

EXEMPTIONS TO THE OBLIGATION TO REGISTER WITH THE DATA CONTROLLERS' REGISTRY

The Regulation on the Data Controllers' Registry (the "Regulation") prepared in accordance with Article 16 of the Data Protection Law numbered 6698 (the "Law") has been published in the Official Gazette dated 30.12.2017 and numbered 30286 and entered into force.

Basically, the Regulation stipulates that data controllers must register with the Data Controllers' Registry (the "Registry") before proceeding with the personal data processing, and that transactions relating to Registry shall be made through the Data Registry Information System ("VERBIS"). A Newsletter on the Regulation on the Data Controllers' Registry has been published by our Law Firm earlier.

Accordingly, it appears that the Board of Protection of Personal Data ("the Board") exercised the authority granted to it in accordance with Article 16 of the Regulation and determined the exemptions to the obligation to register with the Registry, with the decision of numbered 2018/32 and dated 02.04.2018, which is published in the Official Gazette dated 15.05.2018 and numbered 30422.

As stipulated by Article 16 of the Regulation, the Board has the authority to determine the exemptions and to make decisions in order to determine the scope of the exemptions, the procedures and principles of the implementation of such exemptions by taking into consideration the following criteria:

- Type of personal data,
- Quantity of personal data,
- Purpose of processing of personal data,
- Activity field that the data processed,
- Transfer of the data to the third parties,
- The fact that the data processing arises from the law,
- Data retention period and
- Groups of persons subject to data or categories of data.

Within this scope, pursuant to the decision of the Board numbered 2018/32:

- Data processors who process personal data only by non-automatic means provided that they form part of any data filing system,

- Notaries operating in accordance with the Notary Public Law dated 18/01/1972 and numbered 1512,
- Among the associations established in accordance with the Law of Associations dated 04/11/2004 and numbered 5253, foundations established in accordance with the Law of Foundations dated 20/02/2008 and numbered 5737 and trade unions established in accordance with the Law of Trade Unions and Collective Bargaining Agreements dated 18/10/2012 and numbered 6356, the ones that process personal data only for its employees, members and donators who are connected to the said establishments, in accordance with the relevant legislation and purposes and limited to its fields of activity,
- Political parties established in accordance with the Political Parties Act dated 22/04/1983 and numbered 2820,
- Attorneys operating in accordance with the Attorneys' Act dated 19/03/1969 and numbered 1136 and
- Independent Accountant Financial Advisors and Certified Public Accountants operating in accordance with the Law on Independent Accountant Financial Advisors and Certified Public Accountants dated 01/06/1989 and numbered 3568 are decided to be exempted from the obligation to register with the Registry.

However, no explanation has yet been made by the Board regarding the registration procedure to the VERBIS, start date of the system and its working principles. We find it more suitable to envisage a gradual transition system for the registration process. It then would be possible to ensure that all data controllers to be registered with the Registry at the end of a specific time period by taking into account the quality and quantity of the data that they process.

Kind Regards,

Koyuncuoğlu & Köksal Law Firm

* As the explanations given in our newsletter are prepared pursuant to the legislation in effect in the Republic of Turkey and the disclosures made to the public by the relevant official authorities, in case of uncertainty, we advise you to seek advice and support from us before the final transactions are carried out. Otherwise, our Law Firm cannot be held responsible for the actions to be taken on the basis of the explanations contained herein and the consequences of such actions.