

THE CONSTITUTIONAL COURT'S DECISION

**REGARDING THE LIMITATIONS OF THE EMPLOYER'S MONITORING RIGHTS ON
EMPLOYEES' CORPORATE E-MAIL ACCOUNTS**

The decision of the Constitutional Court of Turkish Republic ("Court") dated 5 February 2021 and numbered 31386 was published in the Official Gazette. The subject of the case is briefly that, the applicant who was working as a customer relations manager in a private bank, had been using the work computer and corporate e-mails, allocated merely for work-related duties, for his personal purposes. The employment agreement of the applicant was terminated soon after the fact that the applicant's non-compliant behaviors had been noticed on the grounds of the employer's monitoring rights over the employees' behaviors, which were also informed to the employee by the employment agreement,

The Court has determined **certain limitations for the employer's monitoring rights on employees' corporate e-mail accounts** in terms of the applicant's allegation of a violation of his right to demand for protection of personal data and freedom of communication as follows:

- i. The employer should provide legitimate reasons to justify its monitoring the employees' communications and accessing their actual content,**
- ii. The employee should be notified in prior of the possibility that the employer may take measures to monitor correspondence and other communications and of the implementation of such measures,**
- iii. The interference by the employer to the employee's right for the protection of his personal data should be adequate for achieving the aim of the measure declared by the employer,**
- iv. Personal data must be proportionate in relation to the specified purpose and it should not be possible to establish a monitoring system based on less intrusive methods and measures**

In this case, as a consequence, the Court has decided that there has been no violation of right to demand for protection of personal data within the scope of right to privacy as recognized in article 20 and freedom of communication regulated in article 22 of the Constitution.

Having regard to all foregoing considerations, this decision is crucial with respect to determining the limits of monitoring and controlling right of the employers. It will be beneficial for the employers to scrutinize their current implementation and procedures in this context.

Kind Regards,

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