

Data Protection Update: The Law on Ratifying the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of the Council of Europe is published in the Official Gazette

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The Law on Ratification of the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data of the Council of Europe (“Convention”) is published in the Official Gazette of February 18, 2016 (today) and came into force.

Turkey signed the Convention, which was off to shelf since 1981, with declarations. As per Article 2 of the draft law on ratifying the Convention, the Convention will be effective on the publication date of the Convention on the Official Gazette, which is today.

Some significant declarations of Turkey for the Convention are as follows:

(i) As per subparagraph “a” of the paragraph 2 of Article 3 of the Convention, Turkey declares that it does not apply the Convention for the following personal data:

(a) The automatic processing of personal data is realized by natural persons exclusively for their personal use or household purposes,

(b) Public registers specifically regulated by law in Turkey.

(c) Data that is available to the general public information in accordance with law,

(d) Personal data which is processed by public institutions for the purposes of national security, defense and to the investigation and prevention of criminal offences.

(ii) Turkey declared that the Convention will also apply to personal data which is not processed automatically.

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Article 4 of the Convention states that “each party shall take necessary measures in its domestic law to give effect to the basic principles for data protection set out in this chapter” and “these measures shall be taken latest by at the time of entry into force of this convention in respect of that party”. That means, Turkey will need to enact a specific data protection law in order to maintain the requirements set out under the Convention. In fact, Turkish Grand National Assembly has been discussing the Draft Law on Protection of Personal Data (“Draft Law”) currently. The first Grand National Assembly meeting regarding the Draft Law was held yesterday night (February 17, 2016) and the Grand National Assembly will vote for the separate articles of the Draft Law as a next step.

Please find the text of the Convention both in Turkish and in English which is being broadcasted on the official website of the Turkish Grand National Assembly at the URL address <http://www2.tbmm.gov.tr/d24/1/1-0966.pdf>.

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