way that the child can understand.

- It was regulated that hosting the basic user information data and information related to matters that might be informed by the Authority, within Turkey, should be prioritized by the social network provider with daily access of more than one million from Turkey.
- In terms of protecting the rights of the users, regardless of the number of accesses, the social network provider is obliged to act equally and impartially among users, to provide users with the option to update their preferences for the content they offer and to limit the use of their personal data, and to ensure that users can easily access updates that affect user rights in the services offered.
- The social network provider is obliged to establish a Turkish, clear, understandable and easily accessible application mechanism for the accounts that have been hacked or imitated, and to conclude the applications in a reasonable manner.
- The social network provider is obliged to share the content and the information about the creator of the content with the authorized law enforcement units, when they learn the content that endanger the life and property safety of individuals and in cases which is inconvenient to delay. In addition, the social network provider is obliged to create a crisis plan for emergency situations affecting public safety and public health and notify the Authority.

As a result, the reflections of the changes made in the Law and the experience gained with the use of social media can be seen from the Decision.

In the Decision, it is foreseen to impose administrative fines in different scales in case of breach of obligations. In the current situation, the process of ensuring compliance with the new obligations of social network providers that have representatives in Turkey and have a high access number has become significant.

You can reach the full text of the Decision [here](#) (only available in Turkish) which was published by the Official Gazette and the full text [here](#) (only available in Turkish) which was published by the Authority.

Amendments to the 7th Judicial Package Amendments to the Enforcement and Bankruptcy Law

The Law No. 7445 on the Amendment of the Execution and Bankruptcy Law and Certain Laws, colloquially known as the 7th Judicial Package, was published on the Official Gazette dated 05.04.2023 repealing several important provisions of the Execution and Bankruptcy Law No. 2004 (**Execution and Bankruptcy Law**). Within this scope;

- An article titled “ seizure at the residence” has been added to the Enforcement and Bankruptcy Law, which specifically regulates the seizure procedures at the residence. Accordingly, it is regulated that if the execution administrator determines that the place requested to be seized is a residence, he/she shall decide to conduct attachment procedures at this place and submit this decision for the approval of the execution court. The court, at the end of the examination to be made on file within 3 days at the latest from the date of submission of the file, if it demmes that the place requested to be seized is a residence, shall definitely decide to approve the decision and the seizure procedures shall be carried out upon notification of this decision to the execution office. If it is understood that the place where the seizure is requested is not a residence, the court will definitely revoke the decision regarding the seizure in the residence, and upon this decision, the execution administrator will make a new decision on the existing seizure request. In addition, if it is understood that the place to be seized upon the execution court’s approval decision is not a residence, the seizure will continue, but if it is understood that this place is a residence and the debtor does not consent to the seizure, the seizure will be terminated during the

seizure process carried out upon the seizure decision issued regarding a place that is accepted not to be a residence. It is stipulated that this provision shall not apply to the decisions regarding preliminary injunctions and the seizure of the dwelling issued before the date of entry into force of the regulation on seizure in the dwelling.

- Personal belongings belonging to the debtor and family members living under the same roof and all household goods that serve the common use of the family are listed among the goods that cannot be seized. Prior to this amendment, if there was more than one of the goods necessary for the debtor and the family members living under the same roof with the debtor and the goods used for the same purpose, one of them could not be seized and the rest could be seized. With this provision, “excessive seizure” is explicitly prohibited aiming at preventing bad faith creditors from leaving the debtor in a difficult situation and potential injustice by requesting seizure in excess of the amount of the receivable.
- The paragraph titled “liquidation of movable goods that no longer need to be preserved” in Article 88 of the Enforcement and Bankruptcy Law has been removed. Instead of this paragraph, a separate article titled “liquidation of movable goods that no longer need to be preserved” has been added to the Enforcement and Bankruptcy Law, and the liquidation of movable goods that no longer need to be kept is regulated as a separate provision. Accordingly, it is regulated that the seizure, which is the basis of the preservation procedure, has been lifted and the goods in the trustee’s custody shall be liquidated ex officio by the enforcement office where the proceedings are carried out in accordance with this article.

You can reach the full text of the amendments made to the Enforcement and Bankruptcy Law within the 7th Judicial Package [here](#) (only available in Turkish).

Significant Developments in Geographic Information Systems

Amendments were made to the Geographical Data Permissions Regulation (**Permission Regulation**) and the Geographical Data License Regulation (**License Regulation**), and new provisions were introduced regarding geographic information systems by the new regulations in the Official Gazette dated 31 March 2023. Most of the changes are related to geodata licensing. We have summarized below the main amendments in the regulations:

Geographical Data Subject to License/Permit. The definition of geodata subject to permission/license was expanded. Geographical data subject to permission/license was defined as “data containing more than one location information” in the former regulations. With the amendments, geographical data subject to permission/license now includes data containing location information, data that can be associated with a digital map base or address data, and data collected online or offline from the field via sensors specified in data definition documents.

