

## THE CONSTITUTIONAL COURT'S DECISION NUMBERED 2018/24439

The decision of the Constitutional Court of the Turkish Republic regarding the application of Aylin Nazlıaka ("Applicant"), covering the personal data published on social media in the framework of the right to respect privacy, was published in the Official Gazette dated 29 July 2021 numbered 31552.

To summarize the event that caused the dispute, the Applicant has resorted to the court with the accusations that the Mayor of Ankara Metropolitan Municipality unlawfully obtained and shared her and her husband's address that qualify as personal data, the minutes of the general assembly which contains signatures and ID numbers of her husband's and her other relatives, and photographs of her company on social media. Although the Applicant claimed that sharing this kind of personal data, damaged her right to privacy and was against the protection of personal data, Ankara 13th Civil Court of First Instance ("Court of First Instance") dismissed the case. Subsequently, the Applicant appealed to the Court of Cassation for the reversal of the Court of First Instance's decision on the grounds that the Court of First Instance has evaluated the dispute only in the context of defamation and criticism **without making any assessment regarding the protection of personal data**. After the Civil Chamber No. 4 of the Court of Cassation approved the Court of First Instance's decision, the Applicant appealed to the Constitutional Court through a constitutional complaint.

In its assessment, the Constitutional Court acknowledged that **a person's signature, identity, information regarding family, and home and work address information are classified as personal data** and in the case at hand, this data was reached unlawfully and without the data subject's explicit consent. The Constitution Court came to the conclusion that the Court of First Instance violated the Applicant's right **by not deliberating the legitimate grounds of personal data processing**, and not looking after the right to request the protection of personal data and constitutional assurances.

The decision of the Constitutional Court is significant in the context of personal data protection law, since it establishes that not taking into account how personal data is gathered and whether it is processed contrary to the condition of "*Being processed for specified, explicit and legitimate purposes*" in Article 4 titled "*General Principles*" during judgement shall be considered as a **violation of the positive obligation of the state and a personal right**.

Regards,

***Koyuncuoğlu & Köksal Law Firm***

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