

**EVALUATION OF THE DATA PROTECTION BOARD'S PRINCIPLE DECISION
DATED 18.10.2019 AND NUMBERED 2019/308**

The Turkish Data Protection Board's ("Board") principle decision on "Software/Program/Applications That Allow The Inquiry of Personal Data Such As The Identity and Contact Information of Citizens Through Unlawfully Obtained Data" has been published on the Official Gazette dated 21.11.2019 and numbered 3095 and the Data Protection Authority's website. You may kindly find our evaluations on the Decision in this bulletin.

Upon reviewing the notifications submitted to the Personal Data Protection Authority, the Board established that several attorneys/law firms and people and entities operating finance, real estate insurance and similar sectors use software/program/applications that allow the inquiry of personal data such as the identity and contact information of citizens through unlawfully obtained data. As a result of these findings, the Board formed its principle decision dated 18.10.2019 and numbered 2019/308 ("Decision").

Pursuant to the Board's authority set out in Article 15 of the Law on the Protection of Personal Data numbered 6698 ("the Law"), the Board shall render and publish a principle decision in case it determines, either *ex officio* or upon complaint, that there is a prevalent violation. Hence, it is possible to say that violation subject to the Decision herein takes place frequently.

The Board decreed to the following for the purpose of establishing the principles of ensuring data security:

- 1. Office of the Public Prosecutor shall be notified for initiating the necessary criminal procedures within the scope of the Turkish Penal Code on those identified as using the aforementioned software, program and applications.***

The Board shall notify the Office of the Public Prosecutor about those who use programs that allow the inquiry of identity and contact information of citizens through unlawfully obtained data. The Board is obliged to notify the Office of the Public Prosecutor in case it determines criminal breaches in the applications and complaints brought to the attention of the Board or through *ex officio* findings of the Board.

Article 17 of the Law refers to Articles 135 to 140 of the Turkish Penal Code concerning offenses regarding personal data. Public prosecution may be brought against data controllers identified as using the aforementioned software and programs on the basis of Article 136 of the Turkish Penal Code due to "*unlawful delivery or acquisition of data*". Those who commit this offence may be punished with imprisonment from 2 to 4 years.

- 2. Administrative actions shall be established within the framework of Article 18 of the Law on data responsible within the scope of Board's remit.***

Article 18 of the Law titled "*Misdemeanors*" stipulates the imposition of an administrative fine on those who do not fulfill their "*obligation to inform*", "*obligation to register with the Data Controllers Registry*" and obligation to comply with the "*decisions of the Board*".



As the Board has highlighted with its Decision, data controllers using the aforementioned software and programs may be imposed with an administrative fine for failure to fulfill their obligations regarding data security and failing to comply with the decisions of the Board.

Kind Regards,

Koyuncuođlu & Kksal 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.