Classification of Licenses. In the previous version of the License Regulation, geographical data licenses were not classified. With the amendments, the licenses to be obtained are classified as A, B and C group licenses according to which geographical data activity is carried out:

Group A License: It refers to the license to be granted to domestic or foreign real and legal persons in case of collection and/or production, sharing and sale of data.

Group B License: It refers to the license to be granted to domestic and foreign real and legal persons in case of data collection.

Group C License: It refers to the license to be granted to domestic or foreign real and legal persons in case of collection and/or production, sharing and sale of data.

Obligations of persons/organizations that will obtain licenses were differentiated as per the license types.

Information Sharing with the Ministry of Environment, Urbanization and Climate Change (Ministry). The scope of this obligation, which was also included in the old version of the License Regulation, has been expanded. With the amendments, licensed institutions are now obliged to record the data and data information regarding the activities specified in the license agreement in the electronic infrastructure of the Ministry in the format determined by the Ministry in the periods specified in the license agreement.

Additionally, the licensee companies are obliged to ensure that all kinds of geographical data and data information included in the National Geographical Data Responsibility Matrix are submitted to the National Geographic Information Platform (**NGIP**), an electronic infrastructure integrated into the e-Government portal created by the Ministry, within the license period.

Obligation to Hire a GIS Specialist. Within the scope of the amendments in the License Regulation, the obligation to employ a Geographical Information System specialist or a geographical information system operator has been imposed on those who want to obtain/renew their licenses according to their license groups. This provision will not apply until 1 January 2025.

Data mining. While License Regulation stated that a license should be obtained when it comes to data mining, the definition of data mining was not regulated. Data mining with the amendments is defined as “all of the activities and transactions carried out to help decision support mechanisms by making it possible to reach useful information, reveal the correlations between the data, and make accurate predictions for the future by using large-scale data that is the subject of cooperation”. Those who will conduct the activities that fall under this definition have been subjected to comprehensive obligations.

Another important amendment to data mining is the payment of the “**revenue share**” to the Ministry or the relevant public institution. In light of this, the income to be obtained from the data and/or information produced by new data generation and data mining will be shared over the share ratio determined in the protocol to be signed between the Ministry, the data controller institution and the licensee company.

Expiration of Geographical Data Permit. As per the changes in the Permit Regulation; the organizations are obliged to update the geographical data and data information regarding the activity fifteen days before the expiry of the permit period and share it with NGIP and submit the relevant information and documents to the Ministry.

Data will continue to be shared with NGIP after the expiry of the permission period. In case of failure, the data will be submitted to Ministry. Ministry will be able to share these data with or without charge, with the consent of natural persons and private law legal entities.

Sanctions. If the geographical data permission or license is not obtained, or the geographical data license is revoked, real persons and private law legal entities will be deemed to have operated without permission, and within this scope; the owner of the activity will be given at least ten days for the license/permit application. The activities of those who do not apply within the time limit will be suspended and an administrative fine of five times the permit fee will be imposed on them.

With the amendments in the Regulations, it is foreseen that the Ministry will follow a stricter approach, especially with regard to licensing and data usage. Most of the amendments to the Regulations have entered into force on the date they were published. You can reach the License Regulation [here](#) (only available in Turkish) and the Permit Regulation [here](#) (only available in Turkish).

BRSA Circular No. 2023/1 on Authentication and Transaction Security

Technological developments directly affect processes such as the identification and verification of individuals' identities. The significance of identification and verification processes increases day by day when these processes are carried out remotely, particularly when contracts are concluded electronically. Indeed, it is critical, particularly in regulated sectors, to reliably and accurately determine and verify whether a person is who they claim to be, without physically coming together with them.

Identity verification and identification in Turkey, particularly in regulated sectors, has been one of the most rapidly changing and developing areas of legislation in recent years. In this context, the authorities take into account the dynamics and sensitivities of their own sectors and introduce changing practices with different practices. Moreover, the business and transactions that can be carried out through the Turkish identity cards are regulated in parallel under a separate roof. In this context, there are the Republic of Turkey Identity Card Regulation and the Republic of Turkey Identity Card Electronic Authentication System Regulation.

The latest recent development is the Circular No. 2023/1 on the Criteria to be Provided for Authentication and Transaction Security in Electronic Banking Services and Establishment of Contractual Relationships in Electronic Environment (**Circular**), which issued by the Banking Regulation and Supervision Agency (**BRSA**) on 27 March 2023.

BRSA had published the draft Circular No. 2022/2 (**Draft Circular**) in 2022 regarding additional explanations on the criteria to be provided for identity verification and transaction security in electronic banking services and the establishment of contractual relationships in electronic environment. You can access our TFP November 2022 article, where we evaluated the Draft Circular [here](#) and the full text of the relevant Draft Circular [here](#) (only available in Turkish).

Following the Draft Circular, BRSA completed its analyses by collecting the opinions of the actors in the sector and published the Circular. The Circular regulates the following in general terms:

- Identity verification and transaction security in banks' electronic banking service channels,
- Compliance process with the relevant articles of the Regulation on Information Systems and Electronic Banking Services, which stipulates that banks should use techniques that enable irrefutability and responsibility assignment for both the bank and customers in transactions to be carried out by banks,

- Technical details on authentication and transaction security by banks and the establishment of contractual relationships in electronic environment
- Details on the authentication and transaction security of Financial Leasing, Factoring, Financing and Savings Finance Companies and the establishment of contractual relationships electronically,
- Details of the Software Development Kit (**SDK**) to be used for transaction signing and the creation of a Security Server (**SS**) configured to communicate directly with this SDK through a separate secure channel, technical obligations and WYSIWYS principles regarding the transaction signing processes to be carried out through the SDK and SS,
- Technical requirements for building mobile application interfaces.

Among the noteworthy amendments in the Circular are the regulations regarding the execution of transactions under certain technical rules from start to finish and the Regulation on Remote Identification Methods to be Used by Financial Leasing, Factoring, Financing and Savings Financing Companies and Establishment of Contractual Relationship in Electronic Environment.

Moreover, the authorisation obligation in the Circular is a very critical regulation, since there was no such permission/license obligation for external service providers prior to the Circular in accordance with the BRSA legislation.

The requirement to comply with different regulations on a sectoral basis for suppliers of authentication systems seems to require significant technical and administrative work for suppliers.

The Circular clearly indicates that the BRSA has also included regulations that differ from other institutions.

You can reach the full text of the Circular [here](#) (only available in Turkish).

First Prohibition from the Western: Italy Banned ChatGPT

One of the major technologic happening of recent years is undoubtedly artificial intelligence. By artificial intelligence being developed rapidly in recent years and being regularly used in many fields, different approaches and opinions occurred within the public. Although some people argue that life will become easier with the introduction of artificial intelligence into human life, the other part is in great concern. Many people argue that artificial intelligence could be a threat to humanity. Those who argue that artificial intelligence will take away people's jobs in the future also argue that artificial intelligence technology could violate people's privacy and interfere with private life.

World leaders and leaders in technology sector also emphasise that such rapid development of artificial intelligence is dangerous, by also arguing that artificial intelligence should be taken under control. Recently, technology leaders, including Elon Musk and Apple co-founder Steve Wozniak, signed an open letter calling for a temporary halt to the development of artificial intelligence, citing the danger it poses to society and humanity.

As many discussions on this, particularly in western countries continue, Italy has ruled a decision that will be talked about a lot. ChatGPT, a chatbot, an artificial intelligence tool developed by OpenAI the US initiative working on artificial intelligence, was banned by the Italian Data Protection Authority (**Garante**). Garante stated that the application does not respect user data and cannot verify the age of users. Garante, which found that ChatGPT violated data protection rules, announced that it restricted OpenAI from processing Italian users' data.

However, Italian authorities later announced the conditions that ChatGPT must fulfil in order not to be banned. Accordingly, OpenAI must inform users about the working method in the operation of the application, provide tools to allow users to correct or delete incorrect information, and allow data subjects to object to the processing of their personal data. In addition, OpenAI must implement a system to prevent users under the age of 13 from using the application. If these conditions are not fulfilled, ChatGPT is expected to be banned in Italy indefinitely.

There is no regulation on artificial intelligence in almost no country, yet. Although studies are being conducted in many countries and the European Union, legal experts are concerned that users will already be harmed until the regulations come into force. As loads of countries are cautious about artificial intelligence, countries such as China, Russia and Iran, as well as Italy, are among the countries that have banned ChatGPT. The benefits and harms that artificial intelligence will bring to society and the future approach of countries regarding this are among the most significant issues to be followed nowadays.

New Step from the EU for Cyber Security: Cyber Solidarity Act

European Commission (**Commission**) adopted on 18 April 2023 a proposal for an EU Cyber Solidarity Act (**Act**) to strengthen cybersecurity practices in European Union (**EU**). The Act includes regulations for the effective collaboration of EU member states in the field of cybersecurity. The Commission has already implemented some legal arrangements in the field of cyber security. Among these regulations, the "EU Cyber Resilience Act", which entered into force last september, and the "NIS2 Directive", which aims to harmonise the implementation of cybersecurity regulations in member states, are noteworthy. You can find our TFP September 2022 issue where we evaluated the EU Cyber Resilience Act [here](#) and our TFP January 2023 issue where we evaluated the NIS2 Directive [here](#).

The Act includes the establishment of a Cyber Emergency Mechanism in order to increase EU's capacity to prepare for and respond to cyber-attacks. In addition, it aims to better detect and respond to significant or large-scale cyber security incidents by creating a European Cybersecurity Shield. In this context, the Commission proposes the establishment of a European Cyber Security Shield consisting of national and cross-border Security Operation Centres across the EU. In addition, the Act also includes the establishment of a Cyber Security Incident Review Mechanism to strengthen the EU's posture against cyber-attacks by evaluating these incidents after significant or large-scale cyber security incidents occur.

As it can be seen, the EU is drawing the legal framework of end-to-end cyber security with a holistic approach. The next step in the EU's roadmap is expected to be the announcement of the implementation principles of the Act expected.

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

Answers. Not theories.

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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 for further information on our legal staff and expertise.

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